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Skagit County Auditor

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**RETURN TO:**

LAW OFFICE OF  
BRADFORD E. FURLONG, P.S.  
825 CLEVELAND AVENUE  
MOUNT VERNON, WASHINGTON 98273

LAND TITLE OF SKAGIT COUNTY

Document Title: Declaration of Public Use Covenant

Reference number of documents assigned or released: N/A

Declarant/Grantor: Town of La Conner, a Washington municipal corporation

Grantee: Public

Full Legal Description:

LOTS 6, 7 AND 8, BLOCK "P," "MAP OF LA CONNER, WHATCOM  
COUNTY, WASHN. TERRY., 1872," as per plat recorded in Volume 2 of  
Plats, page 49, records of Skagit County, Washington.

Situated in Skagit County, state of Washington.

Assessor's Parcel/Tax I.D. Numbers: 4123-016-008-0002/P74042

## DECLARATION OF PUBLIC USE COVENANT

This Declaration of Public Use Covenant is made by the Town of La Conner, a Washington municipal corporation ("Declarant"), the owner in fee of the real property commonly known as the "Gaches Mansion." This declaration concerns all references herein made to the Gaches Mansion and to the improvements and real property legally described as:

LOTS 6, 7 AND 8, BLOCK "P," "MAP OF LA CONNER, WHATCOM COUNTY, WASHN. TERRY., 1872," as per plat recorded in Volume 2 of Plats, page 49, records of Skagit County, Washington.

Situated in Skagit County, state of Washington.

### I. RECITALS

A. The Gaches Mansion is a valuable historical landmark in the Town of La Conner. The Gaches Mansion was restored by its then owner, La Conner Landmarks, a not for profit corporation, using funds provided by the Washington State Office of Archeology and Historic Preservation pursuant to a grant made in the year 1977 (the "Grant").

B. Pursuant to the Grant a "Public Benefit Covenant" and a "Project Agreement" were recorded against the property under Skagit County Auditor's file numbers 858001 and 858002. The restrictions imposed by the Public Benefit Covenant and the Project Agreement expire in the year 2006.

C. In December 2001, La Conner Landmarks conveyed, for no consideration, the Gaches Mansion to the Declarant. Since obtaining ownership of the Gaches Mansion, the Declarant has leased the premises to the La Conner Quilt Museum, a Washington not for profit corporation, for utilization as a quilt museum, on the second and third floors, and as a place of public access and use on the first floor.

D. The Gaches Mansion is in need of repairs and maintenance, the cost of which is beyond an amount which the Declarant is able to divert from other required expenditures on behalf of the citizens of the Town of La Conner.

E. The Declarant recognizes the valuable public benefit derived from the utilization of the first floor of the Gaches Mansion as a place of public access and use.

F. Declarant recognizes the important educational, cultural and historical value of the Gaches Mansion as a historic landmark. Additionally, the Declarant recognizes that the maintenance, preservation and utilization of the Gaches Mansion for



public access and use, and as a quilt museum, provide an attraction to the general public and therefore a benefit to the economic well being of the Town of La Conner and its citizens.

G. Declarant has determined to divest itself of the Gaches Mansion to avoid the cost of maintenance and repairs; nonetheless, the Declarant wishes to assure the continued preservation of the Gaches Mansion's educational, cultural and historic values and its continued, perpetual accessibility for public use. Declarant has determined that conveying the Gaches Mansion while assuring such preservation and use is in the public benefit.

## II. DECLARATION OF PUBLIC USE COVENANT

The Declarant hereby declares that hereinafter the real property and improvements described herein and each and every part of the property shall be held, sold, and conveyed subject to the following covenant of public use, which shall constitute a perpetual covenant running with the land and shall be binding on all parties having any right, title and interest in the property described herein or any part of the property and shall also be binding on such parties' heirs, successors and assigns. The duties owed pursuant to this covenant are in general to the Declarant and are enforceable by the Town of La Conner.

A. The first floor of the Gaches Mansion shall be maintained and operated so as to provide a place of public access for public gatherings and private social gatherings for the residents and visitors to the Town of La Conner ("Public Utilization"). The first floor of the Gaches Mansion shall be available for Public Utilization a minimum of one hundred fifty (150) days per calendar year.

B. Any owner or lessee of the first floor premises ("Occupant") may charge a reasonable rental fee for the Public Utilization of the first floor of the Gaches Mansion. Such rental fee shall be based on that portion of the Occupant's cost of operating and maintaining the Gaches Mansion, as attributed to the first floor thereof, including such items as insurance, taxes and general repairs and maintenance and may include a reasonable amount of administrative costs for administration of the Public Utilization duties pursuant to this covenant.

C. On an annual basis and no later than one week before the second La Conner Town Council ("Council") meeting in January of each calendar year, the Occupant shall provide written confirmation to the Council that it has made available for Public Utilization the first floor of the Gaches Mansion, a minimum of one hundred fifty (150) days for the prior calendar year.

D. Any owner or occupant of the Gaches Mansion shall undertake all regular maintenance and all repairs to the premises and maintain the landscaping thereof in a manner which will preserve the improvements and the historic nature thereof, which will

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render the exterior of the premises, including landscaping, attractive for public use and which will allow the safe, comfortable use of the first floor of the Gaches Mansion for Public Utilization in compliance with the requirements set forth in this covenant. The Occupant shall allow an annual inspection of the premises by a representative of the Declarant to confirm compliance with this provision.

E. No occupant of the Gaches Mansion shall at any time allow any illegal or unlawful use to be made of the premises. Further, no use shall be made of the premises which carries with it a likelihood of causing damage to the improvements or real property of the Gaches Mansion. While different portions of the premises may be subject to leases or subleases, the premises shall not be further divided or made subject to a declaration of condominium. At all times, the premises shall be operated in compliance with the applicable zoning regulations of the Town of La Conner and otherwise in compliance with all federal and state laws.

F. The Declarant shall have the exclusive right to enforce the requirements of this declaration. The Declarant may seek any equitable remedy, including a temporary restraining order, preliminary injunction and permanent injunction, in Skagit County Superior Court to enjoin or prohibit any action which would be injurious to the real property or improvements thereon or to compel actions to meet the requirements of this declaration. With respect to any other type of dispute between the parties, including a dispute as to the reasonableness of proposed fees for Public Utilization, such disputes shall be submitted to binding arbitration pursuant to the Rules of the American Arbitration Association for Expedited Commercial Arbitration. The prevailing party in any action shall receive an award of its reasonable attorney's fees and costs associated therewith. The decision of the arbitrator shall be final and appealable only pursuant to Chapter 7.04 RCW. The costs of the arbitrator shall be paid equally by the parties.

G. This covenant shall be construed and applied pursuant to the laws of the state of Washington.

H. This covenant may be amended or deleted only by action of the Declarant.

I. Should any provision of this declaration be invalidated for any reason whatsoever, the remainder of this declaration shall remain in full force and effect. Additionally, should any such invalidation occur, the Declarant shall retain the right to amend this declaration in a manner which will assure the preservation of the Gaches Mansion as an historic asset, as a safe structure for public gatherings and to assure its Public Utilization for the benefit of the Town of La Conner and its citizens.



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