

2012-002664

Klamath County, Oregon



00115228201200026640130130

03/12/2012 03:43:21 PM

Fee: \$97.00

## RECORDING COVER SHEET

### After Recording, Return To:

Matt LeMaster  
Davis Wright Tremaine LLP  
1201 Third Ave., Suite 2200  
Seattle, WA 98101

### 1. Name of the Transaction:

Easement Agreement for Access, Ingress and Egress

### 2. Parties:

The Peninsula Group, LLC  
1840 Barnes Blvd SW  
Tumwater, WA 98512

Pilot Travel Centers, LLC  
5508 Lonas Road  
Knoxville, TN 37909

After recording return to:

Matt Le Master  
Davis Wright Tremaine LLP  
1201 Third Ave., Suite 2200  
Seattle, WA 98101

---

EASEMENT AGREEMENT FOR ACCESS, INGRESS and EGRESS

THIS EASEMENT AGREEMENT ("Easement") is dated as of March 8, 2012, by and among Pilot Travel Centers, LLC, a Delaware limited liability company ("Grantor") and The Peninsula Group, LLC, a Washington limited liability company ("Grantee").

RECITALS

A. Grantor owns real property located in the County of Klamath, State of Oregon, more fully described in Exhibit "A" attached hereto and incorporated herein by this reference ("Grantor's Property").

B. Grantee owns real property located in the County of Klamath, State of Oregon, more fully described in Exhibit "B" attached hereto and incorporated herein by this reference ("Grantee's Property").

C. In order for Grantor to develop Grantor's Property, Grantor hereby desires to create a perpetual easement over a portion of Grantor's Property legally described on Exhibit C and as depicted on Exhibit D (the "Easement Area") for the purposes of allowing Grantee and Grantee's guests and invitees access, ingress, and egress to Grantee's Property.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

EASEMENT

1. Grant of Easement. Grantor hereby grants and conveys, for the benefit of Grantee's Property, a perpetual and nonexclusive easement over and across the Easement Area for the purpose of vehicular and pedestrian ingress and egress to and from Grantee's Property.

2. Consideration. The consideration for Grantor's grant of the Easement is Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged by Grantor.

3. Covenants Running with Land. The rights contained within this Easement shall run with the land and shall inure to and be for the benefit of Grantee's Property and its successors, assigns, and the tenants, subtenants, licensees, concessionaires, mortgagees in possession and invitees of Grantee.

4. Maintenance. Grantor shall, at Grantor's sole cost and expense, maintain or cause to be maintained the Easement Area.

5. Remedies. In the event of any breach of the provisions of this Easement, Grantee shall be entitled to exercise any remedy provided by law or equity, including the remedies of injunction and/or specific performance. If litigation is commenced to enforce or interpret the provisions of this Easement, including any appeal, the prevailing party shall be entitled to recover from the other party, in addition to all other costs (including discovery costs, paralegal costs, title report costs, copying, etc.) and damages, reasonable attorneys' fees at trial, in arbitration or upon appeal or petition for review thereof or any proceedings including, without limitation, any arbitration or bankruptcy case or proceedings.

6. Construction. The section headings throughout this Easement are for convenience and reference only and the words contained in them shall not be held to expand, modify, amplify or aid in the interpretation, construction or meaning of this Easement. The terms used in this Easement are to be construed as having their general, plain meaning. All parties hereto acknowledge that they have or could have had the benefit of legal counsel concerning the effect of this Easement and have actually read the same and agree to be bound thereby.

7. Recording. The parties hereto hereby agree that this document will be recorded in the Klamath County real estate records to give third parties notice of this Easement.

8. Constructive Notice and Acceptance. By the recording of this Easement, it shall be deemed that every person or entity who now or hereafter owns, occupies, leases, possesses or acquires any right, title or interest in or to any portion of Grantor's Property or Grantee's Property has consented and agreed to every term, covenant, condition and restriction contained herein.

9. Eminent Domain. If the Easement Area, or any part thereof, is taken for any public or quasi-public use under any statute, or by right of eminent domain, the compensation awarded or paid under such proceedings, or any settlement in lieu thereof, shall be equitably allocated between the parties. If less than all of the Easement Area is taken, this Agreement shall continue in full force and effect with respect to that portion of the Easement Area not taken unless this easement is terminated by unanimous consent of the parties hereto.

10 Entire Agreement. This Easement sets forth all the covenants, promises, agreements, conditions, and understandings between the parties concerning the promises, agreements, conditions or understanding---either oral or written---between them. Except as herein otherwise provided, no subsequent alteration, amendment, change, or addition to this Easement shall be binding upon either party unless reduced to writing and signed by them.

