

EVANS CREEK  
RIMROCK PROPERTIES PROPERTY

**REAL ESTATE PURCHASE AND SALE AGREEMENT  
EASEMENT**

This Agreement is made as of the date this instrument is fully executed by and between RIMROCK PROPERTIES, LLC, a Washington limited liability company ("Seller"), and KING COUNTY, a political subdivision of the State of Washington ("Buyer"), for purchase and sale of that certain : Transfer of Development Rights Agricultural Conservation Easement situated in King County, Washington, described on Exhibit "A", and all rights appurtenant thereto (the "Easement")

1. **PURCHASE PRICE:** The total purchase price for the Easement is **Two Million Four Hundred Eighty Thousand and No/100 Dollars (US \$2,480,000.00)** ("Purchase Price"). The Purchase Price contains two parts, **One Million Four Hundred Thousand and No/100 Dollars (US \$1,400,000.00)** which is payable at closing in cash and **One Million Eighty Thousand and No/100 Dollars (US \$1,080,000.00)** which shall be a charitable donation by Seller to Buyer.

2. **TITLE:**

2.1 **Conveyance by Easement:** At closing, Seller will execute and deliver to Buyer the Easement conveying and warranting good and marketable title to the Easement free and clear of all defects or encumbrances except those defects and/or encumbrances (if any) identified on Exhibit "B" (collectively, "Permitted Exceptions"). The Easement will be provided to escrow by Buyer for execution by Seller in closing, the form of which is attached hereto as Exhibit "C"

2.2 **Title Insurance:** At closing, Buyer shall receive (at Buyer's expense) an owner's Standard ALTA policy of title insurance, dated as of the closing date and insuring Buyer in the amount of the Purchase Price against loss or damage by reason of defect in Buyer's title to the Easement subject only to the printed exclusions appearing in the policy form and any Permitted Exceptions.

3. **CONTINGENCIES:**

3.1 **Funding:** The sale of the Easement is contingent on receipt of grant funding and/or appropriation by the Metropolitan King County Council, King County Executive's approval of said appropriation, and spending authority of funds sufficient to close the sale.

3.2 **Council Approval:** Donation of the Property is contingent on approval of acceptance of the donation by a motion of the Metropolitan King County Council.

3.3 **Removal of Contingencies:** King County shall have a period of 90 days from the date all parties have signed this Agreement to remove all contingencies. King County may remove such contingencies by sending written notice thereof to Seller pursuant to Paragraph 7 herein. If the contingencies are not removed within this period, this Agreement shall be null and void.

4. **RISK OF LOSS:** Seller will bear the risk of loss of or damage to the Easement property prior to closing. In the event of such loss or damage to the Easement property, Seller shall promptly notify Buyer thereof and Buyer may, in its sole discretion, terminate this Agreement by giving notice of termination to the Seller.

5. **SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS:** Seller represents, warrants and covenants to the Buyer at the date of execution of this Agreement and the date of closing that:

5.1 **Authority:** Seller, and the person(s) signing on behalf of Seller, has full power and authority to execute this Agreement and perform Seller's obligations, and if Seller is a corporation, all necessary corporate action to authorize this transaction has been taken;

5.2 **No Leases:** The Easement property is not subject to any leases, tenancies or rights of persons in possession;

5.3 **No Material Defect:** Seller is unaware of any material defect in the Easement property;

5.4 **Contamination:** Seller represents and warrants that he/she/it has not caused or allowed the general treatment, storage or disposal of hazardous substances on the property within the Easement, except in accordance with local, state, and federal statutes and regulations, nor caused or allowed the release of any hazardous substance onto, at, or near the Easement. Seller is in compliance with all applicable laws, rules, and regulations regarding the handling of hazardous substances, has secured all necessary permits, licenses and approvals necessary to Seller's activities on the property within the Easement and is in compliance with such permits. Seller has not received notice of any proceedings, claims, or lawsuits arising out of its operations on the property within the Easement and, to the Seller's knowledge, the property within the Easement is not, nor has it ever been subject to the release of hazardous substances.

5.5 **Fees and Commissions:** Seller shall pay for any broker's or other commissions or fees incurred by the Seller in connection with the sale of the Easement and Seller shall indemnify and hold Buyer harmless from all such claims for commission and/or fees.

5.6 **Indemnification:** Seller agrees to indemnify, defend, and hold harmless Buyer, its employees, agents, heirs and assigns, from and against any and all damage, claim, liability, or loss, including reasonable attorney's and other fees, arising out of or in any

way connected to the breach of any representation or warranty contained herein. Such duty of indemnification shall include, but not be limited to damage, liability, or loss pursuant to all federal environmental laws, Washington State environmental laws, strict liability and common law.

5.7. **Termination:** If Buyer determines in its sole and absolute discretion that any representation, warranty or covenant contained herein has been breached prior to Closing, Buyer may elect to terminate this Agreement by sending written notice thereof to Seller pursuant to Paragraph 7.

## 6. CLOSING:

6.1 **Time for Closing:** The sale will be closed in the office of the Closing Agent not later than twenty one (21) days from the date all contingencies set forth in Paragraph 3 herein have been removed, or as soon thereafter as practicable.

