

RETURN ADDRESS:

Port of Walla Walla
310 "A" Street
Walla Walla Regional Airport
Walla Walla, WA 99362

WASHINGTON STATE RECORDER'S COVER SHEET (RCW 65.04)

DOCUMENT TITLE(S) (or transactions contained therein):

Restated Declaration of Covenants, Conditions and Restrictions for the Burbank Business Park

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

2010-01767

☐ Additional reference #s on page ____ of document(s)

GRANTOR(S) (Last name first, then first name and initials)

PORT OF WALLA WALLA, a Washington municipal corporation

☐ Additional names on page ____ of document

GRANTEE(S) (Last name first, then first name and initials)

PORT OF WALLA WALLA, a Washington municipal corporation

☐ Additional names on page ____ of document

LEGAL DESCRIPTION (abbreviated: i.e., lot, block, plat or section, township, range)

[insert legal description]

☒ Additional legal is on [Exhibit A](#) of document

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER

300802560098, 300801560116, 300802560100, 300802580133, 300802570118, 300802580141, 300802570131, 300802570126 to 300802570130, 300802580135 to 300802580140, 300801550001 to 300801550059, 300801560101 to 300801560116, 300801550063 to 300801550065 (as amended by Binding Site Plan Amendments)

☐ Assessor Tax # not yet assigned

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THIS RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE BURBANK BUSINESS PARK (hereinafter "Restated Declaration") is made by the PORT OF WALLA WALLA, a Washington municipal corporation ("Declarant").

WITNESSETH

WHEREAS, the Burbank Business Park, hereinafter referred to as the "Park" and as further described on Exhibit A and attached hereto and made a part hereof, is presently majority-owned by Declarant and was purchased to provide land for economic development purposes that integrates commercial and light industrial uses; and

WHEREAS, the Declarant in February 2010 approved and recorded protective Covenants, Conditions and Restrictions (hereinafter "2010 CC&Rs") for the Park which govern the development, as well as the occupancy, operation and maintenance, of the Park; and

WHEREAS, the Declarant has determined that some aspects of the 2010 CC&Rs unnecessarily inhibit or prevent growth and development within the Park, contrary to Declarant's intention; and

WHEREAS, the Declarant wants to modify the 2010 CC&Rs for the Park to make them more conducive for development, on-going management, maintenance, and enforcement; and

NOW, THEREFORE, pursuant to Section 9.17 of the 2010 CC&Rs (renumbered herein as Section 7.17), Declarant hereby amends the 2010 CC&Rs and declares that the 2010 CC&Rs are hereby replaced and restated by this Restated Declaration for the Burbank Business Park.

1. DEFINITIONS

- 1.1. Additional Property:** Any real property, other than the initial property described in [Exhibit A](#), made subject to these protective covenants pursuant to [Section 7.3](#).
- 1.2. Board:** The Port of Walla Walla Commission.
- 1.3. Building Area:** shall mean the areas within which buildings (which, for the purpose of this Declaration, shall include any appurtenant canopies, supports, loading docks, truck ramps and other outward extensions, as well as attached trash compactors and utility transformers) are constructed, placed or located on a Parcel. The Building Area on a Parcel may be modified if an Owner alters or remodels its buildings, so long as such alterations are done in compliance with the terms of this Declaration. Once the alteration is complete, the new area within the buildings shall constitute the Building Area on a Parcel.
- 1.4. Business Park Signage:** Any monument, directional or other signage constructed by the Declarant.
- 1.5. Code:** Walla Walla County Municipal Code.
- 1.6. Design Review Committee or DRC:** The Port of Walla Walla Commission shall serve as the Design Review Committee (hereinafter as "DRC"). DRC shall be the review and approval authority for all development and construction activities within the Park, as described in [Section 3.1](#).
- 1.7. Design Standards:** The standards and guidelines for the construction or modification of all Improvements, which are set forth in [Section 4](#) herein, as amended from time to time by the Board.
- 1.8. Improvements:** All structures or other improvement(s) to a Parcel of any kind whatsoever whether above or below grade, including, but not limited to, buildings, utility installations, storage, loading and parking facilities, walkways, driveways, landscaping, signs, site lighting, fencing, site grading and earth movement related thereto.
- 1.9. Intent of Use Statement:** The intended use of a Parcel by the Owner or parties leasing or otherwise using the Parcel, together with reasonable identification of the proposed parties charged with construction and subsequent operation.
- 1.10. Occupant:** Any Person legally entitled to occupy and use all or any part or portion of a Parcel.
- 1.11. Owner:** All Persons or legal entities that hold legal ownership of Parcels within the Park, which include Declarant and others who purchase Parcels from the Declarant.
- 1.12. Parcel:** Any subdivided or otherwise approved segregated lot within the Park.

- 1.13. Parcel Site Plan:** The Parcel Site Plan and data provided for in [Section 3.2.2](#), the primary purpose of which is to determine compliance of the proposed Improvements with this Declaration.
- 1.14. Park:** The real property described in [Exhibit A](#) attached hereto and made a part hereof, and any part of the Additional Property made subject to this Declaration pursuant to [Section 7.3](#).
- 1.15. Person:** A natural person, firm, corporation, partnership or any legal entity, public or private.
- 1.16. Stormwater Facilities:** All facilities (above and below ground level) that serve the purpose of collecting, storing, and/or treating water runoff from the land and/or impervious surface of, buildings, parking lots, roads and/or streets.
- 1.17. Temporary Structure:** A structure not designed or approved for permanent placement and/or use.
- 1.18. WSDOT Guidelines:** 2008 Washington Department of Transportation Standards for Road, Bridge and Municipal Construction, as amended. Copies of referenced provisions of the WSDOT Guidelines shall be available for review at the Board's office.



2. AUTHORITY OF THE DRC

- 2.1. Adoption of Rules and Regulations.** The DRC is empowered to adopt, amend, and revoke on behalf of the Park detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Declaration to promote the use and enjoyment of the Park and to govern the operation and procedures of the Park. The rules and regulations of the Park shall be binding upon all Owners and Occupants and all other Persons claiming any interest in the Park.
- 2.2. Enforcement of Declaration, Rules, and Regulations.** Subject to the provisions of [Section 7.14](#), the Board shall have the power to enforce the provisions of this Declaration and the rules and regulations of the Park for the benefit of the Park. The failure of any Owner to comply with the provisions of this Declaration or the rules and regulations of the Park will give rise to a cause of action in the Board for recovery of damages, or injunctive relief, or both, as more particularly described in [Section 7.1](#).
- 2.3. Maintenance and Protection.** The Board may spend such funds and take such action as it may from time to time deem necessary to preserve and maintain the Common Areas and Business Park Signage, as more particularly described in [Section 5.16](#), and to settle claims, or otherwise act in what it considers to be the best interests of the Park.
- 2.4. Limitation of Liability.** Declarant and the Board, have acted in good faith, without willful or intentional misconduct, upon the basis of such actual information as is then possessed by such Person, then no such Person shall be personally liable to any Owner, or to any other Person, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of such Person; provided that this Section shall not apply to the extent the liability of such Person for such act, omission, error, or negligence is covered by any insurance actually obtained by the Board.
- 2.5. Insurance.** At such times as the Board deems appropriate, the Board shall purchase and maintain as a common expense a policy or policies, which the Board deems necessary or desirable, to provide casualty insurance and comprehensive liability insurance, with such deductible provisions as the Board deems advisable; insurance, if available, for the protection of the Park and representatives from personal liability in the management of the Park affairs; and such other insurance as the Board deems advisable. The Board shall review the adequacy of the Park's insurance coverage on an as-needed basis.

3. DESIGN REVIEW COMMITTEE; CONSTRUCTION REQUIREMENTS

3.1. Design Review Committee

3.1.1. DRC Composition. The Board shall serve as the DRC.

3.1.2. General Powers and Duties.

3.1.2.1. The DRC shall have the right to administer the Design Standards with respect to the construction or alteration of any and all Improvements to be erected or placed on any Parcel. Such authority shall include the review of all plans and specifications and other materials submitted in connection with the construction of any Improvements on a Parcel, and to approve or disapprove of such submittals in accordance with [Section 7.9](#).

3.1.2.2. DRC approval of plans shall not constitute a representation, warranty or guarantee, whether express or implied, that such plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such plans and specifications, neither the DRC, the Board nor Declarant assumes any liability or responsibility therefor. Neither the DRC, the Board nor Declarant shall be liable to any Owner, Occupant or other Person for any damage, loss or prejudice suffered or claimed on account of:

3.1.2.2.1. the approval or disapproval of any plans, drawings, and specifications, whether or not defective; or

3.1.2.2.2. the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications.