11. Counterparts. This Easement may be executed in counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement.

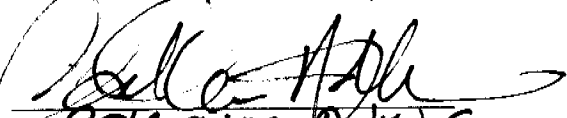
12. Invalidity of Provisions. In the event any provision of this Easement is deemed invalid, it shall not limit the party's right to enforce the remaining provisions; provided, however, that the invalid provision does not negate the basic intent of this Easement. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

IN WITNESS WHEREOF the parties have executed this Reciprocal Easement Agreement as of the date above written.

THE PENINSULA GROUP, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

PILOT TRAVEL CENTERS, LLC

  
By: Catherine Adams  
Its: Senior project manager

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of March, 2012, before me, a Notary Public in and for the State of Washington, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the \_\_\_\_\_ of The Peninsula Group, LLC to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

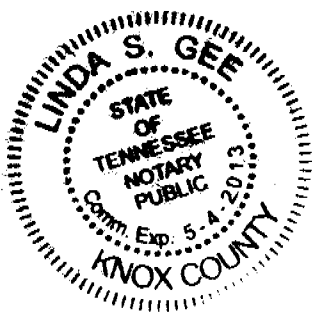
IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_  
Print Name \_\_\_\_\_

Tennessee  
STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Knox )

Tennessee On this 8th day of March, 2012, before me, a Notary Public in and for the State of Washington, personally appeared Catherine Adkins, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the \_\_\_\_\_ of Pilot Travel Centers, LLC to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



My Commission Expires May 4, 2013

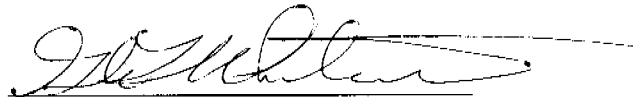
Tennessee  
Linda S. Gee  
NOTARY PUBLIC in and for the State of  
Washington, residing at Knox County  
My appointment expires 5.4.13  
Print Name Linda S. Gee

11. Counterparts. This Easement may be executed in counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement.

12. Invalidity of Provisions. In the event any provision of this Easement is deemed invalid, it shall not limit the party's right to enforce the remaining provisions; provided, however, that the invalid provision does not negate the basic intent of this Easement. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

IN WITNESS WHEREOF the parties have executed this Reciprocal Easement Agreement as of the date above written.

THE PENINSULA GROUP, LLC



By: GERALD L. WHITCOMB

Its: CEO

PILOT TRAVEL CENTERS, LLC

By: \_\_\_\_\_

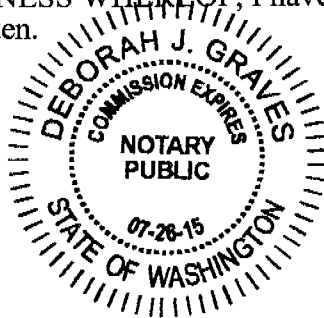
Its: \_\_\_\_\_



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Thurston )

On this 7 day of March, 2012, before me, a Notary Public in and for the State of Washington, personally appeared GERARD L. LUTHER, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the Co-Manager of The Peninsula Group, LLC to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Deborah J. Graves  
NOTARY PUBLIC in and for the State of  
Washington, residing at Tacoma, WA  
My appointment expires July 26, 2015  
Print Name Deborah J. Graves

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of March, 2012, before me, a Notary Public in and for the State of Washington, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the \_\_\_\_\_ of Pilot Travel Centers, LLC to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_  
Print Name \_\_\_\_\_

*[Handwritten signature]*

**EXHIBIT A**  
**GRANTOR LEGAL DESCRIPTION**

Description for Pilot Property (Tax Lot R-3809-019AA-00500)

A tract of land situated in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  Section 19, Township 38 South, Range 9 East of the Willamette meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point on the northeasterly right of way line of State Highway no. 97 which lies South 0° 06' West along the east Section line a distance of 688.5 feet and North 89° 49' West along the North line of Byrd Avenue in Chelsea Addition, a distance of 521.6 feet and North 38° 52' West along the northeasterly right of way line of State Highway No. 97 (note: State Highway bearing of this line shows North 39° 71/2' West) a distance of 130.55 feet from the iron axle which marks the northeast corner of Section 19, Township 38 South, range 9 East of the Willamette Meridian, running thence; continuing North 38° 52' West along the northeasterly right of way line of state highway no. 97, a distance of 250 feet to a point; thence North 51° 08' East a distance of 192.77 feet, more or less to the point of beginning, in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 19, Township 38 South, range 9 East of the Willamette Meridian, Klamath county, Oregon.



