

After recording return document to:

City of Burlington
820 E. Washington Avenue
Burlington, WA 98233-1904



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Kathy Hill, Skagit County Auditor
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ORIGINAL

<i>Document Title:</i>	<i>Possession and Use Agreement</i>
<i>Reference Number of Related Document:</i>	<i>N/A</i>
<i>Grantor(s):</i>	<i>A. Elliott Johnson Children's Trust</i>
<i>Grantee:</i>	<i>The City of Burlington</i>
<i>Legal Description:</i>	<i>Ptn. of Sec. 17, T 34 N, R 4 E, W.M.</i>
<i>Additional Legal Description is on:</i>	<i>Exhibit A</i>
<i>Assessor's Tax Parcel Number:</i>	<i>340407-0-061-0005</i>

LAND TITLE COMPANY OF SKAGIT COUNTY

T-81042

POSSESSION AND USE AGREEMENT

In the Matter of the Riverside Bridge Replacement Project, Parcel No. 1-00028

This **AGREEMENT** is made and entered into by and between **A. ELLIOTT JOHNSON CHILDREN'S TRUST**, hereinafter referred to as the "Owner", and **THE CITY OF BURLINGTON**, a municipal corporation of the State of Washington, hereinafter referred to as the "City":

WHEREAS, the City affirms that the Owner of real estate described herein is required by the City for immediate construction of a transportation project.

AND WHEREAS, the City affirms that any delay in its construction program is contrary to the public interest;

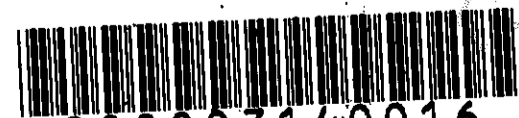
AND WHEREAS, the City has made a firm and continuing offer to pay the amount of NINE THOUSAND, FIVE HUNDRED, FOUR AND 00/100 DOLLARS (\$9,504.00) for the purchase of the following described easement situated in Skagit County, in the State of Washington:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

AND WHEREAS, the Owner requires additional time to evaluate said offer and/or to resolve any questions concerning just compensation;

NOW THEREFORE, for and in consideration of the payment of said offer, the Owner hereby grants to the City a right to possess and use the above described real estate and the parties further agree that:

1. The real estate is necessary for a public use of the City of Burlington. It is the intent of the City to acquire the referenced real property through the power of eminent domain. All payments made to Owner hereunder shall be in the exercise of the power of eminent domain, and such payment made pursuant to this agreement shall offset the purchase price and/or settlement amount.
2. No later than July 31, 2000 the City will issue a warrant in payment to the Owner of the amount of the offer stated above, subject only to deductions of the value of interests of others. The City acknowledges that this warrant will be issued in consideration of Owner's execution of this agreement and that the full amount of such payment shall in all circumstances be nonrefundable to the City, irrespective of whether the City proceeds with condemnation, whether the above-described project is constructed, or the final adjudication of just compensation for the taking of the real property.
3. Execution of this agreement by the undersigned parties shall not prejudice such parties' right to subsequent adjudication of just compensation pursuant to state law, and neither shall this agreement, nor the basis therefore, be construed as an admission of fair market value or just compensation by any of the parties named herein.
4. If it becomes necessary for the City to institute condemnation proceedings, the Owner has no objection to the City's forthwith entering an Order Adjudicating Public Use for Riverside Bridge Replacement Project for the property described herein, and agrees that, from and after the date of this Agreement, this instrument shall be treated as having the same legal effect as an Order for Immediate Possession and Use. The Owner shall cooperate with the entry of such Order.
5. The date of valuation for the determination of just compensation shall be the date that this agreement is accepted and approved by the City of Burlington's City Engineer.
6. Nothing herein shall preclude the City from hereafter changing its plans to increase or decrease the nature or extent of the acquisition. If the acquisition is enlarged a supplemental Possession and Use Agreement will be required.
7. Until this agreement is accepted and approved by the City of Burlington's City Engineer, the City shall have no right of entry, use or possession of real estate described on Exhibit A. Following the date of such approval, the City will indemnify, defend and hold Owner harmless from and against all costs, claims, expenses and damages, including attorneys' fees (with or without litigation), arising in any way in connection with use possession or entry onto said real property by the City, its contractors, subcontractors, agents, employees and assigns.



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It is understood and agreed that delivery of this agreement is hereby tendered and that the terms and obligations hereof shall not become binding upon the City of Burlington unless and until accepted and approved hereon in writing for the City of Burlington, by the City Engineer. If said approval is not provided by the City by December 10, 2000, then this agreement shall automatically terminate.

Accepted and Approved:

OWNER:

A. ELLIOTT JOHNSON CHILDREN'S TRUST

Dated: 6-23-2000

By: *A. Elliott Johnson*

Name: A. Elliott Johnson

Title: TRUSTEE

CITY OF BURLINGTON

Dated: 7/5/00

By: *Rod Garrett*
for Rod Garrett
City Engineer

STATE OF WASHINGTON)

COUNTY OF SKAGIT) §

I certify that I know or have satisfactory evidence that A. Elliott Johnson signed this instrument, on oath stated that (s)he was authorized to execute the instrument and acknowledged it as the TRUSTEE of A. Elliott Johnson Children's Trust, imbued with the power of sale and conveyance, as the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 6-23-2000

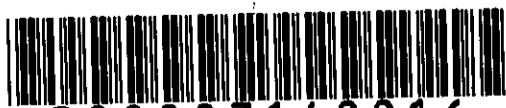
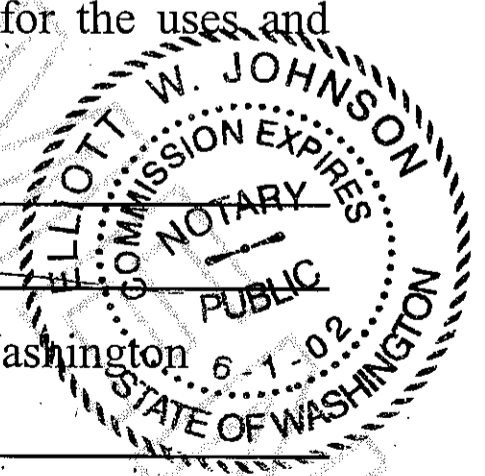
Notary Signature: *[Signature]*

Notary Public in and for the State of Washington

Notary (print name): _____

Residing at: _____

My appointment expires: 6-1-02



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EXHIBIT "A"

That portion of the following described Parcel A that lies East of a line 45 feet West of, when measured at a right angle, from a straight line between the East one Quarter corner and the Southeast Section corner of Section 7, Township 34 North, Range 4 East, W.M.

PARCEL A:

That portion of Government Lot 8, Section 7, Township 34 North, Range 4 East, W.M., described as follows:

Beginning at a point on the West line of Pacific Highway, along the East line of said Government Lot, which is 16.5 feet South of the North line of said Government Lot; thence West, parallel to the North line of said Government Lot, 165 feet; thence South parallel to the East line of said Government Lot, 132 feet; thence East, parallel to the North line of said Government Lot, 165 feet to the West line of said Highway; thence North along said West line, 132 feet to the **POINT OF BEGINNING**.

Containing 1,980 square feet.

See attached Exhibit A.



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