Buyer and Seller shall deposit in escrow with the Closing Agent all instruments, documents and moneys necessary to complete the sale in accordance with this Agreement. As used in this Agreement, "closing" and "date of closing" means the date on which all appropriate documents are recorded and proceeds of the sale are available for disbursement to Seller. The Closing Agent shall be:

Chicago Title Company of Washington  
10500 NE 8<sup>th</sup> Street, Suite 600  
Bellevue, WA 98004

6.2 **Prorations:** Closing Costs: Seller will pay real estate excise taxes (if any are due) and real property taxes paid current through the date of closing. Buyer will pay the premium for its owner's title insurance policy, the cost of recording the Easement from the Seller, and the Closing Agents escrow fees.

6.3 **Possession:** Buyer shall be entitled to possession of the Easement upon Buyers' deposit of funds into escrow in an amount equal to the purchase price plus any escrow fees, title insurance premiums or other fee, charge or proration which it is required to pay under the terms of this Agreement.

7. **NOTICES:** Any notices required herein shall be given to the parties at the addresses listed below:

TO SELLER:  
Rimrock Properties, LLC  
12838 NE 94<sup>th</sup>  
Kirkland, WA 98033

TO BUYER:  
King County Water and Land Resources Division  
Open Space Acquisitions  
201 South Jackson Street, Suite 5600  
Seattle, WA 98104

8. **DEFAULT AND ATTORNEYS' FEES:**

8.1 **DEFAULT BY BUYER:** In the event Closing does not occur due to default by Buyer, Seller's sole and exclusive remedy shall be to terminate this Agreement.

8.2 **DEFAULT BY SELLER:** In the event Closing does not occur due to default of Seller, Buyer shall have the right to bring an action for specific performance, damages and any other remedies available at law or in equity. In seeking any equitable remedies, Buyer shall not be required to prove or establish that Buyer does not have an adequate remedy at law. Seller hereby waives the requirement of any such proof and acknowledges that Buyer would not have an adequate remedy at law for Seller's breach of this Agreement.

8.3 **ATTORNEY'S FEES:** In an action to enforce this Agreement, each Party shall bear its own attorney's fees and costs.

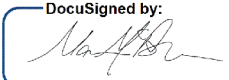
9. **GENERAL:** This Agreement, including its attachments, is the entire agreement of the Buyer and Seller with respect to the Easement and supersedes all prior or contemporaneous agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller. Any waivers under this Agreement must be in writing. A waiver of any right or remedy in the event of a default will not constitute a waiver of such right or remedy in the event of any subsequent default. This Agreement is for the benefit of, and binding upon, Buyer and Seller and their heirs, personal representatives, successors and assigns. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision. Time is of the essence in this Agreement.

10. **WASTE; ALTERATION OF PROPERTY:** Seller shall not commit waste on the Property, nor shall Seller remove trees or other vegetation, coal, minerals or other valuable materials nor shall Seller substantially alter the surface or subsurface of the Easement Area of the Property without the express written consent of Buyer.

11. **SURVIVAL OF WARRANTIES:** The terms, covenants, representations and warranties shall not merge in the Easement conveyance, but shall survive closing.

12. **TERMINATION OF OFFER:** This offer shall terminate if not accepted by Seller on or before January 27, 2023.

BUYER: King County, a political subdivision of the State of Washington.

BY:   
3BF37BA2A4A1476...  
David M. McElroy, Deputy Director  
Department of Natural Resources and Parks

Date: 12/19/2022

SELLER: Rimrock Properties, LLC

**An executed copy of this PSA, countersigned by Seller, is on file with King County acquisitions staff.**

\_\_\_\_\_, Managing Member                      \_\_\_\_\_  
Date

**EXHIBITS:**

- Exhibit A**, Legal Description
- Exhibit B**, Permitted Exceptions/Title Report
- Exhibit C**: Transfer of Development Rights Agricultural Conservation Easement

## EXHIBIT A

### LEGAL DESCRIPTION

The Northeast quarter of the Northwest quarter, also the West half of the Northwest quarter of the Northeast, all in Section 17, Township 25 North, Range 6 East, Willamette Meridian, in King County, Washington, lying Southeasterly of the J. E. Morris Road (also known as W. J. Trimble's Road and 204<sup>th</sup> Place Northeast), (as located by County Survey No. 1114);

Except that portion thereof lying within the right of way of State Highway No. 2, conveyed to the State of Washington by deeds recorded under Recording Numbers 2427729 and 2437567; also

Except that portion thereof conveyed to King County for road purposes by deed recorded under Recording Number 856712; also

Except the following described tract:

Commencing at a point on the South line of the Northeast quarter of the Northwest quarter of said Section 17, at a point of intersection of the Easterly margin of W. J. Trimble County Road therewith, being approximately 690 feet East from the Southwest corner of said Northeast quarter of the Northwest quarter, and being the true point of beginning;

Thence continuing in a Northeasterly direction along the Easterly margin of said road a distance of 300 feet;

Thence East a distance of 104 feet;

Thence South a distance of 265 feet to the South line of said subdivision;

Thence West along said South line a distance of 300 feet, more or less, to the point of beginning;

Also except that portion conveyed to the State of Washington by instrument recorded November 4, 2004 under Recording No. 20041104001726.

