

**AGREEMENT FOR ENTRY, VEGETATIVE MANAGEMENT,
AND CONVEYANCE OF EASEMENT**

This Agreement for Entry, Vegetative Management, and Conveyance of Easement (“Agreement”) is entered by and between **Hill Grove Cemetery Association**, a Washington non-profit corporation (“Owner”), and the **Port of Seattle**, a Washington municipal corporation (“Port”). Owner is the owner of the real property and improvements located in King County, Washington, legally described in the attached Exhibit A, which is incorporated herein by reference (“Property”). The Owner and Port are each a “Party” and collectively the “Parties” to this Agreement. This Agreement is effective as of the date last signed below (“Effective Date”).

In consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Flight Corridor Safety Program.

The Port is the owner, proprietor, and operator of Seattle-Tacoma International Airport (“Airport”), which is located in proximity to the Property. The Port maintains a Flight Corridor Safety Program to maintain and improve public safety and welfare in areas near the Airport and ensure compliance with federal and state laws, regulations, and requirements. The Port seeks to remove flight surface obstructions currently identified by the Port as located on the Property and to acquire a permanent easement over the Property to prevent the creation or establishment of future obstructions. The Port intends and is prepared to use its eminent domain authority for the foregoing purposes absent voluntary agreement with the Owner.

2. Grant of License for Entry Onto Property.

Owner for itself, its heirs, administrators, personal representatives, successors and assigns, hereby grants to the Port access to the Property for the following purposes:

1.1. Remove the six trees identified on the attached Exhibit B (including the removal of all branches, twigs, bark, leaves, sawdust, wood chips, and large wood); and

1.2. Carry out the Port’s obligations set forth in Section 4 of this Agreement.

The Port will not permit any other party, except the Port’s duly authorized representatives, employees, agents, and independent contractors (collectively, “Representatives”) to enter or use the Property. Prior to accessing the Property, the Port or its Representatives shall contact the Owner representative identified in Section 10 to arrange for access. The Port shall provide the Owner representative with a minimum of 48 hours advance written notice prior to accessing the Property.

2. Liability.

While on the Property, the Port will comply and will cause all Representatives to comply with all applicable government laws and regulations. The Port and its Representatives will be responsible for any damage done by the Port or its Representatives to the Property and will pay the cost of repairing and restoring it to as good a condition as existed before the Port's or its Representative's entry thereon. The Port further agrees to defend and hold Owner harmless from any claim, liability, obligation, or damages (collectively, "Claim") in any way related to, or arising out of, the activities conducted by the Port pursuant to this Agreement. The Port shall pay all attorney's fees and costs incurred by Owner in defending itself from any such Claim and/or to enforce this indemnity.

These obligations do not include any cost, Claim and/or fees and costs which may result from or be caused by the sole negligence of the Owner; provided, however, should a court of competent jurisdiction determine that RCW 4.24.115 applies, then the Port agrees to defend, indemnify and hold the Owner, its officers, officials, employees and volunteers harmless to the maximum extent permitted thereunder. It is further specifically and expressly understood that the indemnification provided herein constitutes the Port's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

3. Permanent Easement.

Owner agrees to grant the Port a permanent easement on the Property by executing the Easement attached as Exhibit C ("Easement") on the same date that Owner executes this Agreement. The Easement shall bind all subsequent purchasers, owners, assignees, lessees, and all other persons or entities that acquire any interest in the Property or any portion thereof. Owner authorizes the Port to record the Easement with the King County Recorder's Office after satisfaction of the Port's obligations in Sections 4.4 and 4.5 of this Agreement. The Port shall pay any closing fees, cost of title commitment, and fees for recording of documents. The Parties agree to execute a Real Estate Excise Tax Affidavit ("REETA") for the conveyance of the Easement. The Port shall prepare the proposed REETA for signature by the Parties, and the Port will submit the duly executed REETA to the King County Recorder's Office when the Easement is submitted for recording. The Port shall pay any real estate excise taxes and fees due at the time of submission of the documents to the King County Recorder's Office.

4. Port Obligations; Environmental Considerations; Debris Cleaning.

4.1. The Port will determine the best tree removal method for the environment, considering the tree species and soil stabilization parameters. The preferred removal method is the complete removal of trees that penetrate (or will penetrate) the Easement using chemical or physical means to ensure that no regrowth occurs. The Port will use tree removal means and

methods that avoid to the maximum extent practicable the disturbance of any grave sites on the Property as identified by the ground penetrating survey required in Section 4.5.

