



2066262
Page: 2 of 14
12/18/1999 04:15P
Chelan Co, WA



2066263
Page: 2 of 14
12/18/1999 04:15P
Chelan Co, WA

**Port of Chelan County
Common Access Area Covenants, Restrictions
and Easements
Olds Station Easy Street Property**

1. Introduction.

- 1.1 The Port of Chelan County ("Port") is the owner of real property legally described on attached Exhibit "A" which is incorporated herein by this reference (the "Parcel" or "Property") which is intended to be used for office, commercial, and retail purposes, all consistent with "Covenants, Conditions, and Restrictions for Easy Street Property, Olds Station, Port of Chelan County" ("Covenants" or "CC&Rs").
- 1.2 To provide for the mutual and common access among all the Lots and businesses at the Property, the Port is adopting specific covenants, conditions and restrictions and is granting and retaining certain easements, all applicable to the Property and all of which shall run with the land.
- 1.3 The intent of this instrument and the covenants, conditions, restrictions, and easements set out herein (this instrument and the provisions set out in this instrument are sometimes referred to as the "Conditions") is to assure that there is common mutual access among all of the Lots and businesses at the Property, so that the Owners, Occupants, and Beneficial Users have free access from one Lot and business at the Property to all others. All of these Conditions are to be read and interpreted to the end of achieving that goal and any question or interpretation is to be answered or given to achieve the effect of this goal.
- 1.4 As owner of the Property, the Port hereby establishes the Conditions, as set out herein, which Conditions run with the Property and are binding upon all persons owning or using the Property. In the event any part of the Property is sold, the Conditions shall remain as binding covenants on the sold Property after the sale. The Conditions are for the benefit of all the Property.
- 1.5 The use, development, and improvement of the Property shall be in conformity with these Conditions.

2. Definitions. As used herein, the following words and terms have the following meanings:

- 2.1 **Beneficial Users.** The term "Beneficial Users" means the Lot Owners and all customers and other business invitees of an Occupant utilizing the Property.



- 2.2 **Common Access Area.** The term “Common Access Area” means all the common driving portions of a Lot (“Vehicular Access Way”), and all walkways and sidewalks, which are intended to provide pedestrian movement for access between and among the Lots, that have, from time to time, been made available for the benefit of all Beneficial Users to provide free access from one Lot and business of the Property to all others. Common Access Areas shall be designated from time to time as Lots are developed and may be depicted on scale drawings which may, but are not required to, be recorded with the County Auditor. The location of the Common Access Area on any Lot shall be the location initially approved by the Port and actually established on the Lot. By agreement of the Port, an established Common Access Area may be relocated.
- 2.3 **Lot.** The term “Lot” means any lot created by legal subdivision of land, boundary line adjustment, or otherwise, from time to time, located in the Parcel.
- 2.4 **Occupant.** The term “Occupant” means the Owner, and any other Person from time to time entitled, directly or indirectly, to the use or occupancy of a portion of the Parcel under any lease, deed, or other instrument or arrangement with the Port or other Owner.
- 2.5 **Owner.** The term “Owner” means the record title holder of any Lot.
- 2.6 **Person.** The term “Person” means, and includes, individuals, partnerships, firms, associations and corporations, or any other form of business or governmental entity. The use of the singular includes the plural.

3. **Parcel Easements.**

- 3.1 **Common Access Area Easements.** The Port hereby establishes for the benefit of and grants to the Occupants of the Parcel nonexclusive easements, in common with all Occupants of the Parcel, over and across the Common Access Area from time to time established within the Parcel, for ingress and egress and passage of vehicles and pedestrians into, out of, on, over and across the Common Access Area and for providing access for Beneficial Users among and between the Lots and businesses and to and from adjacent public streets, so that the Parcel may be used as an integrated area by the Beneficial Users.
- 3.2 **Unimpeded Access Between Lots.** No Owner or Occupant may, in any way, impede or fail to maintain at all times, free access between each portion of the Common Access Area of the Parcel, and from the Common Access Area to each Lot. Any and all Beneficial Users are prohibited from parking or stopping their vehicle, at any and all times, in the “Vehicular Access Way.” Each



occupant shall have exclusive control over parking of a Beneficiary User's automobile on each Occupant's Lot.