3.1.3. Variances. The DRC may by written determination waive or modify any of the Design Standards if the DRC finds that an extreme hardship may be imposed by a restriction, and if a waiver or modification of such restriction would not have a significant adverse effect on the Park; provided that any waiver or modification shall apply only to the specific Parcel and restriction set forth in the written determination.

3.2. Construction Requirements

3.2.1. Construction Approvals. No clearing, grading, construction, or placing of any Improvements shall be commenced or executed upon any Parcel until the information described in [Section 3.2.2](#) shall have been submitted and approved by the Design Review Committee. In the event the DRC fails to



approve or disapprove of such plans and specifications within sixty (60) days after such plans and specifications are submitted to it for approval, approval is deemed granted pursuant to [Section 7.9](#). In the event the DRC issues disapproval of such plans and specifications, the DRC shall provide, in reasonable detail, the reasons for such disapproval. Notwithstanding the foregoing, any and all construction of Improvements performed by Declarant or the Board shall not be subject to this provision.

3.2.2. Submittals to DRC. Prior to construction, the Owner shall deliver to the Design Review Committee, in a form reasonably satisfactory to the Design Review Committee, a complete Parcel Site Plan that includes the following data, and evidence of how each complies with the Design Standards:

- 3.2.2.1. Project name/title & Name of property owner(s)
- 3.2.2.2. Site plan shall be drawn to a standard engineering scale (e.g., 1" = 20').
- 3.2.2.3. Property boundaries and dimensions and a North arrow.
- 3.2.2.4. Names and location of all existing streets abutting the site.
- 3.2.2.5. Dimensions, height, location, and use of proposed construction.
- 3.2.2.6. Exterior colors and materials of construction.
- 3.2.2.7. Roof projections and screening treatment
- 3.2.2.8. Distance from all proposed and existing buildings/structures to property lines.
- 3.2.2.9. The size, location, and surfacing material of all means of vehicular and pedestrian ingress and egress at the site and the size and location of driveways, approaches, streets, and roads.
- 3.2.2.10. Location, number, size, and surfacing of all parking spaces, visitor, employee, and wheelchair (ADA) parking. Include aisle widths, parking stall dimensions, and angles.
- 3.2.2.11. Location and type of exterior lighting.
- 3.2.2.12. Locations for exterior storage and screening devices for trash, mechanical equipment, and meters.
- 3.2.2.13. Location and height of proposed fencing or screening.
- 3.2.2.14. Location and type of existing and/or proposed landscaping plan and method of irrigation.

- 3.2.2.15. Preliminary storm water drainage plan and layout of proposed retention area or drainage areas.
- 3.2.2.16. Size, number, location, and height of proposed signage.
- 3.2.2.17. Location of all loading spaces, including truck loading platforms and semi-truck parking locations.
- 3.2.3. Construction Activities. Each Owner agrees that all construction activities performed by it within the Park shall be performed in compliance with any and all applicable laws and regulations, as well as the Design Standards or any approved variance thereto. Each Owner further agrees that its construction activities shall not:
 - 3.2.3.1. cause any unreasonable increase in the cost of constructing Improvements upon another Owner's Parcel;
 - 3.2.3.2. result in total or partial failure of any continual lateral and subjacent support for any other Owner's Parcel;
 - 3.2.3.3. unreasonably interfere with construction work being performed on any other part of the Park;
 - 3.2.3.4. unreasonably interfere with the use, occupancy or enjoyment of any part of the remainder of the Park by any other Owner or its Occupants; or
 - 3.2.3.5. cause any other Owner to be in violation of any Design Standards.
- 3.2.4. Time Period for Initial Construction. Any Improvements constructed on any Parcel shall be completed as to external appearance within eighteen (18) months from the date construction is started, however, with good cause shown, the DRC may extend this term.
- 3.2.5. Construction Insurance. Prior to commencing any construction activities within the Park, each Owner shall obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverages set forth below:
 - 3.2.5.1. Workers' Compensation - statutory limits
 - 3.2.5.2. Comprehensive General and Comprehensive Auto Liability as follows:
 - 3.2.5.2.1. Bodily injury and property damage - \$1,000,000 per occurrence, \$2,000,000 in the aggregate;

- 3.2.5.2.2. Products/Completed Operations Coverage which shall be kept in effect for six (6) years after completion of work;
- 3.2.5.2.3. "XCU" Hazard Endorsement, if applicable;
- 3.2.5.2.4. "Broad Form" Property Damage Endorsement;
- 3.2.5.2.5. "Personal Injury" Endorsements; and
- 3.2.5.2.6. "Blanket Contractual Liability" Endorsement.

If the construction activity involves the use of another's property, the Common Areas, or the Declarant's property, then the owner of such Parcel (including the Declarant), as applicable, shall be named as an additional insured.

- 3.2.6. Indemnity. Each Owner agrees to defend, indemnify and hold harmless each other Owner, Declarant, and the DRC, their respective elected officials, employees, and agents, from all claims, actions, proceedings, losses, damages, expenses, and costs incurred in connection therewith (including reasonable attorneys' fees and costs of suit) resulting from any accident, injury or loss or damage whatsoever occurring to any Person or to the property of any Person arising out of or resulting from the performance of any construction activities performed or authorized by such indemnifying Owner. Solely to give full force and effect to the indemnities contained herein and not for the benefit of any third party, each Owner specifically and expressly waives any immunity it may have under Washington State Industrial Insurance Act, Title 51 RCW, and acknowledges that this waiver was reviewed and agreed to prior to purchasing a Parcel. In no event shall an Owner's obligations hereunder be limited to the extent of any insurance available to or provided by the obligated party. The indemnity provisions provided for herein shall survive termination of this Declaration.
- 3.2.7. Temporary License. Each Owner hereby grants and conveys to each other Owner and to its respective contractors, materialmen and laborers a temporary license for access and passage over and across any parking areas or drive aisles of the grantor's Parcel as shall be reasonably necessary for the grantee to construct and/or maintain Improvements upon the grantee's Parcel; provided, however, that such license shall be in effect only during periods when actual construction and/or maintenance is being performed and provided further that the use of such license shall not be exercised so as to unreasonably interfere with the use and operation of such parking areas or drive aisles by others. Prior to exercising the rights granted herein for construction activities, the grantee shall first provide the grantor with a

written statement describing the need for such license and shall furnish a certificate of insurance showing that its contractor has obtained the minimum insurance coverage required by [Section 3.2.5](#). Any Owner availing itself of the temporary license shall promptly pay all costs and expenses associated with such work, shall diligently complete such work as quickly as possible, and shall promptly clean the area and restore any damage to the areas accessed pursuant to this Section to a condition which is equal to or better than the condition which existed prior to the exercise of such license rights. Notwithstanding the foregoing, in the event a dispute exists between the contractors, laborers, suppliers and/or others connected with construction activities, each Owner shall have the right to prohibit the contractors, laborers, suppliers and/or others working for another Owner from using any portion of its Parcel, or the Common Areas, as applicable, for any purpose other than ingress and egress.

- 3.3. Alterations.** Except as provided for herein, (i) any alteration or addition to Improvements, including, but not limited to, (A) tenant improvements, or (B) changes to water and sewer usage plans or estimates previously provided, or (ii) any changes to the Parcel Site Plan with respect to traffic circulation patterns or access points or roads to dedicated streets, must each conform to the Design Standards and each requires submission to and approval by the DRC pursuant to [Section 3.2](#).

“Normal maintenance and repair” must conform to the Design Standards but does not require the approval of the DRC. “Normal maintenance and repair” means those usual acts to prevent a decline, lapse, or cessation from a lawfully established state comparable to its original condition, including but not limited to its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to the environment. Replacement of a structure may constitute a repair where such replacement is the common method of repair for the type of structure and the replacement structure is comparable to the original structure including but not limited to its size, shape, configuration, location, and external appearance.

4. DESIGN STANDARDS

4.1. Guidelines and Standards in General. The purpose and intent of this Section is to encourage the creative and innovative use of materials and methods of construction and to prevent indiscriminate and insensitive use of materials and design in any construction undertaken on Parcels. The following guidelines and standards shall apply, unless otherwise prohibited by law, and may be amended from time to time by the Board without the necessity of amending this Declaration so long as such amendments are consistent with the restrictions in this Declaration, and do not establish standards that are more stringent than those followed for any Improvements on a Parcel or Common Area that exist at the time of such amendment.