4.2. The Port will, as appropriate to the size of the tree, remove debris, branches, twigs, bark, leaves, sawdust, wood chips, and large wood. Tree stumps shall be removed if possible without disturbing grave sites. If tree stumps are left in the ground, stumps will be cut to surrounding ground levels to the maximum extent possible or unless Owner agrees otherwise. The Port will make reasonable efforts to accommodate Owner requests concerning tree stump removal or stump height consistent with limiting tree growth below the Easement height and minimizing danger to human health, safety, and property, but in no instances will portions of the tree be cut or partially cut. No limbs or other debris will be left blocking sidewalks, streets, or restricting access to the Property.

4.3. The Port will undertake reasonable and timely efforts to replant and restore the site where the tree(s) have been removed. The Port will work with the Owner to select appropriate vegetation for the site restoration from the Port's Replacement Vegetation Schedule (attached as Exhibit D) unless the Owner selects not to have the site restored.

4.4. Within twelve (12) months of the Effective Date, the Port at its expense will provide for the design and installation of a fence along the Property frontage on S. 200th Street, which shall substantially adhere to the following criteria:

4.4.1. Up to 250 linear feet of fence that will bound the north Property line only. Fence will be located entirely on Owner's Property and connect with the existing fence located on the Port's adjoining property to the west and existing fence adjoining the Property to the east;

4.4.2. Fence will be composed of vinyl-coated chain link and be seven feet in height;

4.4.3. Spacing of fence posts will vary to fit topography and in order to avoid, to the maximum extent practicable, disturbance of grave sites and existing trees; and

4.4.4. Fence will have a locking, manually operated double-swing gate that is a maximum width of 10 feet and maximum height of 7 feet, and located entirely on Owner's Property at the existing driveway entrance at the middle of the north frontage of the Property. The gate will be constructed of metal tubing for posts, rails and pickets of varying dimensions to provide an ornamental appearance with a black finish. It will also incorporate a decorative arch element above the gate with black metal signage at a scale that fits within the arch, to include the words "Hillgrove Cemetery" (or substantially similar identification) integrated into the arch.

The fence design shall be subject to Owner approval, which shall not be unreasonably withheld, and shall not, to the maximum extent practicable, disturb any grave sites on the Property.

Following fence installation, future maintenance of the fence shall be the obligation of Owner. The deadline for fence installation shall be delayed in the event Owner does not provide timely approval of fence design.

4.5. Within twelve (12) months of the Effective Date, and prior to its entry onto the property to remove any trees the Port will commission and conduct one (1) ground-penetrating radar survey of the Property grave sites and deliver a copy of the survey to Owner at no cost to the Owner.

4.6. The Port will mow the Property grounds and prune trees on the Property no less than three (3) times per year, within approximately the following time frames and on a precise date determined in consultation with the Owner: (a) at the end of the month of March, (b) two (2) weeks before Memorial Day, and (c) in mid-October.

5. Insurance.

The Port must maintain, in full force and effect during the period of this Agreement, a policy of Comprehensive Liability Insurance, in an amount of not less than one million dollars (\$1 million) for the benefit of the Owner and the Port as their interests may appear hereunder. The Port will also require its contractors to maintain one million dollars (\$1 million) in Comprehensive Liability Insurance. Both policies must insure against any and all risks, Claims, damages, and losses arising out of or incident to the Port's conduct on the Property. The Owner must be named as additional insured on both policies. A copy of an original Certificate of Insurance for both policies will be provided to the Owner within 14 days of the Effective Date of this Agreement.

6. Subordination.

This Agreement shall be subject and subordinate to the provisions of any existing or future agreements between the Port and the United States Government the provisions of which (known as "grant assurances") are required by federal law, 49 U.S.C. § 47107 (as such law may be amended from time to time) relative to the operation and maintenance of the Seattle-Tacoma International Airport.

7. Existing Rights of the Parties.

Except as provided, this Agreement shall neither enlarge nor diminish any rights of either party existing prior to the date of this Agreement as provided by law.

8. Amendment; No Third-Party Rights/Assignment.

No subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon the Port or the Owner unless reduced to writing and signed by both Parties.

Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any person, other than the parties and their respective Representatives. This Agreement shall not and may not be assigned by the Port without Owner's prior written consent.

