

Return to: Flower & Andreotti  
303 East "D" Street #1  
Yakima, WA 98901

Document Title: Restrictive Covenants

Grantors: City of Yakima, a municipal corporation; Superior Asphalt & Concrete Co., a Washington corporation; CPM Development Corporation, a Washington corporation, successor of Central Pre-Mix Concrete Co., an inactive Washington corporation; and Yakima River Regional Greenway Foundation, a Washington non-profit corporation.

Grantees: Superior Asphalt & Concrete Co., a Washington corporation; CPM Development Corporation, a Washington corporation, successor of Central Pre-Mix Concrete Co., an inactive Washington corporation; and Yakima River Regional Greenway Foundation, a Washington non-profit corporation.

Abbreviated Legal Description: A portion of the South half of the Northeast quarter of Section 20, Township 13 North, Range 19 E.W.M. (Additional legal on pp. 1-2)

Tax Parcel Numbers: 191320-13007, 191320-13009 and 191320-13010.

### RESTRICTIVE COVENANTS

#### RECITALS:

1. The CITY OF YAKIMA, a Washington municipal corporation, is the owner of Yakima County, Washington real property (the "Property" or "parcels") particularly described as:

ORIGINAL



FLOWER & ANDREOTTI

NOV

2008

7558796

Page: 1 of 5

04/23/2007 11:58A  
Yakima Co. WA

Parcel A: The East 470 feet of the South 700 feet of the West half of the Southwest quarter of the Northeast quarter of Section 20, Township 13 North, Range 19 E.W.M., Yakima County, Washington. (Parcel No. 191320-13007)

Parcel B: The West half of the West half of the Southwest quarter of the Southeast quarter of the Northeast quarter of Section 20, Township 13 North, Range 19 E.W.M., EXCEPT the South 165 feet thereof; AND EXCEPT the North 25 feet for County road. (Parcel No. 191320-13009)

Parcel C: The South 165 feet of the West half of the West half of the Southwest quarter of the Southwest quarter of the Northeast quarter of Section 20, Township 13 North, Range 19, E.W.M. (Parcel No. 191320-13010)

2. SUPERIOR ASPHALT & CONCRETE CO., a Washington corporation, had a reserved legal interest in the Property which SUPERIOR has, since 1991, exercised only to perform the below-described DOE remediation. SUPERIOR agrees to unconditionally release and terminate its 1985 "Reservation" for the use of Parcels "A", "B" and "C".

CENTRAL PRE-MIX COMPANY, an inactive Washington corporation, has been acquired by its successor-in-interest, CPM DEVELOPMENT CORPORATION ("CPM Corp."), which continues to use the Property for the transit of equipment and vehicles transporting CPM Corp.'s aggregate rock, concrete, sand and other materials and agrees to limit its use of Parcels "A", "B" and "C" to a thirty (30) foot roadway along the Western boundary of the three (3) parcels required for CPM Corp.'s use as equipment and vehicle access to and from Riverside Street and CPM Corp.'s business operations adjacent to and on the South side of Parcels "A", "B" and "C".

3. The YAKIMA RIVER REGIONAL GREENWAY FOUNDATION, a Washington non-profit corporation, is a beneficiary of the above-described real estate.

4. Part of the Property has been subject to environmental remediation pursuant to Washington State Department of Ecology ("DOE") Order No. 91TC-C444, as amended (the "Order").

5. Environmental remediation on the Property has been completed but DOE requires "institutional controls" be established for the Property to limit activities which may interfere with the integrity of the remediation.

6. The parties desire, by these "Restrictive Covenants", to establish the institutional controls required by DOE pursuant to the Order.



FLOWER & ANDREOTTI

COV

\$36.00

7558796

Page: 2 of 5

04/23/2007 11:58A

Yakima Co, WA

## RESTRICTIVE COVENANTS

In consideration of compliance with the Order, the above Recitals and other valuable consideration, the following restrictions are placed on the Property:

1. Disturbance of the interception trench, liner, soil cover and existing, functional test wells on the Property which would allow migration of contamination is prohibited without prior notification to and approval by DOE or its successor agency.
2. The petroleum contaminated soil, if any, East of the lined interception trench on the Property shall be physically isolated by a barrier such as a fence which will be constructed by Superior and maintained by City, the property owner and Greenway, and not removed without prior notification to and approval by DOE or its successor agency.
3. The Property may not be used for any residential purpose.
4. No title or interest in the Property may be conveyed without complete provision for continued compliance with the above restrictive covenants.

These "Restrictive Covenants" shall be covenants running with the land.

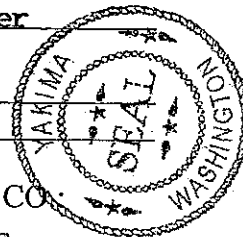
DATED: APRIL  
March 20, 2007.

CITY CONTRACT NO: 2007-31  
RESOLUTION NO: R-2007-59

CITY OF YAKIMA, a municipal corporation:

By: [Signature]  
Title: R. A. Zais, Jr., City Manager

Attest: [Signature]  
Title: Deputy City Clerk



SUPERIOR ASPHALT & CONCRETE CO.