4.2. Building Design.

- 4.2.1. Building design shall reflect consideration of site orientation and local conditions including local sunny, arid, and often windy climate factors.
- 4.2.2. Building design and orientation shall consider impacts to other adjacent Owners.
- 4.2.3. Buildings designed to LEED standards are encouraged, but not required.
- 4.2.4. Multiple corners are encouraged on all principal structures. A minimum of five (5) corners on a building is required
- 4.2.5. Multiple rooflines are encouraged.
- 4.2.6. Attractive entrances, architectural focal points, changing planes, awnings, overhangs, and amenities that provide for a "sense of arrival" and building "identity" are encouraged to add interest to plain buildings and scale down large buildings.
- 4.2.7. Building walls are encouraged to avoid extended uninterrupted faces. Recessed faces or projected panels or variations in surface treatments are examples of interrupted wall faces.
- 4.2.8. At least 25% of the wall area fronting on a street should be occupied with windows, alcoves, canopies, cornices, cupolas, or similar architectural features.
- 4.2.9. Rooftop or outdoor mechanical equipment, including satellite or other communication antennas or dishes, shall be screened from public view in a manner that is architecturally integrated with the structure. Screening shall be constructed to a finished standard using materials and finishes consistent with the rest of the building.

- 4.2.10. Roof-mounted equipment should be painted a compatible color with the roof screen. Solar panel installations are encouraged, provided that such installations are designed as part of the roof and are consistent with the architectural theme of the building.
- 4.2.11. Exterior building colors should be subdued. Primary colors or other bright colors should generally be used only as accents to enliven the architecture.
- 4.2.12. Reflective glass is not permitted for glazing.
- 4.2.13. Factory-built and prefabricated structures may be permitted if approved by the Design Review Committee.

4.3. Exterior Wall Materials

- 4.3.1. Recommended exterior finishes and architectural trims such as stone, brick, wood trim, paint, concrete, masonry, tile, stucco, pre-finished metals, and glass.
- 4.3.2. Finish treatments and materials must be applied to all sides of a structure that are visible to the general public and occupants of the same and other structures.
- 4.3.3. At least 25% of exterior finishes and architectural trims on the front must be stone, brick, or glass. No concrete block shall be used on the exterior unless approved by the Design Review Committee. The effect of a material used on a structure shall be considered in relationship to all other structures in the development and shall be compatible with other structures.

4.4. Colors

- 4.4.1. All colors shall be harmonious and compatible with colors of other structures in the Park and the natural surroundings.
- 4.4.2. The general overall atmosphere of color must be natural tones. Stained wood, natural stone, brick, dark aluminum finishes, etc. shall be used as background colors.

4.5. Mechanical Equipment

- 4.5.1. All mechanical equipment, utility meters and storage tanks must be located in such a manner as to be concealed from the general public.
- 4.5.2. If concealment within the structure is not possible, then screening or landscaping shall conceal such utility elements.
- 4.5.3. Penthouses and mechanical equipment screening shall be of a design and material similar to and compatible with those used in the related structures.

4.5.4. Mechanical equipment shall be located in such a manner that does not cause a nuisance or discomfort from noise, fumes, odors, etc.

4.6. Exterior Fire Stairs. All exterior fire stairs must be enclosed.

4.7. Garbage, Trash Collection, Loading Dock, and Other Service Areas

4.7.1. All refuse containment, loading docks, and other service areas shall be located to minimize negative visual impacts, to be inconspicuous, and not cause a nuisance to the public, to other Parcels, or to Occupants of the same or adjacent structures. Trash, garbage, or other waste shall be kept in sanitary containers. All containers and equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and concealed from public view.

4.7.2. Shared or "common" refuse and recycling areas are permitted where continuous or integrated parking fields are also shared by more than one building or Parcel.

4.7.3. All delivery and maintenance vehicle parking areas, truck docks and loading areas, refuse and service areas, and outdoor storage areas shall be screened from public view and adjacent Parcels by means of a fence, masonry wall, landscaping, or a combination of landscaping and fencing materials that together create at least a six (6) foot tall sight-obscuring screening wall complementary to the principal structure.

4.7.4. A delivery or "drop off" zone may be permitted at the front of a building and qualify as a "loading zone" if approved by the Design Review Committee.

4.8. Temporary Structures

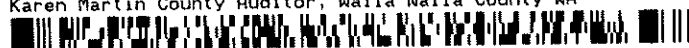
4.8.1. Temporary structures shall only be permitted during the construction of permanent structures and shall be removed as soon as permanent structures are completed unless otherwise permitted by the DRC.

4.8.2. Such temporary structures shall be placed as inconspicuously as possible and cause no inconvenience to the general public or other Owners, nor shall such temporary structures block the Business Park Signage.

4.9. Access Points/Roads & Sidewalks

4.9.1. Access Points and Roads.

4.9.1.1. All Parcels must either connect directly to a dedicated street within the Park, or via an internal access road to a dedicated street within the Park.



- 4.9.1.2. Curbs and gutters shall be provided and conform to the standards set forth in the Walla Walla County Municipal Code and/or Ordinance(s).

4.9.2. Sidewalks.

- 4.9.2.1. Any Parcel that abuts a dedicated street or an access road to a dedicated street must provide for sidewalks along the length of such abutting portion of the Parcel and must connect to sidewalks that are already in place on adjacent Parcels. Materials selected for sidewalks must be in conformance with the stricter of the (i) Walla Walla County Municipal Code and Ordinance(s) or (ii) WSDOT Guidelines.
- 4.9.2.2. Surfaces shall contain a non-skid finish.
- 4.9.2.3. Layout and design shall provide maximum comfort and safety to pedestrians.
- 4.9.2.4. Curbs, walls, decorative fences with effective landscaping, or similar barrier devices shall be located along the perimeter of parking lots, garages, and storage areas, except at entrances and exits indicated on approved parking plans. Such barriers shall be designed and located to prevent parked vehicles from extending beyond the property lines of parking lots and garages or into property areas where parking is prohibited and in order to control drainage from parking lots. All barrier devices shall meet the approval of the Design Review Committee.

4.10. Utilities and Stormwater Facilities

4.10.1. Utilities.

- 4.10.1.1. All Parcel utilities shall be placed underground. No utilities shall be constructed, placed, or maintained on the Parcel unless appropriately contained in conduits or structures. Utilities may include but are not limited to; sewer, drainage, power, natural gas, telephone lines, television cables, microwave or radio signals, and the like.
- 4.10.1.2. With approval from the Design Review Committee, support devices that for practical reason cannot be placed underground or concealed must be screened from view to the satisfaction of the Design Review Committee.

4.10.1.3. Pad mounted equipment shall be appropriately located and screened in a manner consistent with required access and safety requirements.

4.10.2. Stormwater Facilities. Each Owner of a Parcel is responsible for designing, constructing, operating and maintaining Stormwater Facilities consistent with the State Department of Ecology's Stormwater Management Manual for Eastern Washington ("SMMEW"), as the same may be revised from time to time, or any successor document, and Walla Walla County Municipal Code and/or Ordinance(s).

4.10.2.1. Stormwater Facilities must retain and disperse stormwater on site of each Parcel.

4.10.2.2. Stormwater Facilities shall be designed so that they can be mowed or landscaping maintained in a manner that creates an aesthetic value to the Parcel. No slopes may be greater than a 4H:1V ratio.

4.10.2.3. No Owner may use or build ponds or open stormwater features (unless a joint stormwater facility is provided by Declarant), and ponding shall not occur for more than twenty-four (24) hours during a twenty-five (25)-year storm, twenty-four (24) hour event.

4.10.2.4. No Stormwater Facilities shall be located within an area encumbered by a well protection covenant.

4.11. Landscaping, Parking, Storage, and Exterior Lighting Standards

4.11.1. Landscaped Areas in General. Selection of appropriate landscape materials shall conform to the following guidelines:

4.11.1.1. Landscaping must, at a minimum, meet the requirements of Walla Walla County Municipal Code and Ordinance(s).

4.11.1.2. All landscaped areas shall be served by an underground or drip irrigation system or shall be provided with a readily available water supply.

4.11.1.3. All unpaved areas not used for parking and storage shall be landscaped utilizing ground cover (xeriscape preferred) and shall be maintained in a managed condition, not conducive to fire, dust, weeds, or safety hazards.

4.11.2. Parking Areas.

4.11.2.1. The parking area on each Parcel shall contain sufficient ground level, standard automobile size, parking spaces in order to

comply with the requirements of Walla Walla County Municipal Code and Ordinance(s).

- 4.11.2.2. Multiple Owners may enter into cross access and parking agreements to use more than one Parcel to satisfy the requirements of this Section. Such agreements must be submitted to the DRC for its prior review and reasonable approval.
- 4.11.2.3. All parking areas shall be paved with asphalt or concrete.
- 4.11.2.4. Parking areas shall provide walkways for the safe circulation of pedestrians to/from buildings and parking areas.
- 4.11.2.5. Parking/loading dock areas designed for truck maneuvering, parking and/or loading shall meet the requirements for perimeter landscaping only. No interior landscaping for truck parking/loading areas shall be required.