- 3.3 **Use by Beneficial Users.** Subject to any rules and regulations adopted as provided herein for the use of the Common Access Areas, the use of the easements provided for in this Section 3 shall be nonexclusive, and for the use and benefit of all Beneficial Users.
- 3.4 **Non-Commercial Use.** The Common Access Area shall not be used for commercial purposes by any Occupant except in accordance with the provisions of these Conditions, and the CC&Rs.
- 3.5 **No Charge.** The Common Access Area shall be available for use by all Beneficial Users without cost or charge, except as provided herein for maintenance and repair.

4. **Operation and Maintenance of Common Access Area.**

- 4.1 **Management and Operation.** Each Owner and Occupant shall be responsible for and pay the costs of maintaining and managing the Common Access Area within the Owner's or Occupant's Lot, for the benefit of all Owners.
- 4.2 **Rules and Regulations.** Owners may, at their option and with agreement with all Owners, form an Owners Association that may adopt or amend rules and regulations pertaining to the use of the Common Access Area, subject to the provisions of these Conditions.
- 4.3 **Structures in Common Area Prohibited.** No building, fence, wall, structure of any kind, pool, pipe, post or other facility shall be erected, constructed or maintained above the surface of any Common Access Area except: canopies, awnings or marquees attached to buildings located within the Parcel (including columns or pillars supporting the same) may project over or encroach upon sidewalks and walkways within the Common Access Area, provided advance approval has been obtained from the Port so long as it is an owner of any portion of the Parcel, and thereafter by the Owners Association, if any, or by all the Owners.

4.4 **Maintenance of Common Area.**

- 4.4.1 Each Owner and Occupant shall maintain the Common Access Area within that Owner's or Occupant's Lot and shall keep the same in good condition and repair, clean and free of rubbish, weeds, debris and



hazards, for use by Beneficial Users in accordance with the standards set forth in these Conditions and the CC&Rs. Each Owner and Occupant shall for such Owner's or Occupant's Lot:

- 4.4.1.1 maintain the surface of the Vehicular Access Way level, smooth and evenly covered with the type of surfacing materials originally installed thereon, or such substitute as shall in all respects be equal in quality, appearance and durability;
- 4.4.1.2 remove all weeds, papers, debris, filth and refuse from the Common Access Area, and thoroughly sweep the paved areas as required;
- 4.4.1.3 maintain within the Common Access Area such appropriate Vehicular Access Way entrance, exit and directional signs, markers and lights as shall be reasonably required to meet the intent of these Conditions in accordance with law and with the practices prevailing in the operation of similar first class community mixed-use developments in the state of Washington;
- 4.4.1.4 clean lighting fixtures located within the Common Access Area and relamp and reballast as needed;
- 4.4.1.5 paint, repaint and maintain striping, markers, directional signs and related traffic signs in the Vehicular Access Way as necessary to maintain such stripes, markers and signs in first class condition;
- 4.4.1.6 take such action as may be reasonable and necessary to remove and otherwise reasonably deal with snow, ice, mud and other adverse weather conditions affecting the Common Access Area, to allow for the intended use by Beneficial Users.

4.5 For purposes of these Covenants "first class" means, as applicable to the context, of a type, kind, or condition that is well maintained without obvious defect or deficiency, that is clean and free from accumulations of debris or weeds, that blends and is consistent with the buildings and other improvements on the Property, that is painted to appear clean and free from obvious chips and





060626263
Page: 7 of 14
12/18/1999 04:15P
Chelan Co, WA

failure of the Defaulting Owner to promptly cure the failure, whether or not the Defaulting Owner actually receives the notice and, in such case the Enforcing Owner may charge the Defaulting Owner with costs of such assessment or such work, together with interest thereon at the rate of twelve percent (12%) per annum from the date of advancement of funds for payment of such work to the date of reimbursement of the Enforcing Owner. The reimbursement shall be for all expenses including without limitation, costs of clean-up, maintenance, and repair, and attorneys' fees, engineering fees, architectural fees, and the like incurred by the Enforcing Owner as a result of any noncompliance with these Conditions, and the Defaulting Owner shall be obligated to reimburse the Enforcing Owner for such costs within ten (10) days after the Enforcing Owner makes written demand for such reimbursement.