9. Authority and Counterparts.

Each Party to this Agreement represents that its signatory has due authority to sign this Agreement and bind the respective Party. This Agreement may be executed in counterparts, each separately and together comprising one and the same document.

10. Notices.

All notices and approvals required under this Agreement shall be deemed sufficient if made in writing to the other Party's representative identified below. Either Party may designate another representative at any time by written notice to the other Party.

To Owner:

Jim Langston
President of the Hillgrove Cemetery Board
P.O. Box 98055
Des Moines, WA 98198
(206) 550-6818

To the Port:

Marco Milanese
Community Engagement Manager
17801 International Blvd.
Seattle, WA 98158
(206) 787-7734/(206) 225-6081

If by mail:

P.O. Box 68727
Seattle, WA 98168

11. Governing Law and Venue.

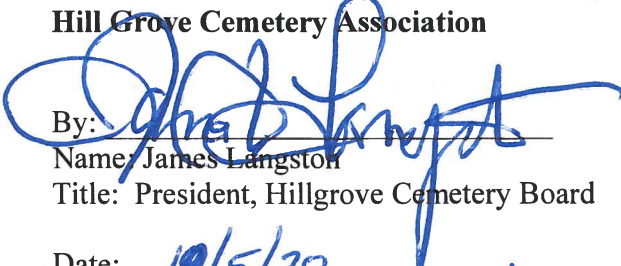
The validity, meaning, and effect of this Agreement shall be determined in accordance with the laws of the State of Washington. Venue for any action or proceeding arising out of this Agreement shall be in the Superior Court of the State of Washington in and for King County.

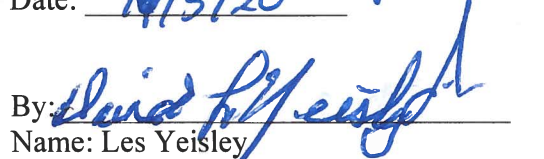
12. Entire Agreement.

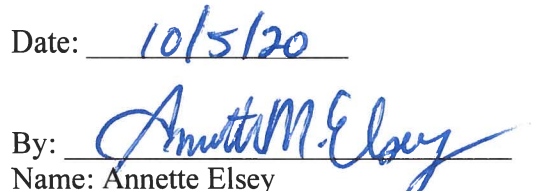
This Agreement sets forth all covenants, promises, agreements, conditions and understandings between the Port and the Owner concerning this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Port and the Owner concerning the activities authorized by this Agreement other than as set forth in this Agreement. The consideration under this Agreement is the full and exclusive consideration for the rights and responsibilities identified herein.

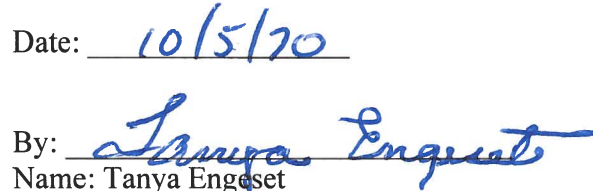
[signatures on following page]

OWNER
Hill Grove Cemetery Association

By: 
Name: James Langston
Title: President, Hillgrove Cemetery Board
Date: 10/5/20

By: 
Name: Les Yeisley
Title: Vice President, Hillgrove Cemetery Board
Date: 10/5/20

By: 
Name: Annette Elsey
Title: Secretary, Hillgrove Cemetery Board
Date: 10/5/20

By: 
Name: Tanya Engset
Title: Treasurer, Hillgrove Cemetery Board
Date: 10/5/2020