**EXHIBIT B**  
**GRANTEE LEGAL DESCRIPTION**  
Sheet 1 of 3

**PARCEL 1:**

BEGINNING AT AN IRON PIN ON THE NORTH LINE OF BYRD AVENUE OF CHELSEA ADDITION, A SUBDIVISION OF KLAMATH COUNTY, STATE OF OREGON, WHICH IRON PIN IS AT A POINT SOUTH  $0^{\circ} 06'$  WEST ALONG THE EAST SECTION LINE OF SECTION 19, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, A DISTANCE OF 688.5 FEET AND NORTH  $89^{\circ} 49'$  WEST ALONG THE NORTH LINE OF BYRD AVENUE A DISTANCE OF 444.4 FEET FROM THE IRON AXLE (WITH BALL RACE) WHICH MARKS THE NORTHEAST CORNER OF SAID SECTION 19; THENCE RUNNING NORTH  $89^{\circ} 49'$  WEST ALONG THE NORTH LINE OF BYRD AVENUE A DISTANCE OF 77.2 FEET TO AN IRON PIN WHICH LIES ON THE NORTHEASTERLY RIGHT OF WAY LINE OF STATE HIGHWAY NO. 97, 95 FEET AT RIGHT ANGLES FROM THE NORTHEASTERLY LEG OF SAME; THENCE NORTH  $38^{\circ} 52'$  WEST ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF STATE HIGHWAY NO. 97 (NOTE: THE STATE HIGHWAY BEARING OF THIS LINE SHOWS NORTH  $89^{\circ} 07' \frac{1}{2}'$  WEST) A DISTANCE OF 130.55 FEET TO A POINT; THENCE NORTH  $51^{\circ} 08'$  EAST AT RIGHT ANGLES A DISTANCE OF 192.77 FEET TO AN IRON PIN; THENCE SOUTH  $38^{\circ} 52'$  EAST 15 FEET TO AN IRON PIN; THENCE SOUTH  $0^{\circ} 06'$  WEST PARALLEL TO THE SECTION LINE A DISTANCE OF 211.1 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, IN THE NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  OF SECTION 19.

**PARCEL 2:**

A PARCEL OF LAND LYING THE NE  $\frac{1}{4}$  OF NE  $\frac{1}{4}$  OF SECTION 19, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE NORTH LINE OF BYRD ST. OF CHELSEA ADDITION TO THE CITY OF KLAMATH FALLS; SAID POINT BEING 688.5 FEET SOUTH AND 234.3 FEET WEST FROM THE NORTHEAST CORNER OF SAID SECTION 19; THENCE NORTH  $89^{\circ} 49'$  WEST ALONG THE NORTH LINE OF SAID BYRD ST. A DISTANCE OF 208.71 FEET; THENCE NORTH  $0^{\circ} 11'$  EAST A DISTANCE OF 208.71 FEET; THENCE SOUTH  $89^{\circ} 49'$  EAST A DISTANCE OF 208.71 FEET; THENCE SOUTH  $0^{\circ} 11'$  WEST A DISTANCE OF 208.71 FEET TO THE POINT OF BEGINNING.

**EXHIBIT B**  
**GRANTEE LEGAL DESCRIPTION**  
**Sheet 2 of 3**

**PARCEL 3:**

THAT PORTION OF BLOCK 2 OF CHELSEA ADDITION TO KLAMATH FALLS, KLAMATH COUNTY, OREGON, LYING EASTERLY OF THE EAST RIGHT OF WAY LINE OF HIGHWAY 97, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK, KLAMATH COUNTY, OREGON. TOGETHER WITH THOSE PORTIONS OF CHELSEA STREET, BYRD AVENUE AND QUARRY STREET ADJACENT TO BLOCK TWO AS DESCRIBED IN VACATION RECORDED MARCH 17, 1993 IN VOLUME M93, PAGE 5572, RECORDS OF KLAMATH COUNTY, OREGON.

