

**DRAFT RESTRICTIVE COVENANTS
FOR MITIGATION SITES FOR
SEATTLE-TACOMA INTERNATIONAL AIRPORT
MASTER PLAN IMPROVEMENTS**

- 1. Miller Creek Buffer Areas**
- 2. Miller Creek/Lora Lake Wetland and Floodplain**
- 3. Tyee Valley Golf Course Wetland Enhancement**
- 4. Auburn Wetland Mitigation Site**

AR 037700

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

**DECLARATION OF RESTRICTIVE COVENANTS
(Miller Creek Buffer)**

Grantor: Port of Seattle, a Washington municipal corporation

Grantee: Port of Seattle, a Washington municipal corporation

Legal Description: _____
Official legal description attached on Exhibit A.

Assessor's Tax Parcel ID#: _____

Reference # (If applicable): N/A

This Declaration of Restrictive Covenants (this "Declaration") is made as of this
_____ day of _____, 19____, by the Port of Seattle, a Washington
municipal corporation (the "Port").

RECITALS

A. The Port is the owner of those certain real properties located in King County, Washington and described as follows: (i) the real property adjacent to or near Miller Creek (the "Miller Creek Buffer"); (ii) the real property adjacent to or near Miller Creek and Lake Lora (the "Miller Creek/Lake Lora Wetland and Floodplain "); (iii) the real property adjacent to or near Des Moines Creek (the "Des Moines Creek Buffer"); the real property comprising approximately 69-acres located in the City of Auburn (the "Auburn Property") (collectively, the "Miller Creek Buffer," the "Miller Creek/Lake Lora Wetland and Floodplain," the "Des Moines Creek Buffer," and the "Auburn Property" are referred to herein as the "Mitigation Sites"). This Declaration relates to the Miller Creek Buffer, which is legally described in Exhibit A attached hereto and by this reference incorporated herein.

B. In connection with the construction of a third runway and other improvements at Seattle-Tacoma International Airport, the Port proposes certain mitigation activities for the Mitigation Sites that include: increased stormwater management, stream riparian/buffer enhancements, stream baseflow augmentation, floodplain enhancement, and construction of replacement wetlands.

C. In order to comply with the Department of Ecology's ("Ecology") mitigation requirements and Ecology's Order #96-4-02325 ("Ecology's Order") for the Port's mitigation activities at the Mitigation Sites, the Port has executed this Declaration regarding the Miller Creek Buffer, and has executed similar Declarations for the other Mitigation Sites, to submit the Miller Creek Buffer to the covenants, conditions, and restrictions herein.

NOW, THEREFORE:

1. Declaration. The Port hereby declares that the Miller Creek Buffer shall be subject to the covenants, conditions, and restrictions stated herein and shall be binding on all parties having any right, title, or interest in the Miller Creek Buffer or any part thereof and shall inure to the benefit of each subsequent owner thereof.
2. Purpose. The purpose of this Declaration is to satisfy Ecology's Order and to restrict certain development and construction activities within the Miller Creek Buffer.
3. Restrictive Covenants. The Miller Creek Buffer shall be used as a natural vegetative buffer, and no development activity including clearing, grading, filling, or the construction of any building, structure, or other improvement shall occur in the Miller Creek Buffer, except for the following:
 - a. Development activities by: (i) the Federal Aviation Administration related to air traffic control, air safety, or airport regulation; or (ii) the Port as necessary for purposes of air safety, environmental study, or buffer area maintenance;
 - b. Exotic, non-native, invasive vegetation may be removed in order to satisfy the mitigation performance standards;
 - c. Any native vegetation modified for air safety reasons (e.g. cut or topped) shall be retained on site as downed material;
 - d. Utility lines and drainage swales as long as they utilize the shortest practicable alignment and incorporate all reasonable means to minimize detrimental impacts to the buffer areas;

e. The interior portion of the Miller Creek Buffer (fifty (50) feet on either side of the Miller Creek channel) shall not be used for the construction of new structures or for activities that are inconsistent with its use as a natural buffer area, except as permitted herein;

f. The exterior portion of the Miller Creek Buffer (area outside fifty (50) feet on either side of the Miller Creek channel) may be used for: (i) a recreational trail, provided that the trail shall be no wider than _____ feet and shall incorporate fencing, signage, and/or other design elements to discourage human intrusion into the buffer areas, and the trail may be closer than 50 feet from the creek where necessary to cross under bridges/rights-of-way; (ii) development and maintenance of storm water management facilities; and (iii) other new structures or development activities upon prior review and written approval of Ecology, which approval shall not be unreasonably withheld, conditioned, or delayed;