THE PORT
The Port of Seattle


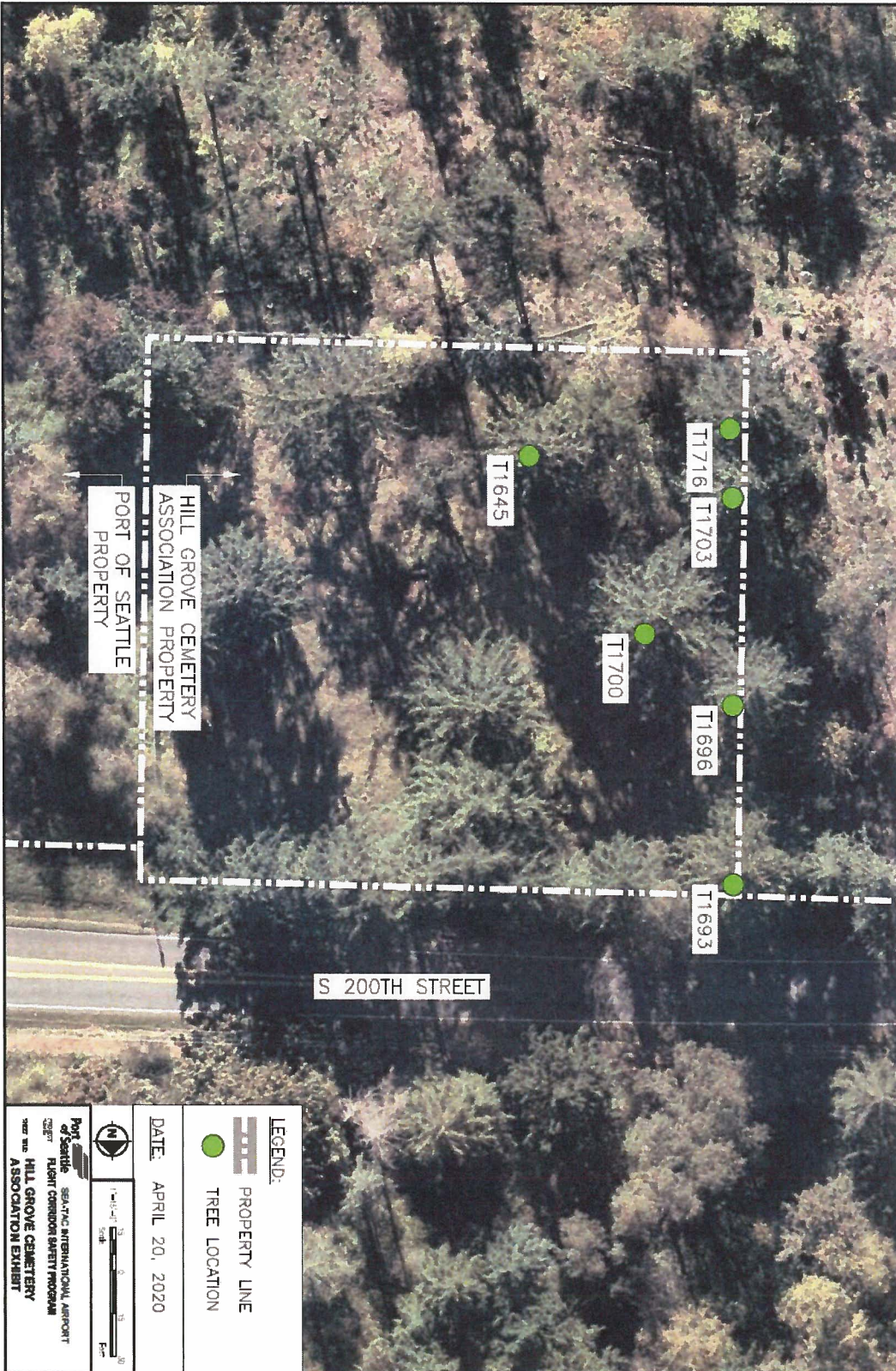
By: 
Name: James Jennings
Title: Director of Aviation Business and Properties
Date: 10/16/20

EXHIBIT A

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 4,
TOWNSHIP 22 NORTH,
RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;
THENCE EAST 210 FEET;
THENCE SOUTH 210 FEET;
THENCE WEST 210 FEET;
THENCE NORTH 210 FEET TO THE PLACE OF BEGINNING;
EXCEPT THE NORTH 20 FEET FOR SOUTH 200TH STREET.

EXHIBIT B



LEGEND:

- PROPERTY LINE
- TREE LOCATION

DATE: APRIL 20, 2020

Port of Seattle SEATTLE INTERNATIONAL AIRPORT
FLIGHT CORRIDOR SAFETY PROGRAM
HILL GROVE CEMETERY ASSOCIATION EXHIBIT

EXHIBIT C

AFTER RECORDING, PLEASE RETURN TO:

Port of Seattle
Accounting and Financial Reporting
Attn: Dean Ruffner
2711 Alaskan Way
Seattle WA 98121

EASEMENT

Grantor(s): Hill Grove Cemetery Association, a Washington non-profit corporation

Grantee: Port of Seattle, a Washington municipal corporation

Abbreviated Legal: Sec 4, Twp 22N, Rge 4E, NW Qtr SW Qtr

Full Legal Description at Exhibit A

**Assessor's Property Tax
Parcel/Account Number(s):** 042204-9025

**Reference Numbers of
Related Documents:** N/A

EASEMENT

This Easement is granted by **Hill Grove Cemetery Association**, a Washington non-profit corporation (“Grantor”) to the **Port of Seattle**, a Washington municipal corporation (“Port”), effective as of the date executed by Grantor below.

