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12/05/2008 3 15pm \$46.00  
SNOHOMISH COUNTY, WASHINGTON

After Recording Return to  
City of Everett  
3200 Cedar Street  
Everett, WA 98201  
Attn: Mike Palacios, Real Property Manager

ENVIRONMENTAL COVENANT

For Legion Memorial Golf Course

Grantor	City of Everett
Grantee	City of Everett
Legal	Portions of the Sections 17 and 21, Township 29N, Range 5 East of the Willamette Meridian, Snohomish County, Washington Referred to as "Legion Memorial Golf Course," 144 West Marine View Drive Everett, WA 98201 Additional legal description attached
Tax Parcel Nos	29050800200300, 29050800300100, 00438610400600, 29051700201700
Cross Reference	None

This Declaration of Covenant is made pursuant to RCW 70 105D 030(1)(f) and (g) and WAC 173-340-440 by the City of Everett ("City"), a municipal corporation, and its successors and assigns.

The undersigned, the City of Everett is the fee owner of real property ("Property") in the County of Snohomish, State of Washington, that is subject to this Covenant. The Property is legally described in Attachment A of this Covenant and made a part hereof by reference.

The Property that is the subject of this environmental covenant has been the subject of remedial actions under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105D (hereafter "Remedial Action"). The Remedial Action conducted at the property is described in the following document *East Marine View Drive Widening and Legion Memorial Golf Course Improvement Independent Remedial Action Report*, prepared for the City by Hydrometrics, Inc., dated December 1998. This document is on file at the Northwest Regional Office of the State of Washington Department of Ecology ("Ecology").

This Covenant is required because the Remedial Action resulted in residual concentrations of arsenic that exceed the Model Toxics Control Act Method A residential cleanup level for soil established under WAC 173-340-740 ("contaminated soil").

The City makes the following declaration as to limitations and restrictions to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property ("Owner").

Section 1 A portion of the Property contains contaminated soil located under the parking lot and clubhouse facilities. The Owner shall not alter, modify, or remove the existing structures in any manner that may result in the release or exposure to the environment of that contaminated soil or create a new exposure pathway without prior written approval from Ecology. The Owner may conduct parking lot and building maintenance, redevelopment or expansion that maintains or increases the containment function of the structures or that meets the applicable soil profile specified by Ecology in the *Everett Smelter Site Integrated Final Cleanup Action Plan and Final Environmental Impact Statement for the Upland Area* (Ecology 1999) as may be amended by Ecology from time-to-time ("Everett Smelter Site FCAP/FEIS").

Section 2 The Owner shall not modify areas of the Property on which residual contaminated soil is located and capped by sand or turf, except as follows

a Any future redesign and reconfiguration of entire holes or overall renovation of the golf course that disturbs contaminated soil on the Property shall follow the work plan summarized on Table 2 of, and further described in, the *East Marine View Drive Widening and Legion Memorial Golf Course Improvements Independent Remedial Action Report*. The City may request Ecology's review and concurrence on changes, if any, in the work plan

b As part of normal operations, improvements, and maintenance of the golf facility, the Owner shall maintain and implement a set of protective procedures to be used in maintaining any areas of the Property where contaminated soil remains (hereafter "Golf Course Maintenance Program"). The golf course maintenance program shall include worker training, use of protective clothing, isolation of temporarily stockpiled soils with a plastic barrier, backfilling of any new utility trenches with clean material, and proper management of any soils that require removal off-site

c The Golf Course Maintenance Program shall also include maintenance of the integrity of the capped areas, including (i) the maintenance of not less than four inches of clean sand or soil on fairways, tees, and greens, (ii) turf and landscaping in areas of the rough that are not capped by sand or other features (e.g., impervious surfaces, ponds), (iii) the periodic topdressing and maintenance of turf on Fairway No. 12, unless and until the hole is renovated and capped or meets the applicable soil profile in the Everett Smelter Site FCAP/FEIS, and (iv) procedures for construction or maintenance of golf course or other utilities or facilities that may be located on or traverse the Property

d Except for activities performed in accordance with the Golf Course Maintenance Program, any activity on the Property that may result in the release or exposure to the environment of the contaminated soil that was contained as part of the Remedial Action, or create a new exposure pathway, is prohibited. Some examples of activities include: drilling, digging, placement of any objects or use of any equipment which deforms or stresses the surface beyond its load bearing capability, piercing the surface with a rod, spike or similar item, bulldozing or earthwork

e If the use of the Property were to change from a golf course, then either the applicable soil profile specified in the Everett Smelter Site FCAP/FEIS shall be met for such use,

or approval from Ecology must be obtained for any further institutional controls or other remedial actions that may be necessary to protect human health and the environment required by MTCA