g. The existing roads within the Miller Creek Buffer, including S. 170th St., S. 160th St., 8th Ave. S., and S. 154th St. (collectively, the "Existing Roads"), shall remain in their current location and configuration, provided that: (i) S. 154th may be relocated to accommodate construction of the third runway; and (ii) road/bridge crossings may be revised from time to time to meet road and bridge design standards for their intended uses but shall be no greater in width than necessary to meet such standards; and

h. Development activities by the Port necessary for the relocation and replanting of the Elda Behm Highline Botanical Garden.

4. Default Remedies. Any violation of a covenant or condition in this Declaration (a "Default") shall be considered a violation of Ecology's Order. Upon a Default by the Port, Ecology shall promptly provide written notice to the Port regarding any such Default (the "Default Notice"). Upon receipt of the Default Notice, the Port shall have a reasonable period as determined by Ecology which shall not be less than thirty (30) days to cure the Default or to commence curing the Default (the "Cure Period"). Upon expiration of the Cure Period, Ecology may require certain corrective action sufficient to cure the violation, including without limitation, restoration or remediation of the Miller Creek Buffer, or removal of any structure, development, or improvement prohibited by this Declaration. In addition, Ecology may commence court proceedings to specifically enforce this Declaration, to enjoin any violation of this Declaration, to require restoration or remediation of the Miller Creek Buffer, or to levy a penalty against the Port or any other defaulting party for the violation.

5. Binding Effect. The Declaration shall run with the land and be binding upon and inure to the benefit of the Port's successors and assigns.

6. Captions. The captions and paragraph headings contained in this Declaration are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Declaration, nor the intent of any provision hereof.

7. Recording. This Declaration shall be recorded in the real property records of King County.

8. Amendment. This Declaration may not be modified, amended, or terminated without the prior written approval of Ecology.

9. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the state of Washington.

EXECUTED AND EFFECTIVE as of the date first written above.

PORT OF SEATTLE, a Washington municipal corporation

By: _____
Name: _____
Its: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of the Port of Seattle, a Washington municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 1998.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

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

My appointment expires: _____

EXHIBIT A
TO
DECLARATION OF RESTRICTIVE COVENANTS

LEGAL DESCRIPTION OF THE MILLER CREEK BUFFER

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

**DECLARATION OF RESTRICTIVE COVENANTS
(Miller Creek/Lake Lora Wetland and Floodplain)**

Grantor: Port of Seattle, a Washington municipal corporation

Grantee: Port of Seattle, a Washington municipal corporation

Legal Description: _____
Official legal description attached on Exhibit A.

Assessor's Tax Parcel ID#: _____

Reference # (If applicable): N/A

This Declaration of Restrictive Covenants (this "Declaration") is made as of this _____ day of _____, 19____, by the Port of Seattle, a Washington municipal corporation (the "Port").

RECITALS

A. The Port is the owner of those certain real properties located in King County, Washington and described as follows: (i) the real property adjacent to or near Miller Creek (the "Miller Creek Buffer"); (ii) the real property adjacent to or near Miller Creek and Lake Lora (the "Miller Creek/Lake Lora Wetland and Floodplain"); (iii) the real property adjacent to or near Des Moines Creek (the "Des Moines Creek Buffer"); the real property comprising approximately 69-acres located in the City of Auburn (the "Auburn Property") (collectively, the "Miller Creek Buffer," the "Miller Creek/Lake Lora Wetland and Floodplain," the "Des Moines Creek Buffer," and the "Auburn Property" are referred to herein as the "Mitigation Sites"). This Declaration relates to the Miller Creek/Lake Lora Wetland and Floodplain, which is legally described in Exhibit A attached hereto and by this reference incorporated herein.

B. In connection with the construction of a third runway and other improvements at Seattle-Tacoma International Airport, the Port proposes certain mitigation activities for the Mitigation Sites that include: increased stormwater management, stream riparian/buffer enhancements, stream baseflow augmentation, floodplain enhancement, and construction of replacement wetlands.