WHEREAS, Grantor is the owner in fee simple of real property located in King County, Washington, legally described in the attached Exhibit A, which is incorporated herein by reference (“Property”); and

WHEREAS, the Port is the owner, proprietor, and operator of Seattle-Tacoma International Airport (“Airport”), which is located in proximity to the Property; and

WHEREAS, the Port maintains a Flight Corridor Safety Program to maintain and improve public safety and welfare in areas near the Airport and ensure compliance with federal and state laws, regulations, and requirements; and

WHEREAS, pursuant to state law, including but not limited to RCW 14.12.020, the Port is authorized to acquire property interests to prevent the creation or establishment of airport hazards and to eliminate, remove, alter, mitigate, or mark and light existing airport hazards; and

WHEREAS, the Port is authorized to acquire property interests pursuant to Ch. 14.07 RCW, Ch. 14.08 RCW, Ch. 14.12 RCW, Title 53 RCW, and other authority, for the purposes enumerated therein, including but not limited to, acquisition or condemnation of easements, other property interests, or any other airport protection privileges necessary to ensure safe and efficient operation of airports; and

WHEREAS, the Port has agreed to undertake the work specified in the Agreement for Entry, Vegetative Management, and Conveyance of Easement executed by the Port and Grantor contemporaneously with this Easement, at the Port’s expense and under the conditions specified; and

WHEREAS, Grantor agrees to allow the Port access to the Property consistent with the terms of the Agreement for Entry, Vegetative Management and Conveyance of Easement and consistent with the terms of this Easement to prevent future airspace obstructions by executing and recording this Easement over the Property, which will run with the land in perpetuity as provided herein.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged by Grantor, and pursuant to the above premises, Grantor, for itself and for its successors and assigns, hereby grants to the Port a perpetual, non-exclusive easement and right of way for the unobstructed flight and passage of aircraft (“aircraft” being defined for purposes of this instrument as any device now known or designed or used for navigation of, or flight in, air) over and through all airspace above the Property for navigation of or flight in said airspace

and for the use of said airspace for landing on, taking off from, or operating on the Airport, for the use and benefit of the Port, its successors and assigns, any and all persons, firms, or corporations operating aircraft to or from the Airport, and the public.

1. Duration of Easement. This Easement and all of its provisions shall be perpetual, shall run with the land, and shall bind all successors and assigns of each of Grantor and the Port. The rights, easements, benefits, waivers, covenants, and agreements granted in this Easement shall continue notwithstanding any increase or other change in the boundaries, volume of operations, noise, or pattern of air traffic at the Airport, and any such increase or change shall not constitute either an overburdening of this Easement or a termination or abandonment of this Easement. The Easement shall not be deemed abandoned except upon the Port's execution and recording of a formal instrument abandoning the Easement.

2. Height Restrictions. No tree, vegetation, structure, or other natural or artificial object shall be constructed, erected, allowed to grow, or allowed to remain on the Property that (a) constitutes an obstruction to air navigation as such term is defined by the then-current version of 14 C.F.R. Part 77, unless the Grantor has made application for the proposed construction, alteration, or object to the Federal Aviation Administration ("FAA") pursuant to Part 77 and the FAA issues a determination that the object or structure is not a hazard to air navigation; (b) is determined by the Grantee to constitute an airport hazard as such term is defined by Title 14 RCW or other applicable law or regulation; or (c) otherwise obstructs or interferes with the Port's rights granted in this Easement.