5.4.2 Notwithstanding the foregoing, in the event the failure to comply with any of the provisions of these Conditions shall create a situation where a failure to immediately cure such failure could be reasonably likely to result in damage to any other portion of the Common Access Area or any Lot if the cure is not promptly made, then an Enforcing Owner shall make reasonable efforts to promptly contact the Defaulting Owner or Occupant, orally or in writing, to request that the failure be cured and if such failure is not promptly cured, or if it is not reasonable to afford the time for the Defaulting Owner to make the cure, then the Enforcing Owner may effect such cure as is reasonable under the circumstances, and perform such maintenance and repair as is calculated to prevent or reduce the damage to other Common Access Area or Lots at the Property, as if the notice had been given as provided above, and the Enforcing Owner shall be entitled to reimbursement as set out above.

5.5 **Claim of Lien.** If the Defaulting Owner shall fail to reimburse the Enforcing Owner for such costs within ten (10) business days after written demand therefor is personally served on the Defaulting Owner, the Enforcing Owner may at any time within two (2) years after such advance, file for record in the Chelan County Auditor's Office, a "Claim of Lien" signed by the Enforcing Owner before a notary public. The Claim of Lien shall identify the Lot on which the lien is claimed, the type of work performed, the amount of the lien claimed, and the Owner or reputed Owner of the Lot. A copy of the Claim of Lien shall be mailed, postage prepaid by first class mail to the Owner or reputed Owner at the address listed on the records of the Chelan County Treasurer as the address for mailing property tax statements for the Lot on which the lien is claimed. The Claim of Lien shall be effective to establish a lien against the



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2066262
Page: 8 of 14
12/18/1999 04:15P
Chelan Co, WA

interest of the Defaulting Owner's Lot, Building, and Other Improvements for the amount advanced to do the work, together with interest at twelve percent (12%) per annum on the amount of such advance from the date thereof, recording fees, cost of title search obtained in connection with such lien or the foreclosure thereof, court costs, reasonable attorneys' fees that may be incurred in the enforcement of such a lien, and all other costs and fees as set forth in this section. The Claim of Lien shall be for the benefit of the Enforcing Owner and may be enforced and foreclosed in a like manner as a real estate mortgage is foreclosed in the state of Washington. If a Claim of Lien is cured by full payment, the Enforcing Owner shall record a rescission of the Claim of Lien with the Chelan County Auditor.

- 5.6 **Attorneys' Fees.** In the event it is necessary for any Owner or Occupant of any Lot to engage the services of an attorney to enforce any of the provisions of these Conditions, whether or not legal action is instituted, the Owner or Occupant from whom the Enforcing Owner is seeking enforcement shall be obligated to pay to the Enforcing Owner the Enforcing Owner's costs and reasonable attorneys' and experts' fees involved in the enforcement efforts.
- 5.7 **No Limitation.** The Claim of Lien and the right to foreclose shall be in addition to, and not in substitution for all other rights and remedies that any Owner of a Lot may have hereunder and by law, including any suit to recover a money judgment.
- 5.8 **No Port Liability.** In seeking compliance with these Conditions, the Port shall have no liability for injury or damage to any property of any Owner or Occupant occasioned by that Owner's or Occupant's, or any other Owner's or Occupant's failure to comply with the Covenants.
- 5.9 **Violation Deemed to Create a Nuisance.** Every violation of these Conditions or any part thereof is hereby declared to constitute a nuisance, and every remedy provided by law or equity may be exercised to abate such nuisance.

6. **Mutuality, Reciprocity: Runs With Land.**

- 6.1 **Dominant and Servient Estates.** Each and all of the easements and rights herein granted or created are appurtenances to the Lots in the Parcel and none of such easements and rights may be transferred, assigned or encumbered except as an appurtenance to a Lot. For the purposes of such easements and rights, the Lot for which Occupant or Owner is entitled to exercise an easement or right granted in these Conditions on, over or across another Lot shall constitute the



dominant estate, and the particular area in the Lot which shall be burdened by such easement or right shall constitute the servient estate.