C. In order to comply with the Department of Ecology's ("Ecology") mitigation requirements and Ecology's Order #96-4-02325 ("Ecology's Order") for the Port's mitigation activities at the Mitigation Sites, the Port has executed this Declaration regarding the Miller Creek/Lake Lora Wetland and Floodplain, and has executed similar Declarations for the other Mitigation Sites, to submit the Miller Creek/Lake Lora Wetland and Floodplain to the covenants, conditions, and restrictions herein.

NOW, THEREFORE:

1. **Declaration.** The Port hereby declares that the Miller Creek/Lora Lake Wetland and Floodplain shall be subject to the covenants, conditions, and restrictions stated herein and shall be binding on all parties having any right, title, or interest in the Miller Creek/Lora Lake Wetland and Floodplain or any part thereof and shall inure to the benefit of each subsequent owner thereof.
2. **Purpose.** The purpose of this Declaration is to satisfy Ecology's Order and to restrict certain development and construction activities within the Miller Creek/Lora Lake Wetland and Floodplain.
3. **Restrictive Covenants.** The Miller Creek/Lake Lora Wetland and Floodplain shall be used as a floodplain wetlands, flood storage areas, and/or riparian corridors, and no clearing, grading, filling, or the construction of any building, structure, or other improvement shall occur in the Miller Creek/Lake Lora Wetland and Floodplain, except for the following:
 - a. Development activities by: (i) the Federal Aviation Administration related to air traffic control, air safety, or airport regulation; or (ii) the Port as necessary for purposes of air safety, environmental study, or buffer area maintenance;
 - b. Exotic, non-native, invasive vegetation may be removed in order to satisfy the mitigation performance standards;
 - c. Any native vegetation modified for air safety reasons (e.g. cut or topped) shall be retained on site as downed material;
 - d. Utility lines and drainage swales shall be permitted in the Miller Creek/Lora Lake Wetland and Floodplain as long as they utilize the shortest practicable

alignment and incorporate all reasonable means to minimize detrimental impacts to the buffer areas;

[INSERT CONDITIONS]

4. Default Remedies. Any violation of a covenant or condition in this Declaration (a "Default") shall be considered a violation of Ecology's Order. Upon a Default by the Port, Ecology shall promptly provide written notice to the Port regarding any such Default (the "Default Notice"). Upon receipt of the Default Notice, the Port shall have a reasonable period as determined by Ecology which shall not be less than thirty (30) days to cure the Default or to commence curing the Default (the "Cure Period"). Upon expiration of the Cure Period, Ecology may require certain corrective action sufficient to cure the violation, including without limitation, restoration or remediation of the Miller Creek/Lora Lake Wetland and Floodplain, or removal of any structure, development, or improvement prohibited by this Declaration. In addition, Ecology may commence court proceedings to specifically enforce this Declaration, to enjoin any violation of this Declaration, to require restoration or remediation of the Miller Creek/Lora Lake Wetland and Floodplain, or to levy a penalty against the Port or any other defaulting party for the violation.

5. Binding Effect. The Declaration shall run with the land and be binding upon and inure to the benefit of the Port's successors and assigns.

6. Captions. The captions and paragraph headings contained in this Declaration are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Declaration, nor the intent of any provision hereof.

7. Recording. This Declaration shall be recorded in the real property records of King County.

8. Amendment. This Declaration may not be modified, amended, or terminated without the prior written approval of Ecology.

9. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the state of Washington.

PORT REQUESTED VERSION

EXECUTED AND EFFECTIVE as of the date first written above.

PORT OF SEATTLE, a Washington municipal corporation

By: _____

Name: _____

Its: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of the Port of Seattle, a Washington municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 1998.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

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

My appointment expires: _____

EXHIBIT A
TO
DECLARATION OF RESTRICTIVE COVENANTS

**LEGAL DESCRIPTION OF THE MILLER CREEK/LORA LAKE WETLAND AND
FLOODPLAIN**

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

**DECLARATION OF RESTRICTIVE COVENANTS
(Tyee Valley Golf Course Wetland Enhancement Area)**

Grantor: Port of Seattle, a Washington municipal corporation

Grantee: Port of Seattle, a Washington municipal corporation

Legal Description: _____
Official legal description attached on Exhibit A.

Assessor's Tax Parcel ID#: _____

Reference # (If applicable): N/A

This Declaration of Restrictive Covenants (this "Declaration") is made as of this _____ day of _____, 19____, by the Port of Seattle, a Washington municipal corporation (the "Port").