4.11.3. Storage Areas. All outdoor storage areas shall be graveled and shall be visually screened from adjacent Parcels and public streets by means of sight-obscuring fences or walls of material compatible with the related structure. Additional landscaping may be an added component to such screening.

4.11.4. Exterior Lighting

- 4.11.4.1. Lighting shall be designed to conform with the WSDOT Guidelines and meet the requirements of Walla Walla County Municipal Code and/or Ordinance(s) and shall provide safety and security for Occupants and supply reasonable illumination for areas on the Parcel such as parking, loading, shipping and pathways.
- 4.11.4.2. Lighting shall be non-directional lighting and shall be designed to minimize glare or objectionable effects to motorists and adjacent properties.
- 4.11.4.3. Site lighting poles shall not exceed 20 feet in height.
- 4.11.4.4. Lighting sources shall be shielded from adjacent properties.
- 4.11.4.5. Lighting fixtures shall conform to and match any design features established by the DRC.

4.12. Sign Standards. The purposes of these sign standards are to: (i) aid in eliminating excessive and confusing sign displays; (ii) preserve and enhance the appearance of the Park; (iii) safeguard and enhance property values; and (iv) encourage signs that

by their design are integrated with, and harmonious to, the structures and sites they occupy, while providing for Occupants' and Owners' need for brand recognition. If any of the signage standards in this Declaration are in conflict with the meet the requirements of Walla Walla County Municipal Code and Ordinance(s), the more restrictive standards shall apply. These standards shall not apply to the Business Park Signage.

4.12.1. General Standards.

- 4.12.1.1. Owners are allowed to place signage on their respective Parcels, subject to DRC approval pursuant to [Section 3.2.1](#), and the standards set forth in this Section.
- 4.12.1.2. Unless otherwise specified herein, signs shall not exceed fifty (50) square feet per each side of the sign.
- 4.12.1.3. Unless otherwise specified herein, signs, including the base, shall not exceed eight (8) feet in height.
- 4.12.1.4. Signs shall be constructed of materials or treated so that they are rust-inhibitive and suitable for outdoor use and complimentary to the material content and architectural style of the building.
- 4.12.1.5. Wording on signs shall not describe the products sold, prices, or any type of advertising except as part of the Occupant's or Owner's trade name or insignia.
- 4.12.1.6. Pylon or pole signs will be permitted, provided a maximum of only one (1) sign may be installed per street frontage on each Parcel.
- 4.12.1.7. No exposed conduit, tubing, or raceways will be allowed.
- 4.12.1.8. No exposed neon lighting shall be used on signs, symbols, or decorative elements.
- 4.12.1.9. All conductors, transformers, and other equipment must be concealed.
- 4.12.1.10. For illuminated signs:
 - 4.12.1.10.1. Illumination should be energy efficient and shall be arranged so that the light source is shielded from view;
 - 4.12.1.10.2. All sign illumination shall be directed to preclude glare visible from public right-of-way and neighboring Parcels;

- 4.12.1.10.3. Surface brightness or intensity of lighting shall not be beyond that necessary for visibility from the public right-of-way;
- 4.12.1.10.4. Signs shall not produce a harsh, uncomfortably bright light either through the level of illumination or a combination of illumination levels and design of the sign face; and
- 4.12.1.10.5. Signs shall not be overly bright so as to overshadow signs in the immediate vicinity, cause glare, or create an island of light.
- 4.12.1.10.6. For all permitted and exempt signs, except wall signs, the horizontal distance from the Parcel property line to the nearest edge of the sign cabinet shall be at least ten (10) feet.

4.12.2. Permitted Signs. The following signs are permitted on a Parcel:

4.12.2.1. **Identification sign:** may be free-standing single- or double-faced signs, or wall signs, naming buildings, Owners or Occupants, bay or suite numbers.

4.12.2.1.1. Free-standing sign requirements:

4.12.2.1.1.1. Only one (1) sign per Parcel is allowed.

4.12.2.1.1.2. No sign shall obstruct the driver's view entering or exiting driveways per meet the requirements of Walla Walla County Municipal Code and/or Ordinance(s).

4.12.2.1.1.3. Free-standing signs that incorporate a base structure made of stone, brick, rock, and block type materials are encouraged, especially as it relates to enhancing the architectural theme of the development of the Parcel.

4.12.2.1.1.4. Free-standing signs should be incorporate into the landscaping of the Parcel when possible.

- 4.12.2.1.2. Wall signs: are permitted as follows:
 - 4.12.2.1.2.1. Sign may be placed directly on the building façade.
 - 4.12.2.1.2.2. No more than four (4) signs are permitted for each Parcel.
 - 4.12.2.1.2.3. Maximum size shall be twenty-four (24) square feet total.
 - 4.12.2.1.2.4. No sign face shall be perpendicular to the face of the building.
 - 4.12.2.1.2.5. No sign shall be installed on or above canopies, overhangs or roofs.
- 4.12.2.2. **Informational and directional signs:** permitted, provided that they relate to pedestrian and vehicular flows on a Parcel and shall conform, as nearly as possible, to the international symbols. Such signage shall not exceed two (2) square feet. No more than one (1) informational or directional sign is permitted for each curb cut on a Parcel.
- 4.12.2.3. **Menu reader boards for drive-through facilities:** permitted as follows:
 - 4.12.2.3.1. A maximum of two (2) are permitted per Parcel;
 - 4.12.2.3.2. Each menu board shall not exceed thirty-two (32) square feet per sign face and a maximum height of five (5) feet.
 - 4.12.2.3.3. Each menu board shall be designed and located to be viewed exclusively by patrons of the development and not plainly visible from offsite.
- 4.12.2.4. **Temporary signs:** permitted as follows:
 - 4.12.2.4.1. Banner, wall, and window signs shall be the only type of temporary sign permitted. Temporary free-standing or monument signs are prohibited.
 - 4.12.2.4.2. A temporary sign shall not be placed higher than the fascia of the primary building.
 - 4.12.2.4.3. The maximum sign area of a banner sign shall be sixty (60) square feet.

- 4.12.2.4.4. The vertical clearance under a banner sign shall be at least (10) feet.
- 4.12.2.4.5. Banner signs shall not be placed in or over a public right-of-way.
- 4.12.2.4.6. Banner signs shall not be attached to telephone poles, fences or trees.
- 4.12.2.4.7. Temporary signs that cover an existing permanent sign must be removed within thirty (30) days of installation.
- 4.12.2.4.8. The display of temporary signs is limited to ten (10) consecutive days and may not exceed a total of thirty (30) days per calendar year.

4.12.3. Prohibited Signs. The following types of signs are prohibited in the Park:

- 4.12.3.1. Signs that have been abandoned for longer than thirty (30) days.
- 4.12.3.2. Inflatable signs.
- 4.12.3.3. Billboards.
- 4.12.3.4. Flashing, revolving, or moving signs, excepting clocks.
- 4.12.3.5. Signs which advertise a business not located on the Parcel.
- 4.12.3.6. Signs which create a safety hazard for pedestrians or vehicular traffic.
- 4.12.3.7. Signs attached to utility poles, traffic signs, and fences.
- 4.12.3.8. Portable and sandwich board signs.
- 4.12.3.9. Signs on any vehicle or trailer that is parked and visible to the public. This provision shall not prohibit signs which are painted on or magnetically attached to any vehicle operating in the normal course of business.
- 4.12.3.10. Changing message centers.
- 4.12.3.11. Exterior signs which advertise alcohol and tobacco products.
- 4.12.3.12. Banner signs, unless placed temporarily pursuant to Section 4.12.2.4.

4.12.4. Exempt Signs. The following signs are exempt from the provisions of this Section, and do not require the prior approval of the DRC:

- 4.12.4.1. Traffic and standardized public signs installed by a governmental entity.
 - 4.12.4.2. National flags, flags of a political subdivision and symbolic flags of an institution or business.
 - 4.12.4.3. Legal notices required by law.
 - 4.12.4.4. Historic site plaques and markers and gravestones.
 - 4.12.4.5. Real estate signs not exceeding seven (7) square feet.
 - 4.12.4.6. Holiday decorations or other materials temporarily displayed on traditionally accepted civic, patriotic or religious holidays.
- 4.12.5. Multi-Tenant Building Signage. Notwithstanding the foregoing provisions, in the event a Parcel contains multi-tenant Improvements, then each tenant is allowed one (1) wall sign each, to be of uniform size with the other tenants of the Improvements on that Parcel. Such size shall be determined by the DRC pursuant to the Design Standards. Only one (1) freestanding sign shall be allowed per Parcel, but all tenants of the Parcel may advertise on such freestanding sign. The tenants may allocate the cost of installation and maintenance thereof as they determine.