## EXHIBIT B

### PERMITTED EXCEPTIONS/TITLE REPORT

Those special exceptions listed on Chicago Title Company of Washington Title Report #215023-SC dated December 16, 2021, and any supplements thereto (which Title Report and Supplements are incorporated into this Agreement by this reference) numbered 4 (Paid Current), 5 and 6, Schedule B-II.

**EXHIBIT C**

**DRAFT CONSERVATION EASEMENT**

When Recorded Mail To:

King County  
Transfer of Development Rights Program, and the  
Farmland Preservation Program  
201 South Jackson Street, Suite 5600  
Seattle, WA 98104

**KING COUNTY TRANSFER OF DEVELOPMENT RIGHTS AGRICULTURAL  
CONSERVATION EASEMENT:**

**DEED AND AGREEMENT RELATING TO DEVELOPMENT RIGHTS**

THIS DEED AND AGREEMENT RELATING TO DEVELOPMENT RIGHTS entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, BY AND BETWEEN \_\_\_\_\_, hereinafter referred to as “Grantor(s),” AND KING COUNTY, a political subdivision of the State of Washington hereinafter referred to as “Grantee”.

Legal Description (abbreviated):  
Additional legal(s) on Page \_\_\_\_\_  
Assessor’s Tax Parcel ID#s: \_\_\_\_\_

WHEREAS, Grantor and Grantee make the following recitals:

A. Grantors are the present owners of the lands legally described in Exhibit A (the “Protected Property”) and graphically depicted in Exhibit B which consists of approximately \_\_\_\_\_ acres of land located in King County, Washington; said Protected Property includes all existing and/or claimed water rights (“Water Rights”) as described in Exhibit C; all of which exhibits are attached hereto and incorporated herein by reference.

B. Grantors and Grantee have mutual interests in preventing the conversion of agricultural lands to non-agricultural uses and it is the purpose of this Deed and Agreement Relating to Development Rights (“Deed and Agreement” also sometimes referred to herein as “Conservation Easement”) to protect the prime farmland soils and to retain the agricultural viability of the Protected Property.



C. The Protected Property is Farm and Agricultural Land as defined in RCW 84.34.020(2) and it possesses agricultural soils as well as having other characteristics, referred to herein as “Conservation Values”, that make it very suitable for the commercial production of agricultural products.

D. The Protected Property also possesses open space, ecological and natural values (e.g., undeveloped rural views, undeveloped wetland and riparian areas which enhance habitat for salmon and provide wildlife habitat and resting areas for migratory waterfowl), natural flood storage and conveyance functions and ground water recharge values (e.g. lack of impervious surface and existing wetlands), all of which are of great importance to Grantors, Grantee, the people of King County, and the people of the State of Washington. Collectively these values are referred to herein as the “Conservation and Open Space Values” of the Protected Property.

E. Grantors desire to cooperate with Grantee in preserving the Protected Property devoted to agricultural and open space uses. The specific Conservation Values and Open Space Values on the Protected Property are further documented in the Present Conditions Report signed and dated \_\_\_\_\_, 20\_\_ and on file at the offices of Grantee, which describes the relevant features, current use and state of improvement of the Protected Property. Grantors and Grantee acknowledge and agree that to the best of their knowledge the Present Conditions Report incorporated herein by reference (“the Report”) includes a complete and accurate description of the Protected Property, and is intended to serve as an objective, though nonexclusive, information baseline for reference purposes to determine future compliance with the terms of this Conservation Easement. Because the Report, and standards described therein may be amended from time to time, ongoing use and management of the Protected Property shall be governed by this Conservation Easement, rather than the Report.

F. The Protected Property has (describe the residential units on site and include size of each and which parcel it is located on).

G. Grantee has determined that the Protected Property qualifies as a sending site under the provisions of K.C.C. 21A.37 for the Transfer of Development Rights (“TDR”) Program, and after consideration of existing improvements and retained development rights, the Protected Party has a total of 4 transferable development rights available for sale and transfer from the Protected Property (hereafter “Transferable Development Rights”) to qualified receiving sites.

H. Grantors are willing to grant and convey to Grantee the Development Rights in the Protected Property (said rights being the interest in and the right to use and subdivide land for any and all residential, commercial, and industrial purposes and activities which are not incident to agricultural and open space uses), and the associated Transferable Development Rights, on the terms and conditions and for the purposes hereinafter set forth. Grantee is willing to purchase the Development Rights and the associated

Transferable Development Rights from the Protected Property and accept this instrument of conveyance.

I. Grantors and Grantee understand that development rights removed from the Protected Property by this Conservation Easement may not be used on or transferred to any other portion of the Protected Property as it now or hereafter may be bounded or described. The Transferable Development Rights, however, may be transferred to other property pursuant to the Transfer of Development Rights program as authorized by King County Code 21A.37 or a successor program authorized by the King County Code.

J. Grantee has determined that the acquisition by Grantee of Development Rights in Farm and Agricultural Land and Open Space Land will benefit the public through the preservation of property devoted to agricultural and open space uses.