RECITALS

A. The Port is the owner of that certain real property located in King County, Washington and adjacent to or near the Tyee Valley Golf Course, which is legally described in Exhibit A attached hereto and by this reference incorporated herein (the "Property").

B. In connection with the construction of a third runway and other improvements at Seattle-Tacoma International Airport, the Port proposes certain activities for the Property that may include: increased stormwater management, stream riparian/buffer enhancements, stream baseflow augmentation, floodplain enhancement, and construction of replacement wetlands.

C. In order to comply with the Department of Ecology's ("Ecology") mitigation requirements and Ecology's Order # _____ ("Ecology's Order") for the Port's mitigation activities at the Property, the Port has executed this Declaration and hereby submits the Property to the covenants, conditions, and restrictions herein.

NOW, THEREFORE:

1. **Declaration.** The Port hereby declares that the Property shall be subject to the covenants, conditions, and restrictions stated herein and shall be binding on all parties having any right, title, or interest in the Property or any part thereof and shall inure to the benefit of each subsequent owner thereof.

2. **Purpose.** The purpose of this Declaration is to satisfy Ecology's Order and to restrict certain development and construction activities within the Property.

3. **Restrictive Covenants.** The Property shall be used as a floodplain wetlands, flood storage areas, and/or riparian corridors, and no clearing, grading, filling, or the construction of any building, structure, or other improvement shall occur in the Property, except for the following:

a. Development activities by: (i) the Federal Aviation Administration related to air traffic control, air safety, or airport regulation; or (ii) the Port as necessary for purposes of air safety, environmental study, or buffer area maintenance;

b. Exotic, non-native, invasive vegetation may be removed in order to satisfy the mitigation performance standards;

c. Any native vegetation modified for air safety reasons (e.g. cut or topped) shall be retained on site as downed material;

d. Utility lines and drainage swales shall be permitted in the Property as long as they utilize the shortest practicable alignment and incorporate all reasonable means to minimize detrimental impacts to the buffer areas;

4. **Default: Remedies.** Any violation of a covenant or condition in this Declaration (a "Default") shall be considered a violation of Ecology's Order. Upon a Default by the Port, Ecology shall promptly provide written notice to the Port regarding any such Default (the "Default Notice"). Upon receipt of the Default Notice, the Port shall have a reasonable period as determined by Ecology which shall not be less than thirty (30) days to cure the Default or to commence curing the Default (the "Cure Period"). Upon expiration of the Cure Period, Ecology may require certain corrective action sufficient to cure the violation, including without limitation, restoration or remediation of the Property, or removal of any structure, development, or improvement prohibited by this Declaration. In addition, Ecology may commence court

proceedings to specifically enforce this Declaration, to enjoin any violation of this Declaration, to require restoration or remediation of the Property, or to levy a penalty against the Port or any other defaulting party for the violation.

5. Binding Effect. The Declaration shall run with the land and be binding upon and inure to the benefit of the Port's successors and assigns.

6. Captions. The captions and paragraph headings contained in this Declaration are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Declaration, nor the intent of any provision hereof.

7. Recording. This Declaration shall be recorded in the real property records of King County.

8. Amendment. This Declaration may not be modified, amended, or terminated without the prior written approval of Ecology.

9. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the state of Washington.

EXECUTED AND EFFECTIVE as of the date first written above.

PORT OF SEATTLE, a Washington municipal corporation

By: _____
Name: _____
Its: _____

PORT REQUESTED VERSION

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of the Port of Seattle, a Washington municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, _____.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at _____

My appointment expires: _____

EXHIBIT A
TO
DECLARATION OF RESTRICTIVE COVENANTS

LEGAL DESCRIPTION OF THE TYEE VALLEY GOLF COURSE WETLAND
ENHANCEMENT AREA

RECORDED AT THE REQUEST OF
AND AFTER RECORDING RETURN TO:

**DECLARATION OF RESTRICTIVE COVENANTS
(Auburn Property)**

Grantor: Port of Seattle, a Washington municipal corporation

Grantee: Port of Seattle, a Washington municipal corporation

Legal Description: _____
Official legal description attached on Exhibit A.