6.2 Covenants Run With Land. Each and all of the covenants, restrictions, conditions and provisions contained herein (whether affirmative or negative in nature) (a) are made for the direct, mutual and reciprocal benefit of each Lot, (b) shall create mutual equitable servitudes upon each Lot in favor of every other Lot, (c) shall constitute covenants running with the land, (d) shall bind every Person having any fee, leasehold or other interest in any portion of any Lot or portion of the Parcel at any time or from time to time to the extent that such Lot or portion thereof is affected or bound by the covenant, restriction, condition or provision in question, or upon which such covenant, restriction, condition or provision is to be performed, and (e) shall inure to the benefit of each Owner and Occupant and each Owner's and Occupant's respective successor and assigns of a fee or leasehold interest, as the case may be, in the Owner's Lot or portion thereof.

7. General Provisions.

7.1 Successors. These Conditions and the easements, covenants, restrictions, benefits and obligations created hereby shall inure to the benefit of and be binding upon the Occupants and the Owners and their respective successors and assigns; provided, however, that if the Port or any other Owner or Occupant sells or assigns any portion or all of its interest in any Lot owned or leased by the Port or such other Owner or Occupant and obtains from the purchaser or assignee thereof an express agreement by which the purchaser or assignee assumes and agrees to be bound by these Conditions, and the covenants and agreements herein contained, the vendor or assignor shall thereupon be released and discharged from all obligations under these Conditions as an Owner or Occupant in connection with the Property sold by it, accruing or arising after the date of such sale. Notwithstanding the foregoing, the Port may, but is not required to, exercise its right to enforce these Conditions even if it is no longer an Owner or Occupant or Person with any interest in the Property other than as may be set out in these Conditions or the CC&Rs.

7.2 Duration. These Conditions and each Covenant contained herein shall be perpetual in duration.



7.3 **Modification.**

7.3.1 The Port also owns a parcel of land to the north of the Property currently being utilized by the Port for its administrative offices, which property is legally described as follows (the "Port Building Parcel"):

Lot 2, Chelan County Short Plat No. 2179, Chelan County, Washington, recorded December 12, 1990, in Book SP-8 of Short Plats, page 24.

Port reserves the right to itself, acting alone, to amend these Covenants by written declaration, statement of amendment, or the like, to add the Port Building parcel to the Property, at which time, the Port Building Parcel, and the Owners, Occupants and Beneficial Users thereof, shall be subject to these Covenants and provide written notice of such amendment to the party responsible for payment of property taxes on each Lot, as listed in the records of the Chelan County Treasurer, and shall record the amendment with the Chelan County Auditor.

7.3.2 Except as provided above, these Covenants may only be modified or rescinded, in whole or in part, with the consent of the Port unless the Port is no longer an Owner and has executed and recorded with the Chelan County Auditor a statement that the Port withdrawals from, and relinquishes all rights and obligations granted to it by, these Conditions, and in addition with the consent of Owners constituting seventy-five percent (75%) of the Owners of the Property, and, in addition, with the consent of Owners who own seventy-five percent (75%) of the total real property constituting the Property. Provided, however, that no modification or rescision may unfairly or unreasonably operate to the detriment of any Owner or Lot. Such consent shall be given only by written instrument executed and acknowledged by such requisite parties, and duly recorded in the office of the Auditor of Chelan County, Washington.

7.4 - **Not a Public Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Parcel to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Port that these Conditions shall be strictly limited to and for the purposes herein expressed. The Port and the Owners shall have the right to close the Common Access Area at such reasonable times as no businesses are open within the



Parcel Area to prevent a dedication or prescriptive easement for a public purpose.