K. The grant and conveyance of Development Rights by Grantors to Grantee will preserve the Protected Property for activities consistent with agricultural and open space uses in perpetuity in accordance with the specific terms and conditions hereinafter set forth. The Conservation Values and Open Space Values of the Protected Property will be conserved and maintained in perpetuity, and uses of the Protected Property that are inconsistent with these conservation purposes will be prevented or corrected by Grantor in consultation with Grantee. The parties agree that the current use of, and improvements to, the Protected Property are consistent with the conservation purposes of this Deed and Agreement.

L. The Grantee is a “qualified conservation organization,” as defined by the Internal Revenue Code, and accepts the responsibility of enforcing the terms of this Deed and Agreement and upholding its conservation purposes forever.

M. Grantors and Grantee have agreed that, in order to maintain the opportunity for the commercial production of agricultural products upon the Protected Property and to protect the Conservation Values and Open Space Values of the Protected Property, the Development Rights that are granted and conveyed in this Deed and Agreement include the right to enforce the use of any and all Water Rights appurtenant to the Protected Property. This term, Water Rights, includes any and all of the rights associated with the historical and beneficial use of any of the embankments, flumes, head gates, measuring devices or any other structures that are appurtenant to those Water Rights, together with all easements and rights of way therefore. The Water Rights are bound by and permanently subject to the covenants, terms and conditions contained in this Deed and Agreement.

N. The conveyance and preservation of the Development Rights by Grantors to Grantee furthers the objectives of the King County Comprehensive Plan to ensure the conservation and productive use of the County’s natural resource lands and is responsive to the Washington State Growth Management Act as it serves to retain open space, encourages the conservation of productive agricultural lands, discourages incompatible uses of these lands and maintains and enhances natural resource-based industries occurring thereon.

O. The Conservation Values and Open Space Values protected by this Conservation Easement will serve the following clearly delineated governmental conservation policies:

1. The King County Comprehensive Plan Policy R-313 which states “The priority of the Transfer of Development Rights Program is to reduce development potential in the Rural Area and Resource Lands by encouraging the transfer of development rights from private rural lands into the Urban Growth Area.”

2. R.C.W. 84.34.010, in which the Washington State Legislature has declared “that it is in the best interests of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.”

3. RCW 64.04.130 AND RCW 84.34.210 grant counties the authority to acquire easements to preserve, conserve and maintain open space, agricultural and timber lands; RCW 36.70A.090 provides that counties should provide for innovative land use management techniques such as transfer of development credit programs.

4. The property possesses the capacity to produce agricultural products pursuant to RCW 84.34.020, the Countywide Planning Policies, and the King County Comprehensive Plan.

5. Conservation Futures Tax Ordinance No. 10150, in which the King County Council finds there is an “increasing need to provide a system of public open spaces necessary for the health, welfare, benefit and safety of the residents of King County and to maintain King County as a desirable place to live, visit and locate businesses.”

6. King County Code Chapter 21A.37, under which King County adopted standards for qualification of “Agricultural” Sending Sites under the Transfer of Development Rights Program and the Protected Property meets the qualifications for participation in the program with its current agricultural zoning, and as qualified Farm and Agricultural Land and Open Space Land in accordance with RCW 84.34.020 (2).

7. King County’s Transfer of Development Rights program enables the owners of property with “Agricultural” zoning to transfer development rights from such property to certain receiving sites within unincorporated and incorporated King County, in exchange for the permanent preservation and protection of the land and its Conservation Values and Open Space Values.

8. Waterways Motion No. 9175, in which King County commits to “preserving critical waterways in order to preserve these systems for habitat and recreational purposes.”

9. King County Comprehensive Plan Policy E-499(g) which states: “The existing flood storage and conveyance functions and ecological values of floodplains, wetlands, and riparian corridors shall be protected, and should, where possible, be enhanced or restored.”

P. The property herein conveyed was purchased, in part, with King County Conservation Futures Tax Levy funds and is subject to open space use restrictions and restrictions on alienation as specified in RCW §84.34.200, et seq., and King County Code §26.12.005, et seq.

**NOW THEREFORE WITNESSETH**, that Grantors, for and in consideration of \_\_\_\_\_ **DOLLARS (US\$\_\_\_\_\_)** lawful money of the United States of America, paid to Grantors by Grantee, the receipt whereof is hereby acknowledged, and upon issuance of TDR Certificate Number X for YYYY (Y) Rural Transferable Development Rights to the King County Transfer of Development Rights Bank pursuant to King County Code Section 21A.37, and Grantors being therewith fully satisfied, do by these presents grant, bargain, sell, transfer and convey unto Grantee forever all but XXX Development Rights in respect to the Protected Property in order to carry-out the aforementioned purposes, subject only to those defects and/or encumbrances (if any) identified on Exhibit D (collectively, “Permitted Exceptions”), hereby perpetually binding the Protected Property to the restrictions limiting permitted activities to agricultural and open space uses as specifically delineated in the covenants, terms, and conditions contained herein, and do also grant such interests, rights and easements, make such covenants, and subject the Protected Property to such servitudes as are necessary to bind the Protected Property in perpetuity to such restrictions. This grant and conveyance include all rights to environmental credits or offsets developed or created through the preservation, protection, continued existence, or ongoing management and enhancement of the Conservation Values (“Environmental Credits”), which rights to Environmental Credits shall not affect Grantor’s Reserved Rights set forth in Section 5 of this document. This conveyance is a conveyance of an interest in real property under the provisions of RCW 64.04.130.