5. MAINTENANCE AND REPAIR

5.1. General Maintenance. The following standards are intended as general guidelines to encourage maintenance practices that will contribute to a Parcel that is attractive to the community and Owners of other Parcels in the Park. These standards are supplemental to any maintenance standards contained in the Walla Walla County Municipal Code and Ordinance(s) or other local, state, or federal laws and regulations. The minimum standard of maintenance for the Parcels shall be comparable to the standard of maintenance followed in other first-class commercial/industrial mixed-use developments or office parks of comparable size in Eastern Washington, and in any event in compliance with the provisions of this Declaration and any regulations passed pursuant hereto. Any failure to comply with these requirements shall be subject to the provisions of [Section 7.1](#).

5.2. Grounds.

- 5.2.1. Each Owner shall be responsible for the maintenance of its grounds including, but not limited to, driveways, walkways, sidewalks (including sidewalks and multi-purpose paths located directly between the Owner's property and any abutting public right of way), parking areas, stormwater facilities, fences, and other improvements within the Parcel, in good order, condition and repair, and shall be maintained to function as originally designed.
- 5.2.2. Repairs and rehabilitation will be done with the type of material originally installed thereon or such substitute that is, in all respects, equal in quality, appearance and durability.
- 5.2.3. Snow and ice removal, the removal of debris and waste material and the washing and sweeping of paved areas is required when needed.
- 5.2.4. Trash will be collected and removed as necessary to the Parcel remains visually appealing.

5.3. Buildings

- 5.3.1. The exterior appearance of each structure erected shall be maintained in a neat and clean condition. Buildings, structures, and appurtenances shall be painted or refinished at intervals comparable to the standards of other first-class commercial/industrial mixed-use developments or office parks of comparable size in Eastern Washington.
- 5.3.2. Owners shall keep the buildings, structures, and appurtenances thereon in good order, condition and repair, and comply in all respects with applicable local, state and federal governmental ordinances, laws, regulations, requirements or directives.

5.4. Utilities

- 5.4.1. External utility lines for electrical, telephone or telecommunications services shall be properly maintained such that wiring is not exposed to introduce safety hazards or to threaten service interruptions due to shorting, grounding, or other causes due to negligent maintenance.
- 5.4.2. Other utility infrastructure systems shall be maintained in such a manner as to not create property damage or health hazards to Occupants or other Owners.

5.5. Parking Lots and Drive Aisles

- 5.5.1. Parking lots and drive aisles, including the landscaping within the general area, shall be maintained on a regular basis to provide safe and efficient vehicle and pedestrian usage and to ensure a satisfactory visual appearance.
- 5.5.2. Activities shall include periodic sweeping or washing of the surface; refuse removal, and painting of parking stall markers; and crack sealing, repairing pitted or damaged concrete or asphalt surfaces, and repaving when needed.
- 5.5.3. Signs or pavement markings shall also be kept clean and in good repair.
- 5.5.4. Snow and ice removal will also be required as necessary.

5.6. Exterior Lighting.

- 5.6.1. All external lighting systems on buildings or structures or on lighting poles will be kept clean and relamped to promote efficiency of systems and safety. This includes lighted signs.
- 5.6.2. Once initial construction of a structure on a Parcel is completed as to external appearance, each Owner hereby covenants and agrees to keep its Parcel fully illuminated each day from dusk until at least 10:30 p.m., and further agrees to keep any exterior building security lights and internal access roadway lights on from dusk until dawn.

5.7. Landscaping

- 5.7.1. All landscaped areas shall be routinely maintained, including the trimming, watering, and fertilization of all grass, groundcover, shrubs, or trees, at such intervals as necessary to promote optimum growth.
- 5.7.2. All landscaped areas and plants required by these standards must be permanently maintained in a healthy growing condition.

- 5.7.3. Dead or diseased plants, grass, groundcover, shrubs, and trees must be replaced within 30 days, or as soon as practical in inclement weather or complex situations involving removal/replacement of large trees.
- 5.7.4. All plantings must be fertilized, irrigated, and pruned. All landscaped areas must be kept free of debris and weeds.
- 5.7.5. Plant material must not interfere with public utilities, restrict pedestrian or vehicular access, or constitute a traffic hazard.

5.8. Signs

- 5.8.1. All signs shall be maintained so as to be visually appealing and readable.
- 5.8.2. Maintenance activities will include washing, painting, repairing the surface of mechanical or electrical components of the sign and any other activity required to return the sign to its original visual and functional condition.
- 5.8.3. Signs, poles, wiring, conduits, and other related support features should also be maintained.

5.9. Stormwater Facilities. Owners shall be responsible for the operation and maintenance of Stormwater Facilities on the Parcel. Operation and maintenance of the Stormwater Facilities shall be consistent with the SMMEW and the requirements of Walla Walla County Municipal Code and Ordinance(s) and sufficient to ensure that the Stormwater Facilities continue to mitigate adverse impacts resulting from development on the Parcel on the quality or quantity of stormwater discharges. Operation and maintenance of the Stormwater Facilities shall be sufficient to provide a pleasing aesthetic value to the Parcel including proper mowing and landscaping of the Stormwater Facilities.

5.10. Sidewalks. All sidewalks located on a Parcel shall be cleaned (including washing, snow removal and/or steam cleaning), maintained and repaired by the Owner. Sidewalks shall be cleaned at appropriate intervals during such time as shall not interfere with the conduct of business or use of the Park by persons intending to conduct business with any Owners or Occupants.

5.11. Insurance. Each Owner (as to its Parcel) shall maintain or cause to be maintained in full force and effect Comprehensive Public Liability Insurance with a combined single limit of liability of not less than Three Million Dollars (\$3,000,000.00) for bodily or personal injury or death, and for property damage, arising out of any one occurrence. Such insurance shall include the following provisions:

- 5.11.1. shall provide that the policy may not be cancelled or materially reduced in amount or coverage without at least thirty (30) days prior written notice by the insurer to each insured and any additional insureds;

- 5.11.2. shall name the other Owners, the DRC and the Declarant, as additional insureds;
- 5.11.3. shall provide for severability of interests;
- 5.11.4. shall provide that an act or omission of one of the insureds or additional insureds which would void or otherwise reduce coverage, shall not reduce or void the coverage as to the other additional insureds of the insured, respectively; and
- 5.11.5. shall provide for contractual liability coverage with respect to the indemnity obligation set forth below, subject, however, to the limits of coverage set forth above.

All insurance required by [Sections 5.11](#) and [Section 3.2.5](#) shall be procured from companies licensed in the state of Washington and shall be rated by Best's Insurance Reports not less than A/X; the limits of such policies shall be provided to the Board for review and approval as to sufficiency at least every five (5) years. The insurance may be carried under (i) an individual policy covering this location, (ii) a blanket policy or policies which includes other liabilities, properties and locations of such party, (iii) a plan of self-insurance, provided that the Owner so self-insuring has and maintains twenty-five million dollars (\$25,000,000) or more of net current assets as evidenced by such Owner's annual report that is audited by an independent certified public accountant, or (iv) a combination of any of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by an Owner in compliance with [Section 5.11](#), such Owner shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided however, that in no event shall any deductible exceed one hundred thousand dollars (\$100,000.00) unless such Owner qualifies for self-insurance pursuant to (iii) above. Each Owner agrees to furnish to any Owner requesting the same, copies of the insurance policies evidencing that the insurance required to be carried by such requested Owner is in full force and effect.

5.12. Indemnity. With the exception of Declarant, which shall have no duty to indemnify, each Owner ("Indemnitor") covenants and agrees to indemnify, defend and hold harmless the other Owners, the Board, the DRC and the Declarant, their respective elected officials, employees and agents (collectively, the "Indemnitee") from and against all claims, costs, expenses and liability (including reasonable attorney's fees and cost of suit incurred in connection with all claims) including any action or proceedings brought thereon, arising from or as a result of the injury to or death of any Person, or damage to the property of any Person which shall occur on the Parcel owned by such Indemnitor, except for claims caused by the negligence or willful act or omission of such Indemnitee, and its respective agents, servants, or

employees. Solely to give full force and effect to the indemnities (except Declarant) contained herein and not for the benefit of any third party, each Owner specifically and expressly waives any immunity it may have under Washington State Industrial Insurance Act, Title 51 RCW, and acknowledges that this waiver was reviewed and agreed to prior to purchasing a Parcel. In no event shall an Owner's obligations hereunder be limited to the extent of any insurance available to or provided by the obligated party. The indemnity provisions provided for herein shall survive termination of this Declaration.