- 7.5 **Breach Shall Not permit Termination.** No breach of these Conditions shall entitle the Port or any Occupant to cancel, rescind or otherwise to terminate these Conditions, but such limitations shall not affect in any manner any other rights or remedies which the Port or Owners or Occupants may have by reason of any breach of these Conditions.
- 7.6 **Breach Shall Not Defeat Mortgage.** A breach of any of the terms, conditions, covenants or restrictions of these Conditions shall not defeat or render invalid the lien on a Lot of any Mortgagee or Deed of Trust Beneficiary or Trustee ("Mortgagee") made in good faith and for value, and a mere Mortgagee shall not be liable for compliance with these Conditions. Provided however that all Owners of a Lot, including without limitation, a purchaser at a foreclosure sale and a grantee in a deed, including, without limitation, a deed in lieu of foreclosure and a quit claim deed, shall take title subject to these Conditions from the date the Owner takes title, and all Occupants take occupancy subject to these conditions, regardless of the circumstances surrounding the occupancy.
- 7.7 **Savings.** Nothing in these Conditions shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provisions of these Conditions and any statute, law, public regulation or ordinance, or court decree, the latter shall prevail, but in such event, the provisions of these Conditions affected shall be curtailed and limited only to the extent necessary to bring it within legal requirements. If any provisions of these Conditions is determined by a court of competent jurisdiction to be unenforceable, the remainder of the provisions shall continue to be enforceable.

PORT OF CHELAN COUNTY


JOHN R. STOLTENBERG, Commissioner


JAMES H. KNAPP, Commissioner

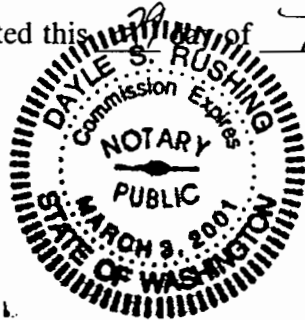

BONNIE L. CANNON, Commissioner



STATE OF WASHINGTON)
)ss.
County of Chelan)

I certify that I know or have satisfactory evidence that **John R. Stoltenberg** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as a Commissioner of the Port of Chelan County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 29 day of November, 1999.

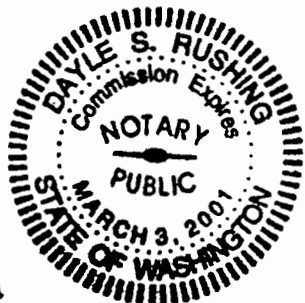


Dayle S. Rushing
Dayle S. Rushing
(printed name)
NOTARY PUBLIC, State of Washington
My appointment expires 3-3-001

STATE OF WASHINGTON)
)ss.
County of Chelan)

I certify that I know or have satisfactory evidence that **James H. Knapp** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as a Commissioner of the Port of Chelan County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 29 day of November, 1999.



Dayle S. Rushing
Dayle S. Rushing
(printed name)
NOTARY PUBLIC, State of Washington
My appointment expires 3-3-001





2066262
Page: 13 of 14
12/18/1999 04:15P
Chelan Co, WA

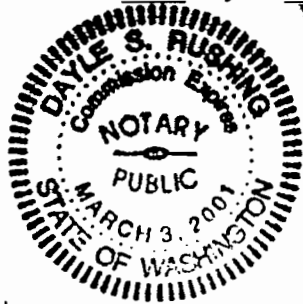


2066263
Page: 13 of 14
12/18/1999 04:15P
Chelan Co, WA

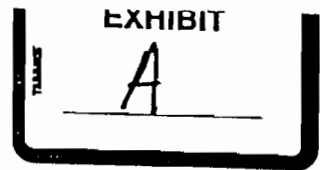
STATE OF WASHINGTON)
)ss.
County of Chelan)

I certify that I know or have satisfactory evidence that **Bonnie L. Cannon** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as a Commissioner of the Port of Chelan County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 29 day of November, 1999.



Dayle S. Rushing
Dayle S. Rushing
(printed name)
NOTARY PUBLIC, State of Washington
My appointment expires 3-3-001



LEGAL DESCRIPTION
PORT OF CHELAN COUNTY
EASY STREET COMMERCIAL PROPERTY

Lots 3 and 4 as delineated on Chelan County Short Plat Number 2179, Chelan County Washington, as recorded, December 12, 1990 in Book SP-8 of Short Plats, Page 24.



2066262
Page: 14 of 14
12/10/1999 04:15P
Chelan Co, WA



2066263
Page: 14 of 14
12/10/1999 04:15P
Chelan Co, WA