Grantors and Grantee hereby agree that the Protected Property shall be bound by and permanently subject to the following restrictive covenants, terms, and conditions. None of these covenants, terms, and conditions shall be construed as allowing a use that is not otherwise permitted by applicable state and local laws, codes, standards, and ordinances. Grantor shall conduct all reserved and permitted uses and activities under this Deed and Agreement so as to meet all requirements of federal, state and local statutes, rules, and regulations as they may be amended from time to time.

### **RESTRICTIONS ON USE OF THE PROTECTED PROPERTY**

#### **I. Uses Restricted to Agricultural and Open Space Uses; Agricultural and Open Space Uses Defined.**

Use of the Protected Property is permanently restricted to solely agricultural and open space uses. Grantee strongly encourages Grantors to farm the Protected Property or to lease the Protected Property for farming. Such uses shall be carried out in accordance with applicable law and in compliance with the purpose and terms of this Deed and Agreement.

The Protected Property must be managed or farmed under a Farm Management Plan. If a Farm Management Plan does not yet exist or if a new Farm Management Plan is needed, it must be developed and provided to Grantee for approval no later than 12 months from the Effective Date of this Deed and Agreement, and such Farm Management Plan may be amended or revised in the future upon written consent by the Grantee. Said Farm Management Plan shall be as defined in King County Administrative Rule PUT 8-21 (PR), or its successor, and approved by an agency or agencies designated by Grantee, by which the Protected Property is maintained in a condition capable of supporting current and/or future commercially viable agriculture. A copy of the Farm Management Plan shall be kept on file at the office of Grantee, specifically the office that houses the King County Farmland Preservation Program.

A. "Agricultural uses," as used herein, means:

- (1) The growing, raising, and production of horticultural and agricultural crops, including, but not limited to, vegetables, berries, other fruits, cereal grains, herbs, hay and the processing and marketing, for consumption off-premises, of such crops and products. Although intended to support agricultural activity on the Protected Property, such processing and marketing may include agricultural crops from other properties provided such activity serves to maintain the economic viability of agricultural operations on other farmlands in King County and provided that the amount of such activity is approved in writing by Grantee. On-premises tasting and sampling of horticultural and agricultural crops is permitted for the performance of processing and marketing activities that are otherwise allowed herein.
- (2) All forms of animal husbandry including the processing and marketing for off-premises consumption, of the animals or their products. Although intended to support agricultural activity on the Protected Property, such processing and marketing may include animal products from other properties provided such activity serves to maintain the economic viability of agricultural operations on other farmlands in King County and provided that the amount of such activity is approved in writing by Grantee. On-premises tasting and sampling of animals or their products is permitted for the performance of processing and marketing activities that are otherwise allowed herein.
- (3) Uses consistent with the classification as "Farm and Agricultural Land" as defined in RCW 84.34.020(2).
- (4) Infrastructure and facilities, such as manure digesters or wind turbines, that support and/or enhance the agricultural use of the Protected Property, are permitted, provided that the predominate use of the property and the

majority of its area that is suitable for agricultural production is used for the growing or raising of agricultural crops and/or animal products. Infrastructure and facilities, such as manure digesters, that utilize agricultural products, must use products that are produced on-site, but may combine those products with products or materials produced off-site, provided that such activity is approved in writing by Grantee. It is the intent of this provision to promote the economic viability of agricultural operations on the Protected Property and on other farmlands in King County.

- B. "Open space uses," as used herein, means:
- (1) Agricultural uses as defined above;
  - (2) Non-agricultural uses which include: (i) Grantor's right, but not obligation, to voluntarily conduct habitat restoration or mitigation activities to meet on or offsite compensatory mitigation needs, within Potential Restoration Areas on the Protected Property as depicted in Exhibit E and further detailed in the Present Conditions Report, consistent with King County policies and regulations; (ii) the Grantee's right to conduct, with the consent of Grantor, habitat restoration or mitigation activities to meet on or offsite compensatory mitigation needs, within Potential Restoration Areas on the Protected Property as depicted in Exhibit E and further detailed in the Present Conditions Report, consistent with current King County policies and regulations.
  - (3) This grant and conveyance includes all rights to environmental credits or offsets developed or created through the preservation, protection, continued existence, or ongoing management and enhancement of the Conservation Values ("Environmental Credits"), which rights to Environmental Credits shall not affect Grantor's Reserved Rights set forth in Section 5 of this document.

All restoration and mitigation activities in the portion of the Protected Property designated for agriculture shall: (1) ensure that agriculture remains the predominant use on the Protected Property, (2) avoid impacts to and prevent loss of land suitable for direct agricultural production, (3) not substantially reduce the Protected Property's overall capacity for future agricultural production, (4) be planned and designed to benefit current and future agricultural production on the Protected Property, (5) be conducted such that the natural, ecological, scenic, or designated historic resources are conserved or enhanced, and (6) not permanently compact, remove, sterilize, or pollute the soil outside the Potential Restoration Areas.

Nothing herein shall be deemed to imply any obligation by Grantee to perform such restoration activities.