5.13. Taxes and Assessments.

5.13.1. Each Owner shall pay, or cause to be paid prior to delinquency, all taxes and assessments with respect to its Parcel, the buildings, and Improvements located thereon and any personal property owned or leased by such Owner in the Park, provided that if the taxes or assessments or any part thereof may be paid in installments, the Owner may pay each such installment as and when the same becomes due and payable. The Owners shall pay, or cause to be paid prior to delinquency, all taxes and assessments with respect to the Common Areas, and Improvements located thereon, provided that if the taxes or assessments or any part thereof may be paid in installments, the Owner may pay each such installment as and when the same becomes due and payable.

5.13.2. Nothing contained in this subsection shall prevent any Owner from contesting at its cost and expense any such taxes and assessments with respect to its Parcel or Common Areas in any manner such Owner elects, so long as such contest is maintained with reasonable diligence and in good faith. At the time as such contest is concluded (allowing for appeal to the highest appellate court), the contesting Owner shall promptly pay all such taxes and assessments determined to be owing, together with all interest, penalties and costs thereon.

5.14. Liens. In the event any mechanic's lien is filed against a Parcel or the Common Areas (the "Liened Parcel") as a result of services performed or materials furnished by or at the request of another Owner or its authorized agent (collectively, the "Lien Defaulting Party"), the Lien Defaulting Party shall cause such lien to be discharged prior to entry of final judgment (after all appeals) for the foreclosure of such lien and shall indemnify, defend, and hold harmless the Owner of the Liened Parcel against liability, loss, damage, costs or expenses (including reasonable attorneys' fees and cost of suit) on account of such claim of lien. Upon written request of the Owner of the Liened Parcel, the Lien Defaulting Party shall promptly (and in all events within thirty (30) days after such request) cause such lien to be released and discharged of record, either by paying the indebtedness which gave

rise to such lien or by posting bond or other security as shall be required by law to obtain such release and discharge. Nothing herein shall prevent a Lien Defaulting Party from contesting the validity thereof so long as such contest is pursued with reasonable diligence. In the event such contest is determined adversely (allowing for appeal to the highest appellate court), the Lien Defaulting Party shall promptly pay in full the required amount, together with any interest, penalties, costs, or other charges necessary to release such lien.

5.15. Casualty and Condemnation. In the event all or any portion of any Improvements in the Park is: (i) damaged or destroyed by fire or other casualty; or (ii) taken or damaged as a result of the exercise of the power of eminent domain or any transfer in lieu thereof, the Owner of such Improvements shall promptly restore or cause to be restored the remaining portion of such Improvements or, in lieu thereof, shall remove or cause to be removed the damaged portion of such Improvements together with all rubble and debris related thereto. All areas on which Improvements are not reconstructed following a casualty or condemnation shall be graded or caused to be graded by the Owner thereof to the level of the adjoining Parcel and in such a manner as not to adversely affect the drainage of the Park or any portion thereof, shall be covered by either approved landscaping, a dust cap of rolled, crushed rock no greater than 1/2-inch minus in diameter, or a one-inch minimum asphalt dust cap and shall be kept watered, if landscaped, weed free and clean at such Owner's sole cost and expense until Improvements are reconstructed thereon.

5.16. Common Areas and Business Park Signage Maintenance. The Board shall maintain all Common Areas and the Business Park Signage, including all utilities and lighting elements, in state of repair comparable to the standard of maintenance followed in other commercial/industrial mixed-use developments or office parks of comparable size in Eastern Washington. The Board reserves the right to construct, reconstruct, and repair such improvements in the Common Areas and the Business Park Signage. The Board may, from time to time, select a third party to maintain the Common Areas and Business Park Signage, provided that such Person is a reputable professional for the work or services to be performed.

6. REGULATIONS GOVERNING USES

6.1. Uses.

- 6.1.1. In General. No part of the Park shall be used for a purpose that is in violation of applicable zoning ordinances or other applicable regulations currently in effect, and as may be amended from time to time.
- 6.1.2. Prohibited Uses. The following uses shall not be permitted (even if allowed by zoning regulations):
- 6.1.2.1. Any refining, smelting, mining operation, or other uses of an intensity traditionally considered as heavy industrial, excluding uses typically having low impacts on the environment, such as, but not limited to: (i) limited manufacturing, assembly, warehousing and distribution operations; (ii) research and development facilities where such activities occur inside the building on otherwise screened from public view; (iii) production, assembly, finishing and/or packaging of goods from prepared materials made at another location, or raw materials, such as pre-milled wood, paper, wool, textiles, leather, cork or semiprecious metals or stones; (iv) distilling, canning or bottling of food or beverages for human consumption; or (v) grading activities associated with site development;
 - 6.1.2.2. Any mobile home park, trailer court, labor camp, junkyard, or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance);
 - 6.1.2.3. Any dumping, disposing, or reduction of garbage (exclusive of garbage compactors located in the rear of any building);
 - 6.1.2.4. Any fire sale, flea market, swap market, bankruptcy sale (unless pursuant to a court order) or auction house operation;
 - 6.1.2.5. Any central laundry, dry cleaning plant, laundromat (excluding pickup and delivery by the ultimate consumer); provided that the DRC may grant a variance pursuant to [Section 3.1.3](#) if the Owner has entered into an agreement with the water and sewer utility provider that requires best management practices and limitations regarding, but not limited to, extraordinary quantity and quality of wastewater, hazardous chemicals and substances, and extraordinary water demands;



- 6.1.2.6. Any animal raising facilities or outdoor animal kennel facilities (except that this prohibition shall not prohibit pet shops or veterinary hospitals with indoor boarding facilities);
- 6.1.2.7. Any establishment where the primary purpose is to sell or exhibit "adult" or pornographic materials;
- 6.1.2.8. Any unlawful or illegal purpose; or
- 6.1.2.9. Any use that is a public or private nuisance. Public or private nuisance shall include, but not be limited to, any of the following conditions:
 - 6.1.2.9.1. Any activity or occurrence that is not in strict compliance with applicable federal, state or local law, regulation or ordinance; or
 - 6.1.2.9.2. The discharge of illegal contaminated water, oil, grease, detergents or other improper liquids, solid waste, or other harmful matter into the ground or the storm water system.

6.2. Temporary Structures. No structure of a temporary character, trailer, tent, basement, shack, garage, barn or other outbuilding shall be used on any property at any time, either temporarily or permanently, except during construction activities as described in [Section 4.8](#), or with the permission of the DRC.

6.3. Water and Sewer. All Parcels must connect to the water and sewer systems operated by the Port of Walla Walla, its successors and assigns (the "Utility Provider"), so long as such systems are available and in operation. All Parcels shall be subject to the rates, fees and any other utility charges and assessments established by the Utility Provider. No individual water wells or septic systems are allowed. Nothing herein shall be deemed as a grant of any ownership interest in the Utility Provider's water right.

7. MISCELLANEOUS

7.1. Default

- 7.1.1. If any Owner or Occupant fails to comply with any nonmonetary provision herein ("Defaulting Owner"), then the Board may, upon thirty (30) days' prior written notice to the Defaulting Owner, proceed to cure the default (and shall have a right, but not the obligation to do so) by the payment of money or performance of some other action for the account of the Defaulting Owner. The foregoing right to cure shall not be exercised if within the thirty (30) day notice period (i) the Defaulting Owner cures the default, or (ii) if the default is curable, but cannot reasonably be cured within that time period, the Defaulting Owner begins to cure such default within such time period and diligently and continuously pursues such cure to completion. The thirty (30) day notice period shall not be required if, using reasonable judgment, the Board deems that an emergency exists which requires immediate attention. In the event of such an emergency, the Board shall give whatever notice to the Defaulting Owner as is reasonable under the circumstances. The Defaulting Owner hereby grants to the Board a non-exclusive easement over, across and under any and all parts of the Parcel(s) owned by the Defaulting Owner for all purposes reasonably necessary to enable the Board (and its agents, contractors, or subcontractors) to perform any of the terms, provisions, covenants or conditions of this Declaration that the Defaulting Owner is obligated to perform but has failed to perform after notice and the opportunity to cure pursuant to this [Section 7.1](#).
- 7.1.2. Within ten (10) days of written demand (including providing copies of invoices reflecting costs), the Defaulting Owner shall reimburse the Board for any sum reasonably expended by the Board to cure the default, together with interest thereon. The Board shall have a lien (the "Board Lien") upon the Defaulting Owner's right, title and interest in and to the Parcel(s) owned by the Defaulting Owner to secure payment of all amounts due to the Board hereunder. The Board shall have the right, but not the obligation, to record its lien, but at all times its lien pursuant to this Section shall be subject and subordinate to: (i) any prior lien of any mortgage or deed of trust held by any institutional lender or any extension, renewal, modification or refinancing thereof, in an amount now or hereafter placed on the Defaulting Owner's interest in the Parcel(s) in question prior to the creation of the Board's lien; (ii) the leasehold estate created by any lease of all or any part of Parcel(s) owned by the Defaulting Owner; and (iii) any other lien of record against the Defaulting Owner's property as of the date that the Board's lien is recorded. The Defaulting Owner hereby consents to the

recordation of such lien. The Defaulting Owner hereby irrevocably designates the Board as the Defaulting Owner's attorney in fact for the purpose of recording its lien pursuant to this Section. The Board shall have the right to foreclose such lien by judicial or nonjudicial procedures, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount owed.