3. Port's Continuing Right to Remove and Prevent Airport Hazards; Right of Ingress and Egress; Right to Self-Help. The Port shall have the continuing right to remove, mitigate, and prevent the erection or growth upon the Property of any tree, vegetation, structure, or other natural or artificial object that violates the height restrictions specified in Paragraph 2 above. Such removal, mitigation and prevention activities shall be at the sole cost of the Port. The rights granted herein expressly include the right, but not the obligation, of the Port and its employees, contractors, or agents to enter and exit Grantor's Property upon notice that is reasonable under the circumstances. Reasonable for purposes of this easement shall, except in the case of an immediate threat to life or property, mean a minimum of 48 hours advance written notice to Owner prior to entry.

a. The following will apply to tree and vegetation obstructions:

1. The Port will determine the best tree removal method for the environment, considering the tree species and soil stabilization parameters. At the time of this easement's conveyance, the preferred removal method is the complete removal of trees that penetrate (or will penetrate) the Easement using chemical or physical means to ensure that no regrowth occurs. The Port will use tree removal means and methods that avoid to the maximum extent practicable the disturbance of any grave sites on the Property as identified by

the ground penetrating survey required in Section 4.5 of the Agreement for Entry, Vegetative Management and Conveyance of Easement.

2. At the time of this easement's conveyance, the Port's preferred approach is, as appropriate to the size of the tree, to remove debris, branches, twigs, bark, leaves, sawdust, wood chips, and large wood. If tree stumps are left in the ground, stumps will be cut to a maximum height of 24 inches above the ground surface. The Port will make reasonable efforts to accommodate Owner requests concerning tree stump removal or stump height consistent with limiting tree growth below the Easement height and minimizing danger to human health, safety, and property, but in no instances will portions of the tree be cut or partially cut. No limbs or other debris will be left blocking sidewalks, streets, or restricting access to the Property.
- b. For non-tree/vegetation obstructions, the Port shall work cooperatively with the Owner to identify the means and method to eliminate, remove, alter, mitigate, or mark and light any structure, or other natural or artificial object, or any part thereof, that, in the sole and absolute discretion of the director or designee of the Airport, creates or will create an obstruction to air navigation, or as otherwise directed by the FAA.

4. No Interference with Air Navigation. Grantor shall not authorize any use of the Property that would interfere with landing or taking-off of aircraft at the Airport, or otherwise constitute an airport hazard. Such hazards include uses that create electrical interference with navigational signals or radio communication between the Airport and aircraft, make it difficult for pilots to distinguish between Airport lights and other lights, result in glare in the eyes of pilots using the Airport, impair visibility in the vicinity of the Airport (such as smoke generating activities), create bird strike hazards or other hazardous wildlife attractants, operate drones or other manned or unmanned flying devices that may interfere with aircraft or the Airport, or other uses that in any way endanger or interfere with the landing, take-off or maneuvering of aircraft intending to use the Airport.

6. Governing Law and Venue. This Easement shall be interpreted and enforced pursuant to the laws of the state of Washington. Venue for any action or proceeding arising out of this Easement shall be in the state or federal courts located in King County, Washington.

7. Subordination. This Easement shall be subject and subordinate to the provisions of any existing or future agreements between the Port and the United States Government the provisions of which (known as "grant assurances") are required by federal law, 49 U.S.C. § 47107 (as such law may be amended from time to time) relative to the operation and maintenance of the Airport.

8. Existing Rights of the Parties. Except as provided, this Easement shall neither enlarge nor diminish any rights of either party existing prior to the date of this Easement as provided by law.

IN WITNESS THEREOF, the Grantor or duly authorized representative(s) execute this instrument on this _____ day of _____, 20__.

GRANTOR

[Insert Signature Blocks]

STATE OF WASHINGTON

ss:

COUNTY OF KING

I certify that I know or have satisfactory evidence that _____ is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED: _____

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)





Notary public in and for the State of Washington,
residing at _____

My appointment expires _____

EASEMENT EXHIBIT A

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 4,
TOWNSHIP 22 NORTH,
RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON;
THENCE EAST 210 FEET;
THENCE SOUTH 210 FEET;
THENCE WEST 210 FEET;
THENCE NORTH 210 FEET TO THE PLACE OF BEGINNING;
EXCEPT THE NORTH 20 FEET FOR SOUTH 200TH STREET

EXHIBIT D

TREE	HEIGHT	SPREAD	FLOWERS	PHOTO
ORNAMENTAL DOGWOOD	40	25	White	
ORNAMENTAL CHERRY (NON-FRUITING)	40	25	Pink	
RHODODENDRON (SHRUB OR SMALL TREE)	25	25	Varies	
HOGAN RED CEDAR (NATIVE EVERGREEN VARIETAL)	70	25	Cones	
OREGON MYRTLE (NATIVE EVERGREEN)	40	25	Small	