A PARCEL OF LAND LYING IN THE NE ¼ NE ¼ OF SECTION 19, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, AND BEING A PORTION OF BYRD AVENUE AND CHELSEA STREET VACATED BY THE CITY OF KLAMATH FALLS ORDINANCE NO. 93-6, RECORDED MARCH 17, 1993 IN BOOK M93 PAGE 5572 OF KLAMATH COUNTY RECORD OF DEEDS: THE SAID PARCEL BEING THAT PORTION OF VACATED BYRD AVENUE AND CHELSEA STREET INURING TO SAID BLOCK 3, CHELSEA ADDITION, KLAMATH COUNTY, OREGON, LYING NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE INTERSECTION OF THE CENTER LINE OF VACATED CHELSEA STREET AND THE NORTHEASTERLY LINE EXTENDED OF THAT PROPERTY DESIGNATED AS PARCEL 2 AND DESCRIBED IN THAT WARRANTY DEED TO THE STATE OF OREGON, BY AND THROUGH ITS STATE HIGHWAY COMMISSION, RECORDED MARCH 27, 1950 IN BOOK 237 PAGE 545 OF KLAMATH COUNTY RECORD OF DEEDS: THENCE NORTHWESTERLY IN A STRAIGHT LINE TO THE SOUTHEASTERLY CORNER OF THAT PROPERTY DESIGNATED AS PARCEL 1 AND DESCRIBED IN SAID STATE OF OREGON DEED.

**PARCEL 4:**

A PORTION OF THE NE ¼ NE ¼ OF SECTION 19, TOWNSHIP 38 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, DESCRIBED AS FOLLOWS:

THE WESTERLY 30 FEET OF THE FOLLOWING DESCRIBED PARCEL:

BEGINNING AT THE SECTION CORNER COMMON TO SECTIONS 17, 18, 19 AND 20, SAID TOWNSHIP AND RANGE; THENCE S. 0° 06' W. ALONG THE EAST LINE OF SAID SECTION 19, A DISTANCE OF 388.5 FEET TO A POINT; THENCE N 89° 49' W. A DISTANCE OF 174.2 FEET TO A POINT; THENCE S. 0° 06' W. A DISTANCE OF 89 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING S. 0° 06' W. A DISTANCE OF 211 FEET TO A POINT ON THE NORTH LINE OF BYRD AVENUE; THENCE WEST ALONG SAID NORTH LINE A DISTANCE

**EXHIBIT B**  
**GRANTEE LEGAL DESCRIPTION**  
**Sheet 3 of 3**

OF 60 FEET TO A POINT; THENCE N. 0° 06' E. A DISTANCE OF 211 FEET TO A POINT; THENCE S. 89° 49' E. 60 FEET TO THE POINT OF BEGINNING.

Parcel 5

A parcel of land lying in the NE¼NE¼ of Section 19, Township 38 South, Range 9 East, W.M., and being a portion of Byrd Avenue and Chelsea Street vacated by that City of Klamath Falls Ordinance No. 93-6, recorded March 17, 1993 in Book M-93, Page 5572 of Klamath County Record of Deeds; the said parcel being that portion of vacated Byrd Avenue and Chelsea Street inuring to said Block 3, CHELSEA ADDITION, Klamath County, Oregon, lying Northeasterly of the following described line:

Beginning at the intersection of the center line of vacated Chelsea Street and the Northeasterly line extended of that property designated as Parcel 2 and described in that Warranty Deed to the State of Oregon, by and through its State Highway Commission, recorded March 27, 1950 in Book 237, Page 545 of Klamath County Record of Deeds; thence Northwesterly in a straight line to the Southeasterly corner of that property designated as Parcel 1 and described in said State of Oregon deed.

ALSO that portion of said Block 3 lying Northeasterly of the above described line.

This parcel of land contains 251 square meters, more or less.

State of Oregon, County of Klamath  
Recorded 07/11/2003 11:04 a.m.  
Vol M03 Pg 49273-75  
Linda Smith, County Clerk  
Fee \$ 31.00 # of Pgs 2

**EXHIBIT C**  
**DESCRIPTION OF EASEMENT AREA**

**Easement Description**

A tract of land situated in the NE¼NE¼ of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Commencing at a point on the northeasterly right of way line of U.S. Highway 97 at its intersection with the northerly right of way line of vacated Byrd Avenue; thence along the northeasterly right of way line of U.S. Highway 97 North 38°52'00" West 162.55 feet to the northwesterly corner of that easement described in Exhibit A of Deed Volume M86, Page 17486 and the true point of beginning for this description; thence along the northwesterly line of said easement North 51°08'00" East 213.73 feet; thence North 38°52'00" West 7.50 feet; thence South 51°08'00" West 213.73 feet to the northeasterly right of way line of U.S. Highway 97; thence South 38°52'00" East 7.50 feet to the point of beginning, with bearings based on County Survey 4425.

# EXHIBIT D DEPICTION OF EASEMENT