Section 3 Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited

Section 4 The Owner of the property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any fee interest in the Property. No conveyance of title, easement, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action (Section 5 below governs leases)

Section 5 The Owner must restrict leases for uses of the Property other than the clubhouse or pro shop, if any, to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property

Section 6 The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment

Section 7 The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action, to take samples, to inspect remedial actions conducted at the property, and to inspect records that are related to the Remedial Action

Section 8 The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs

CITY OF EVERETT

By

Ray Stephanson  
Ray Stephanson, Mayor

12-5-08  
Date

Attest

Sharon Marks  
Sharon Marks, City Clerk

Approved as to Form

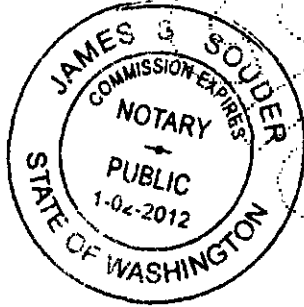
James D. Iles  
James D. Iles, City Attorney

Attachments

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF SNOHOMISH )

I certify that I know or have satisfactory evidence that RAY STEPHANSON is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the MAYOR of the City of Everett to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument

DATED 12-05-08



James Souda

Notary Public in and for the State of Washington,  
residing at MARYSVILLE  
My Commission Expires 1-02-12

Exhibit A

CITY OF EVERETT DEPARTMENT OF PARKS AND RECREATION

**LEGAL DESCRIPTION**

**LINE OF DEMARCATION FOR LEGION GOLF COURSE CLEAN-UP ACTION PLAN**

A LINE OF DEMARCATION THROUGH A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER AND GOVERNMENT LOT 4, SECTION 8, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION;  
THENCE S 0°52'16" W ALONG THE WEST LINE OF SAID SECTION 521.02 FEET TO THE WESTERLY PROLONGATION OF THE NORTH MARGIN OF 3RD STREET AS SHOWN ON THE PLAT OF EVERETT DIVISION "S", PER PLAT RECORDED IN VOLUME 6 OF PLATS, PAGE 39, RECORDS OF SAID COUNTY;  
THENCE S 87°59'44" E ALONG SAID PROLONGATION AND MARGIN 310.64 FEET TO THE NORTHERLY PROLONGATION OF THE CENTERLINE OF THE ALLEY ABUTTING THE EAST LINE OF BLOCK 89 IN SAID PLAT;  
THENCE S 2°00'16" W ALONG SAID PROLONGATION AND CENTERLINE 542.15 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE N 28°40'00" E 526.56 FEET;  
THENCE N 38°28'00" E 271.62 FEET TO INTERSECT THE ARC OF A CURVE AT A POINT FROM WHICH THE CENTER LIES N 19°36'04" W 235.95 FEET DISTANT;  
THENCE NORTHEASTERLY ALONG SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 45°19'21", AN ARC LENGTH OF 186.64 FEET;  
THENCE N 2°41'46" E 159.00 FEET TO A 6 FOOT CHAIN LINK FENCE;  
THENCE ALONG SAID FENCE BY THE FOLLOWING COURSES AND DISTANCES;  
THENCE CONTINUING N 2°41'46" E 24.66 FEET;  
THENCE N 7°21'14" E 175.42 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 700.00 FEET;  
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 8°55'03", AN ARC LENGTH OF 108.93 FEET TO A POINT OF TANGENCY;  
THENCE N 1°33'49" W 80.62 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 534.17 FEET;  
THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°20'21" AN ARC LENGTH OF 115.04 FEET TO A POINT OF TANGENCY;  
THENCE N 13°54'10" W 148.44 FEET;  
THENCE N 14°50'29" W 208.02 FEET;  
THENCE N 15°49'36" W 118.73 FEET MORE OR LESS TO THE SOUTHERLY MARGIN OF ALVERSON BOULEVARD AND THE TERMINUS OF SAID FENCE AT IT'S INTERSECTION WITH A 4 FOOT CHAIN LINK FENCE ON SAID MARGIN.

OSTERGAARD-ROBINSON & ASSOCIATES, INC.  
3630 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425/259-6445  
C:/96146.LEG