- 7.1.3. If any Owner fails to pay any assessment levied pursuant to this Declaration within thirty (30) days after the due date, such assessment shall bear interest from the due date at the rate set forth in [Section 7.2](#). Such assessment, together with interests and costs incurred in the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Parcel. The Board may take such actions with respect to such lien as provided for in [Section 7.1](#).
- 7.1.4. In the event the Board shall institute any action or proceeding against an Owner or Occupant pursuant to the provisions of this Declaration for any default hereunder by such Owner or Occupant, or to collect any amounts owing hereunder, or if an arbitration proceeding is commenced by agreement of the parties to any dispute, the unsuccessful party in such action or proceeding shall reimburse the successful party for costs and expenses incurred by the successful party in connection with such action or proceeding and any appeals therefrom, including reasonable attorneys' fees and court costs.
- 7.1.5. All remedies are cumulative and shall be deemed additional to any and all other remedies to which the Board may be entitled in law or in equity. The Board shall also have the right to restrain by injunction any violation or threatened violation by any Owner or Occupant of any of the terms, covenants, or conditions of this Declaration, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate.
- 7.2. Interest.** Wherever and as often as one Owner shall not have paid any sum payable hereunder to the Board within five (5) days of the due date, such delinquent Owner shall pay interest on such amount from the due date to and including the date such payment is received by the Board, at the rate of eighteen percent (18%) per annum, provided that if this interest rate is higher than the rate permitted by law, the interest rate is hereby decreased to the maximum legal interest rate permitted by law.

7.3. Subjecting Additional Property to this Declaration. The Declarant may acquire Additional Property from time to time. Said Additional Property may be considered part of the Park, and in some instances, be conveyed to the Board as part of the Common Areas to be maintained and owned by the Board. The Declarant may subject Additional Property to the provisions of these protective covenants by filing of record with the County Auditor of Walla Walla County, Washington, a supplement to this Declaration for each such addition, provided that such supplement makes specific reference to this Declaration and describes the Additional Property. Each supplement may contain such additions and modifications of this Declaration to be applicable solely to the Additional Property as the Declarant may choose. The Declarant is not bound to add to these protective covenants any Additional Property. The Additional Property that is added hereto by the Declarant need not, but may, be improved. Additional Property made subject to these protective covenants need not be contiguous to the property described in Exhibit A.

7.4. Easements.

7.4.1. Sidewalks. Declarant hereby establishes, grants, and conveys for the benefit of each Owner and Occupant, for their use and for the use of their respective invitees and guests, in common with others entitled to use the same, a perpetual non-exclusive easement for ingress, egress and the passage of pedestrians over and across any sidewalks constructed, or to be constructed, on any Parcels.

7.4.2. Other Easements. Each Owner shall reasonably cooperate with other Owners in the granting of reasonable easements across their respective Parcels for ingress and egress, cross-parking, utilities, and such other easements as may be requested in order to promote the orderly and efficient development of the Park. Such agreements are subject to the prior review and reasonable approval of the DRC.

7.4.3. Restrictions. No Owner shall grant any easement for the benefit of any property not within the Park; provided, however, that the foregoing shall not prohibit the granting or dedicating of utility easements by an Owner on its Parcel to governmental or quasi-governmental authorities or to public utilities.

7.5. Conveyances and Leases Subordinated. All conveyances and leases of any portion of the Park shall be subject to and subordinate to the terms and provisions of these protective covenants.

7.6. Notices. All notices, demands, statements, and requests (collectively, the "Notice") required or permitted to be given under this Declaration must be in

writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the Person to whom the Notice is addressed or if such Person is not available the date such Notice is left at the address of the Person to whom it is directed, (ii) on the date the Notice is postmarked by the United States Post Office, provided it is sent prepaid, certified mail, return receipt requested, and (iii) on the date the Notice is delivered by a nationally recognized overnight courier service (including Federal Express, Express Mail or similar operation) to the addressee, provided it is sent prepaid, return receipt requested. Unless a different address is provided by written Notice to all Owners in accordance with this Section, the address of each Owner shall be the address shown on the real property tax records in Walla Walla County, Washington for the applicable Parcel. The address for both the Board and the DRC is set forth below:

Board /DRC:	Board
	310 A Street
	Walla Walla Regional Airport
	Walla Walla, Washington 99362

Each Owner shall have the right from time to time and at any time, upon prior Notice thereof in accordance with the provisions herein, to change its address and to specify any other address or copy address within the United States of America to which Notices to it shall be sent; provided, however, notwithstanding anything herein contained to the contrary, no change of address Notice shall be effective unless and until actually delivered. Refusal to accept delivery of a Notice or the inability to deliver a Notice because of an address change which was not properly communicated shall not defeat or delay the giving of a Notice.

- 7.7. Declaration.** Nothing contained herein shall be deemed a gift or dedication of any portion of the Park to or for the general public, nor for any public purpose whatsoever. It is the intention that this declaration shall be strictly limited to and for the purposes herein expressed.
- 7.8. Assignment of Declarant's Rights.** Declarant may assign, and its assignees may further assign, Declarant's rights under this Declaration, provided that only one party shall hold the Declarant rights at any point in time. Such assignment is not effective until Declarant provides to the Board a written notice of the transfer of the Declarant's rights, together with the contact information of the assignee.
- 7.9. Approval and Consent Rights.** Unless otherwise specifically herein provided to the contrary, whenever any approval or consent of an Owner, the Board or the DRC is required, such approval or consent shall be made or denied in writing and shall not be unreasonably withheld, conditioned or delayed by the party from whom it is sought. Unless provision is made for a specific time period, approval or consent

shall be given or denied within thirty (30) days of the receipt of the request therefor. If a written disapproval is not given within the required time period, the party to whom the request was directed shall be deemed to have given its approval or consent. If an Owner, the Board or the DRC shall disapprove, the reasons therefor shall be stated in the notice of disapproval. Except with respect to an approval or consent given as a result of lapse of time, all approvals, consents and disapprovals shall be in writing.

7.10. Condemnation. In the event any portion of the Park shall be condemned, the award shall be paid to the Owner owning land or the improvement taken, except that (i) if the taking includes improvements belonging to more than one Owner and/or the Board, such as utility lines or signs, the portion of the award allocable thereto shall be used to relocate, replace or restore such jointly owned improvements to a useful condition, and (ii) if the taking includes easement rights, the portion of the award allocable to each such easement right shall be paid to the respective grantee thereof. In addition to the foregoing, if a separate claim can be filed for the taking of any other property interest existing pursuant to this Declaration which does not reduce or diminish the amount paid to the Owner owning the land or the improvement taken, then the owner of such other property interest shall have the right to seek an award for the taking thereof.

7.11. Binding Effect. The terms of this Declaration and all limitations, covenants, conditions, easements and restrictions contained herein shall constitute covenants running with the land and shall inure to the benefit of and be binding upon the signatories hereto, the subsequent Owners of the Parcels and their respective successors and assigns. This Declaration and all the terms, covenants and conditions contained herein shall also be enforceable as equitable servitudes in favor of each and every portion of the Park. This Declaration is not intended to supersede, modify, amend, or otherwise change the provisions of any prior instrument affecting the land burdened hereby.

7.12. Singular and Plural. Whenever required by the context of this Declaration, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.

7.13. Negation of Partnership. None of the terms or provisions of this Declaration shall be deemed to create a partnership between or among the Owners in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each Owner shall be considered a separate owner, and no Owner shall have the right to act as an agent for another Owner, unless expressly authorized to do so herein or by separate written instrument signed by the Owner to be charged.