Agricultural uses do not include the primary use of the Protected Property as a site for processing and/or marketing agricultural crops and animal products as these activities must be secondary to the use of the Protected Property for the growing, raising, and production of horticultural and agricultural crops and/or all forms of animal husbandry associated with food and fiber production.

**Neither open space nor agricultural uses include the following:** commercial and industrial activities that are unassociated with agriculture; production of Christmas trees; production of turf; any commercial equestrian facilities or operations including but not limited to boarding facilities, arenas, training facilities and breeding operations; the construction, habitation, or other use of a dwelling unit and/or farm worker housing, except to the extent such use is specifically reserved in this Deed and Agreement; placement, construction or expansion of buildings, structures or roads for non-agricultural uses; restaurants or other establishments primarily intended for the consumption of food or beverages; the construction or use of golf courses, parking lots unassociated with agricultural uses, zoos, kennels, catteries, athletic fields, campgrounds, or vehicle raceways or animal raceways other than those principally used for the exercise of animals grown, raised, or produced on the Protected Property. Open space uses may include trails for non-motorized use by the public.

## II. Dwelling Units

“Dwelling Unit,” as used herein, means: A permanent or mobile structure designed and used for single-family residential occupancy.

- A. **Reservation of Dwelling Unit(s).** Grantors reserve the right to the use of \_\_\_\_\_  single-family dwelling unit(s). The reserved dwelling unit that exists on the Protected Property as of the date of this Deed and Agreement is located within the building envelope(s) as shown on Exhibit B; the locations of the single family dwelling unit and their respective building envelope(s) are further depicted in the Present Conditions Report. All reserved dwelling units must be located within a building envelope. Grantor may not change the location or size of any building envelopes, as shown on Exhibit B, without the express written permission of Grantee.

No more than the number of reserved dwelling units stated above and depicted on Exhibit B as of the date of this Deed and Agreement will be permitted, regardless of whether the Protected Property is divided or its boundaries are altered by Grantors or by any successor in interest of Grantor. If the Protected Property is divided, or its boundaries altered, reference to this Deed and Agreement must be shown on the map of the divided, or altered property and Exhibit B must be recorded as part of the division or alteration so that any future transfer or change in ownership of the Protected Property shall be explicitly subject to and governed by Exhibit B.

If a portion of the Protected Property is transferred separate from the whole, the conveyance instrument shall state the number of reserved dwelling units that are allocated to that portion, and Exhibit B, showing the building envelope(s) within which the reserved dwelling units are or will be located, shall be attached to the conveyance instrument and recorded with it.

Failure to record Exhibit B upon division, boundary alteration, or upon the transfer of a portion of the Protected Property, shall not invalidate or otherwise affect the restriction of the total number of reserved dwelling units and their location(s) on the Protected Property.

Except for the \_\_\_\_ (X) reserved single-family dwelling described in paragraph II.A. above, and uses described in paragraphs II.B. and II.C. below, the use of development rights for any residential, commercial, or industrial development on the Protected Property, that are now or hereafter allocated to, implied, reserved or inherent in the Protected Property, is prohibited, and the parties agree that such rights are removed from the Protected Property and may not be used on or transferred to any other portion of the Protected Property as it now or hereafter may be bounded or described. The development rights, however, may be transferred to other property pursuant to the Transfer of Development Rights program as authorized by King County Code 21A.37 or a successor program authorized by the King County Code.

The current reserved single-family dwelling unit is approximately \_\_\_\_\_ square feet and approximately \_\_\_\_\_ of living space. The total living space square footage of any new or remodeled reserved dwelling unit shall not exceed 2,955 square feet which is 150% of the median size of dwelling unit living space in King County's Agricultural Production Districts, as determined by King County Assessor's records, upon the date of this Deed and Agreement.

Reserved dwelling units must be used for the sole purpose of accommodating Grantors and their successors in interest to the Protected Property, the farm operator, or the families of such persons, or for accommodating on-farm agricultural employees of the owner or operator and their families. Reserved dwelling units cannot be leased to the public-at-large.

- B. "Accessory Dwelling Unit," as used herein means: a separate, complete dwelling unit that is attached to or contained within the structure of a reserved dwelling unit or is contained within a separate structure that is accessory to and on the same legal lot as a reserved dwelling unit. The total living space square footage of an accessory dwelling unit shall not exceed 1,000 square feet unless the accessory dwelling unit is wholly contained within a basement or attic of a reserved dwelling unit. Only one accessory dwelling unit is permitted for each reserved dwelling unit. Property containing an accessory dwelling unit cannot be divided or transferred separately from the property on which the reserved



dwelling unit is located unless the accessory dwelling unit is removed prior to such action.

The use of accessory dwelling units shall be limited to the Grantors and their successors in interest to the Protected Property, the farm operator, or the families of such persons, or for accommodating on-farm agricultural employees of the owner or operator and their families. Accessory dwelling units cannot be leased to the public-at-large.

The location(s) of accessory dwelling units that exist on the Protected Property upon the date of this Deed and Agreement, are included within the building envelopes as shown on Exhibit B. The existing accessory dwelling unit located on parcel \_\_\_\_\_ is \_\_\_\_\_ square feet.