By: [Signature]  
J. BRIAN SIMS, President.

Attest: [Signature]  
JOHN F BENSON, Secretary.

CPM DEVELOPMENT CORPORATION:

By: [Signature]  
JEFF SCHAEFER, President.

Attest: [Signature]  
Paul D Salisbury, Secretary.



YAKIMA RIVER REGIONAL GREENWAY  
FOUNDATION:

By: Pam Cleaver  
PAM CLEAVER, President

STATE OF WASHINGTON )

: ss.

County of Yakima )

On this 22<sup>nd</sup> day of March, 2007, before me, personally appeared PAM CLEAVER, to me known to be the President of YAKIMA RIVER REGIONAL GREENWAY FOUNDATION, the corporation which executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned, and on oath stated he was authorized to execute the instrument.

In Witness Whereof, I have signed and affixed my official seal the day and year first above written.

Jan L. Larin  
NOTARY PUBLIC in and for the  
State of Washington.  
My commission expires: 10/31/10



STATE OF WASHINGTON )

: ss.

County of Yakima )

On this 5<sup>th</sup> day of March, 2007, before me, personally appeared J. BRIAN SIMS and John F. Benson to me known to be the President and Secretary of SUPERIOR ASPHALT & CONCRETE CO., the corporation which executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned, and on oath stated they were authorized to execute the instrument.

In Witness Whereof, I have signed and affixed my official seal the day and year first above written.

Charles F. Benson  
NOTARY PUBLIC in and for the  
State of Washington.  
My commission expires: 4/30/2008



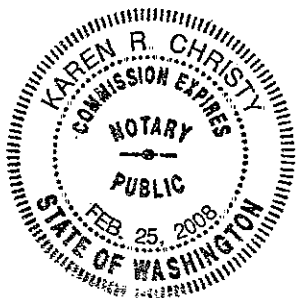
STATE OF WASHINGTON )

: ss.

County of Spokane )

On this 6<sup>th</sup> day of March, 2007, before me, personally appeared JEFF SCHAFFER and \_\_\_\_\_, to me known to be the President and Secretary of CPM DEVELOPMENT CORPORATION, the corporation which executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned, and on oath stated they were authorized to execute the instrument

In Witness Whereof, I have signed and affixed my official seal the day and year first above written.



Karen R. Christy  
NOTARY PUBLIC in and for the  
State of Washington.  
My commission expires: 2-25-08

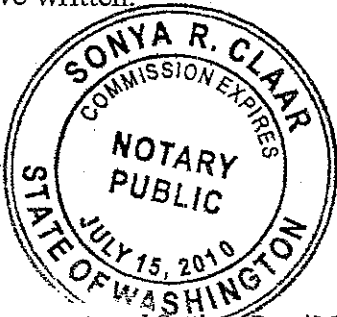
STATE OF WASHINGTON )

: ss.

County of Yakima )

On this 20 day of APRIL March, 2007, before me, personally appeared R.A. ZAB JR. and \_\_\_\_\_, to me known to be the City Manager and \_\_\_\_\_ of the CITY OF YAKIMA, WASHINGTON, a municipal corporation, the municipal corporation which executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of the municipal corporation, for the uses and purposes therein mentioned, and on oath stated they were authorized to execute the instrument.

In Witness Whereof, I have signed and affixed my official seal the day and year first above written.



Sonya R. Claar  
NOTARY PUBLIC in and for the  
State of Washington.  
My commission expires: 7-15-10

C:\Documents and Settings\Patty\My Documents\superior\greenway restrictive covenants doc



FLOWER & ANDREOTTI

COV

\$36.00

7558796  
Page: 5 of 5  
04/23/2007 11:58A  
Yakima Co, WA





RECEIVED FILE COPY

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

April 20, 2006

Mr. Bill Hammett  
Superior Asphalt and Concrete  
2000 East Beech  
PO Box 10268  
Yakima, WA 98909

RE: Notification of Ecology Project Coordinator Change – Superior Asphalt

Dear Mr. Hammett:

According to Section 5.4 of Order No. 91 IC-C444, "Designated Project Coordinator" (last sentence):

"Should Ecology or the Respondents change project coordinators, written notification shall be provided to Ecology or the Respondents at least ten (10) calendar days prior to the change."

I hereby inform you that effective May 1, 2006, I will be the new project coordinator for Ecology for this cleanup project. Correspondence can be addressed to me at:

Robert D. Swackhamer  
Toxics Cleanup Program  
Department of Ecology  
15 W Yakima Avenue, Suite 200  
Yakima, WA 98902

Please call me at (509) 454-7840 if you have questions concerning the site. My e-mail address is [rswa461@ecy.wa.gov](mailto:rswa461@ecy.wa.gov).

Sincerely,

Robert D. Swackhamer, PE  
Site Manager  
Toxics Cleanup Program

cc: Randy Baer, Baer Testing and Consulting  
Aaron Davis, Superior Asphalt and Concrete  
Charles Flower, Flower & Andreotti  
Peter Jowise, Herrera Environmental Consultants