- 7.14. Waiver.** The failure of the Board to insist upon strict performance of any of the obligations or restrictions contained herein shall not be deemed a waiver of any rights or remedies that the Board may have and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the obligations or restrictions contained herein by the same or any other Person.
- 7.15. Severance.** Invalidity of any provision of these protective covenants shall in no way affect any of the other provisions, which shall remain in full force and effect.
- 7.16. Term.** These protective covenants and restrictions shall remain in full force and effect for 30 years from the date of recordation, after which time this Declaration shall be automatically extended for successive periods of 10 years each, unless terminated, modified, or otherwise amended in writing by the Board, provided, however, that the easements granted herein are perpetual and shall continue in force and effect. Upon termination of this Declaration, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of the Declaration, except as relates to the easements mentioned above, shall terminate and have no further force or effect; provided, however, that the termination of this Declaration shall not limit or affect any remedy at law or in equity that an Owner or the Board may have against any other Owner with respect to any liability or obligation arising or to be performed under this Declaration prior to the date of such termination.
- 7.17. Amendment.** This Declaration may be amended by an instrument executed by the Owners of a majority of the Parcels, and Declarant if prior to the Transition Date. Notwithstanding the foregoing, this Declaration may be amended solely by Declarant prior to the Transition Date if such amendment is necessary or desirable in the sole judgment of Declarant to correct typographical or similar errors, or as may be required by a title insurance company.

IN WITNESS WHEREOF, the Declarant executes this Declaration to be effective as of the date of execution.

DECLARANT:

PORT OF WALLA WALLA,

a Washington municipal corporation

By: Patrick H. Reay

Executive Director

Date: 12/30/2022

STATE OF WASHINGTON)
) ss.
COUNTY OF WALLA WALLA)

On this personally appears before me Patrick H. Reay, known to be the Executive Director of the PORT OF WALLA WALLA, the Washington municipal corporation that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 30th day of December, 2022.



Karla C Miller

Printed Name Karla C Miller

Notary Public in and for the State of Washington

Residing at Walla Walla County

My Commission Expires 12-04-26

EXHIBIT A - LEGAL DESCRIPTION

A Tract of land located in and being a portion of Section 1, Township 8 North, Range 30 East, Willamette Meridian, Walla Walla County Washington, and being more particularly described as follows:

Commencing at the southwest corner of said Section 1; thence along the south line of said Section 1, N.89°23'20"E., 3462.04 feet; thence departing said Section line, N.00°36'13"W., 30.00 feet to a point in the easterly right-of-way of Jantz Road as shown on the Lockwood Binding Site Plan recorded in Book 10 of Surveys at Page 218, records of Walla Walla County, said point being on the northerly right-of-way for Humorist Road, said point also being the TRUE POINT OF BEGINNING; thence the following three courses along said Jantz Road, N.18°24'11" W., 154.57 feet to a point of non-tangent curve, said point having a radial bearing of S.81°30'04"W.; thence an arc distance of 351.75 feet along said non-tangent curve concave to the southwest, having a radius of 535.00 feet and a delta angle of 37°40'13" to a point of tangent line; thence along said tangent line N.46°10'09" W., 1189.94 feet to a point on the southerly line of vacated Maple Street, vacation number 05 307, recorded in Auditor File Number: 2005-15594, records of Walla Walla County; thence along said vacated Maple Street N.46°10'09" W., 64.13 feet to a point on the northerly right-of-way for Maple Street (not vacated); thence along said Maple Street S.89°16'26" W., 2027.45 feet; thence departing said Maple Street N.00°19'41" W., 302.08 feet; thence S.89°14'15" W., 299.85 feet to a point on the easterly right-of-way for Fifth Avenue; thence along said Fifth Avenue, N.00°18'28" W., 995.26 feet; thence N.00°19'07"W., 176.61 feet to a point on the Washington Department of Transportation right-of-way for the SR 12 Snake River to Humorist Road Vicinity dated September 4, 2008, said point being opposite station SR 7+47.28 and 30.00 feet easterly there from; thence the following 19 courses along said SR 12 right-of-way N.89°41'31" E., 70.00 feet (Sta- SR 7+47.28, 100' RT); thence N.00°18'29" W., 195.00 feet (Sta- SE 11+00, 100' RT); thence N.89°40'58" E., 178.28 feet (Sta- 12+78.26 P.C., 100' RT) to a point of tangent curve; thence an arc distance of 130.92 feet along said tangent curve to the left, having a radius of 510.00 feet and a delta angle of 14°42'28" to a point of tangent line (Sta- SE 13+83.51 P.T., 100' RT); thence along said tangent line N.74°58'30" E., 305.09 feet; to a point of tangent curve (Sta- SE 16+88.60 P.C., 100' RT) thence an arc distance of 509.98 feet along said tangent curve to the right, having a radius of 550.00 feet and a delta angle of 53°07'35" to a point of compound curve (Sta- SE 22+91.29, 100' RT); thence an arc distance of 289.95 feet along said tangent curve to the right, having a radius of 2900.00 feet and a delta angle of 5°43'43" to a point of tangent line (Sta- SE 25+91.30, 100' RT); thence N.43°49'48" E., 11.35 feet (Sta- LW 865+58.95' RT); thence S.46°26'56" E., 938.49 feet (Sta- LW 875+00, 180' RT); thence S.49°16'12" E., 369.72 feet (Sta- LW 879+00, 160'



RT); thence S.46°10'09" E., 2383.72 feet (Sta- H 17+61.99, 135' LT); (Sta- H 15+70.70, 135' LT); thence S.68°49'51" W., 191.52 feet (Sta- H 15+70.70, 135; LT); thence S.21°10'09" E., 35.00 feet (Sta- H15+70.70, 100' LT); to a point of non-tangent curve, said point having a radial bearing of N.21°10'09"W.; thence an arc distance of 358.94 feet along said non-tangent curve concave the northwest, having a radius of 1000.00 feet and a delta angle of 20°33'56" to a point of non-tangent line (Sta- H11+75.87, 100' LT); thence S.00°36'13" E., 70.00 feet (Sta- H 11+75.87, 30' LT) to a point on the northerly right-of-way for Humorist Road; thence along said right-of-way S.89°23'47" W., 97.95 feet to the TRUE POINT OF BEGINNING

Containing 94.2 acres more or less and being subject to all easements, right-of-ways, covenants or restrictions existing, of record or in view.

TOGETHER WITH:

A Tract of land located in and being located in and aa portion of Section 2, Township 8 North, Range 30 East, Willamette Meridian, Walla Walla County Washington, and being more particularly described as follows:

Commencing at the southeast corner of said Section 2; thence along the east line of said Section 2, N.00°19'14"W., 1987.09 feet; thence departing said Section line, S.88°38'21"W., 30.00 feet to a point on the westerly right-of-way for Fifth Avenue and the northerly right-of-way for Poplar Street, said point being the TRUE POINT OF BEGINNING; thence along said Poplar Street S.88°38'21" W., 1281.41 feet to a point on the easterly right-of-way for Second Avenue; thence along said Second Avenue, N.00°09'01" W., 1996.21 feet; thence departing said Second Avenue, N.89°39'57" E., 1241.27 feet to a point on the Washington Department of Transportation right-of-way for the SR 12 Snake River to Humorist Road Vicinity dated September 4, 2008, said point being opposite station SR 18+40.01 being 140 feet northwest there from; thence the following 10 courses along said SR 12 right of way; thence S.17°16'41" W., 46.92 feet to a point of tangent curve (Sta- SR 17+93.09 P.T. 140' LT); thence an arc distance of 395.95 feet along said tangent curve to the left, having a radius of 1290.00 feet and a delta angle of 17°35'10" to a point of tangent line (Sta-SR 14+40.11 P.C., 140'LT); thence S.00°18'29" E., 92.89 feet (Sta- SR 13+47.22, 140' LT); thence N.89°41'31" E., 40.00 feet (Sta- SR 13+47.22, 100' LT); thence S.00°18'29" E., 199.95 feet (Sta- SR 11+47.27, 100'LT); thence S.89°41'31" W., 200.00 feet (Sta- SR 11+47.27, 300' LT); thence S.00°18'29" E., 200.00 feet (Sta- SR 9+47.27, 300' LT); thence N.89°41'31" E., 200.00 feet (Sta- SR 7+47.28, 100' LT); thence S.00°18'29" E., 200.00 feet (Sta- SR 7+47.28, 100' LT); thence N.89°41'31" E., 70.00 feet (Sta- SR 7+47.28, 30' LT) to a point on the westerly right-of-way for Fifth Avenue; thence departing said SR 12 right-of-way along said Fifth Avenue, S.00°19'07" E., 176.61 feet; thence S.00°18'28"E., 669.30 feet to the TRUE POINT OF BEGINNING.

Containing 55.3 acres more or less and being subject to all easements, right-of-ways, covenants or restrictions existing, of record or in view.

Basis of bearing for this description is WSDOT RW plans "SR 12 Snake River to Humorist Road Vicinity" dated September 4, 2008.

This description was prepared from record information and without the benefit of a ground survey.

Prepared by:
Anderson-Perry & Associates, Inc.

January 25, 2010



Dated: 1/25/2010