Grantor must obtain written permission from the Grantee prior to the construction or installation of any accessory dwelling units not existing on the Protected Property upon the date of this Deed and Agreement. Nothing herein shall be deemed to waive the requirement to obtain any required permits from the agency of the appropriate government responsible for issuing development permits. New accessory dwelling units must be located within a building envelope as shown on Exhibit B or located within a new building envelope approved in writing by Grantee. Any addition of accessory dwelling units shall be shown on an updated site plan and which shall be added to the Present Conditions Report on file at the offices of Grantee.

- C. **“Agricultural Employee Dwelling Unit,”** as used herein means: a dwelling unit in which the total living space square footage does not exceed 1,000 square feet and which is used to house agricultural employees who are employed to work on the Protected Property. Such agricultural employee dwelling units are not included in the number of dwelling units reserved nor are they considered to be accessory dwelling units. If the primary use of the Protected Property changes to a non-agricultural use, all agricultural employee dwelling units shall be removed. Property containing agricultural employee dwelling units cannot be divided or transferred separately from the rest of the Protected Property unless said structures are permanently removed prior to such action. Agricultural employee dwelling units may only be occupied by agricultural employees who are employed to work on the Protected Property.

The location of the agricultural employee dwelling unit (approximately \_\_\_\_\_ square feet) that exists on the Protected Property, if any, (located on parcel \_\_\_\_\_) upon the date of this Deed and Agreement is included within a building envelope as shown on Exhibit B.

Grantors must obtain written permission from Grantee prior to the construction or installation of any agricultural employee dwelling units not existing on the Protected Property upon the date of this Deed and Agreement. Nothing herein

shall be deemed to waive the requirement to obtain any required permits from the agency of the appropriate government responsible for issuing development permits. New agricultural employee dwelling units must be located within a building envelope as shown on Exhibit B or located within a new building envelope approved in writing by Grantee. Any addition of agricultural employee dwelling units shall be shown on an updated site plan which has been approved in writing by Grantee and which shall be added to the Present Conditions Report on file at the offices of Grantee.

**III. Emergencies.** Grantors may undertake any activities that are necessary to protect health or safety or prevent significant property damage on the Protected Property or are required by and subject to compulsion of any governmental agency; provided, however, that Grantors shall first reasonably attempt to notify Grantee prior to taking such action. If Grantee cannot provide consent, with or without conditions, within such time as is reasonable under the circumstances, Grantors may proceed with such action without consent.

**IV. Further Restriction on Use of the Protected Property.** Potential uses of the Protected Property are limited in that Grantors, their heirs, successors, and assigns shall only be entitled to use, lease, maintain, or improve the Protected Property for agricultural and open space uses, and they shall comply with the following terms, conditions, restrictions, and covenants, which are permanently binding on the Protected Property:

A. No division of the Protected Property or transfer of a portion of the Protected Property that results in any parcel or portion of the Protected Property being less than 22 acres shall be permitted. Grantors must obtain written permission from Grantee prior to initiating any division, boundary line adjustment or transfer of a portion of the Protected Property. All restrictions imposed by this Deed and Agreement shall survive any division, boundary line adjustment or transfer of a portion of the Protected Property. A boundary line adjustment that combines the Protected Property, or any portion thereof, that is subject to this Deed and Agreement, with property on which the development rights have not been conveyed to King County, is prohibited. Any divisions, boundary line adjustments or transfers of a portion of the Protected Property which would result in any parcel exceeding the limit on non-tillable surface as specified in Section IV.B. of this Deed and Agreement are prohibited.

B. No more than a total of 5 percent of the Protected Property or of any parcel thereof resulting from any future division of the Protected Property, boundary line adjustment, or transfer of a portion of the Protected Property, shall be covered by structures and/or non-tillable surfaces. "Structures" shall include but are not limited to residences, barns, machine sheds, permanent greenhouses, associated structures, retail and processing facilities, surfaced parking areas, surfaced driveways, surfaced roadways, and surfaced pads. Temporary shelter for soil-dependent cultivation of horticultural or viticultural crops is not

considered a structure. "Non-tillable surfaces" shall include but are not limited to asphalt, concrete, gravel, and any other cover material not normally associated with cultivation of the soil. Naturally-occurring non-tillable surfaces, such as rock out-crops or bodies of water, shall not be counted against the 5% non-tillable surface limitation. Non-tillable surfaces within public right-of-way or utility easements, that exist upon the date of this conveyance or which are approved in writing by Grantee subsequent to this Deed and Agreement, shall not be counted against the 5% non-tillable surface limitation. Prior to the creation of any non-tillable surface, the topsoil on the area so affected shall be removed and used elsewhere on the Protected Property; said requirement is subject to permitting restrictions. Should the amount of non-tillable surface on any parcel comprising a portion of the Protected Property exceed 5 percent for that parcel, such parcel cannot be transferred separately but must remain under the same ownership as other parcels of which the Protected Property is comprised, said parcels being of sufficient size so that, collectively, their total non-tillable surface does not exceed 5 percent of their total acreage. No parcel may be transferred separately from the remaining parcel or parcels, if the transfer of that parcel would cause the remaining parcel or parcels to exceed the 5% limitation on non-tillable surfaces for those parcels or parcel.