Assessor's Tax Parcel ID#: _____

Reference # (If applicable): N/A

This Declaration of Restrictive Covenants (this "Declaration") is made as of this _____ day of _____, 19____, by the Port of Seattle, a Washington municipal corporation (the "Port").

RECITALS

A. The Port is the owner of those certain real properties located in King County, Washington and described as follows: (i) the real property adjacent to or near Miller Creek (the "Miller Creek Buffer"); (ii) the real property adjacent to or near Miller Creek and Lake Lora (the "Miller Creek/Lake Lora Wetland and Floodplain"); (iii) the real property adjacent to or near Des Moines Creek (the "Des Moines Creek Buffer"); the real property comprising approximately 69-acres located in the City of Auburn (the "Auburn Property") (collectively, the "Miller Creek Buffer," the "Miller Creek/Lake Lora Wetland and Floodplain," the "Des Moines Creek Buffer," and the "Auburn Property" are referred to herein as the "Mitigation Sites"). This Declaration relates to the Auburn Property, which is legally described in Exhibit A attached hereto and by this reference incorporated herein.

B. In connection with the construction of a third runway and other improvements at Seattle-Tacoma International Airport, the Port proposes certain mitigation activities for the Mitigation Sites that include: increased stormwater management, stream riparian/buffer enhancements, stream baseflow augmentation, floodplain enhancement, and construction of replacement wetlands.

C. In order to comply with the Department of Ecology's ("Ecology") mitigation requirements and Ecology's Order #96-4-02325 ("Ecology's Order") for the Port's mitigation activities at the Mitigation Sites, the Port has executed this Declaration regarding the Auburn Property, and has executed similar Declarations for the other Mitigation Sites, to submit the Auburn Property to the covenants, conditions, and restrictions herein.

NOW, THEREFORE:

1. **Declaration.** The Port hereby declares that the Auburn Property shall be subject to the covenants, conditions, and restrictions stated herein and shall be binding on all parties having any right, title, or interest in the Auburn Property or any part thereof and shall inure to the benefit of each subsequent owner thereof.

2. **Purpose.** The purpose of this Declaration is to satisfy Ecology's Order and to restrict certain development and construction activities within the Auburn Property.

3. **Restrictive Covenants.** The Auburn Property shall be used for wetland mitigation and flood storage, and no development activity including clearing, grading, filling, or the construction of any building, structure, or other improvement shall occur in the Auburn Property, except for the following:

a. Any activities necessary for the maintenance and effective functioning of the wetlands, including but not limited to the removal of exotic, non-native, invasive vegetation.

4. **Default; Remedies.** Any violation of a covenant or condition in this Declaration (a "Default") shall be considered a violation of Ecology's Order. Upon a Default by the Port, Ecology shall promptly provide written notice to the Port regarding any such Default (the "Default Notice"). Upon receipt of the Default Notice, the Port shall have thirty (30) days to cure the Default or to commence curing the Default (the "Cure Period"). Upon expiration of the Cure Period, Ecology may require certain corrective action sufficient to cure the violation, including without limitation, restoration or remediation of the Auburn Property, or removal of any structure, development, or improvement prohibited by this Declaration. In addition, Ecology may commence court proceedings to specifically enforce this Declaration, to enjoin any violation of this Declaration, to require restoration or remediation of the Auburn Property, or to levy a penalty against the Port or any other defaulting party for the violation.

5. **Binding Effect.** The Declaration shall run with the land and be binding upon and inure to the benefit of the Port's successors and assigns.

6. **Captions.** The captions and paragraph headings contained in this Declaration are for convenience and reference only and in no way define, describe, extend, or limit the scope or intent of this Declaration, nor the intent of any provision hereof.

7. **Recording.** This Declaration shall be recorded in the real property records of King County.

8. **Amendment.** This Declaration may not be modified, amended, or terminated without the prior written approval of Ecology.

9. **Governing Law.** This Declaration shall be governed by and construed in accordance with the laws of the state of Washington.

EXECUTED AND EFFECTIVE as of the date first written above.

PORT OF SEATTLE, a Washington municipal corporation

By: _____
Name: _____
Its: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of the Port of Seattle, a Washington municipal corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 1998.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary public in and for the state of Washington,
residing at _____

My appointment expires: _____

EXHIBIT A
TO
DECLARATION OF RESTRICTIVE COVENANTS

LEGAL DESCRIPTION OF THE AUBURN PROPERTY