- C. No mining, drilling, or extracting of oil, gas, gravel, or minerals on or under the Protected Property that breaks the surface of the Protected Property, shall be permitted. Temporary disruption of the Protected Property, not to exceed one acre in total, for the extraction of subsurface materials is permitted only if the extracted materials are used in connection with agricultural activities occurring on the Protected Property. No part of the surface of the Protected Property shall be used for storage or processing of gas, oil, or minerals taken from the Protected Property, other than storage for the private use of the occupants of the Protected Property.
- D. No subsurface activities, including excavation for permitted underground utilities, pipelines, or other underground installations shall be allowed that cause permanent disruption of the surface of the Protected Property. Temporarily disrupted soil surfaces shall be restored in a manner consistent with agricultural uses, including restoration of the original soil horizon sequence, within one year of when the soils were initially disrupted. Notwithstanding anything in this Section to the contrary, Grantors shall comply with all applicable state and federal laws and shall give notice to and receive consent from Grantee, in writing, with respect to any alteration of the Protected Property that would have the effect of physically disturbing a known cultural site, a survey of which is included in the Baseline documentation and incorporated herein by this reference.
- E. No dumping or storage of solid or liquid waste, or of trash, rubbish, hazardous, or noxious materials shall be permitted. Hazardous materials include explosives, veterinary or medical wastes, radioactive wastes, chemical, biological or

petroleum products that are not being used for agricultural purposes and which may pose a substantial present or potential hazard to humans, wildlife or the environment and which, either singularly or in combination, have toxic properties that may cause death, injury or illness or have mutagenic, teratogenic, or carcinogenic properties or are corrosive, explosive, flammable, or may generate pressure through decomposition or other means. However, the temporary storage of waste generated on the Protected Property is permitted so long as such storage is in compliance with all applicable laws. Temporary storage means storage for the duration of not more than one year. Composting of biodegradable materials for on-site application at agronomic rates is permitted, so long as the composting is done in accordance with all applicable laws. Production of compost for sale and/or off-site application must be predominately of biodegradable materials produced on the Protected Property or of biodegradable materials that have been used for agricultural purposes on the Protected Property, and in accordance with all applicable laws. Hazardous or noxious materials shall not include biosolids, herbicides, pesticides, rodenticides, insecticides, and fertilizers applied and maintained in accordance with federal, state and local law.

- F. No activities that violate sound agricultural soil and water conservation management practices shall be permitted.
- G. No signs shall be erected on the Protected Property except for the following purposes:
  - (1) To state the name of the property and the name and address of the occupant; or
  - (2) To advertise any use or activity consistent with the agricultural or open space uses as herein defined; or
  - (3) To advertise the property for sale or rent; or
  - (4) To state the protection of the Protected Property by Grantee; or
  - (5) No trespassing or public access, or
  - (6) To state that the Protected Property has received an award by an agricultural conservation agency.
- H. Recreational uses of the Protected Property are limited to passive recreational open space uses such as hiking, and horseback riding (subject to the provisions as set forth in Section I of this Deed and Agreement), and other forms of recreation that do not require site modification to accommodate motorized, mechanical or electronic accessories. All forms of developed recreation or recreation that adversely impacts the conservation purposes of this Deed and Agreement are prohibited.
- I. In order to maintain the ability of the Protected Property to support commercial agricultural production, Grantors shall cooperate with Grantee to help assure the maintenance of the Water Rights. Grantors shall retain all Water Rights necessary for present or future agricultural production on the Protected Property

and shall not transfer, encumber, lease, sell, abandon, relinquish or otherwise separate, by action or inaction, such quantity of Water Rights from title to the Protected Property. Grantors shall take affirmative actions to avoid such abandonment, relinquishment, loss or forfeiture, including but not limited to the following:

- (1) Exercising the Water Rights by putting them to any beneficial use that is not inconsistent with the terms of this Deed and Agreement in accordance with Chapter 90.14 RCW;
  - (2) Seeking to place or enroll the Water Rights in the Washington State trust water rights program on a temporary basis, provided that any acquisition of the Water Rights by the State shall be expressly conditioned to limit its use to instream purposes and its duration to a term no longer than 10 years; or
  - (3) Seeking to lease the Water Rights for use on land other than the Protected Property for a term no longer than 10 years, with prior written notice to and consent of Grantee, after obtaining approval in accordance with RCW 90.03.380, 90.03.383, 90.03.390, or 90.44.100 for a temporary transfer or change of the Water Rights; provided, however, that any such lease shall require the lessee to make beneficial use of the Water Rights in accordance with Chapter 90.14 RCW and for agricultural purposes only (collectively, "Water Rights Maintenance Actions."). If Grantors are unable to take the Water Rights Maintenance Actions and the Water Rights are under threat of abandonment, relinquishment, loss or forfeiture, Grantors shall convey ownership of said Water Rights to Grantee for Grantee's use in order to maintain the opportunity for commercial agricultural production on the Protected Property.
  - (4) If Protected Property possessing divisible Water Rights is divided, a Water Right of sufficient quantity to support any present or future economically viable agricultural practice must be allocated to each portion of the Protected Property that exists after the division. Any relinquishment, loss or forfeiture of the Water Rights shall not be deemed or construed to be a waiver of Grantee's rights under this Deed and Agreement or to defeat the purpose of the Deed and Agreement, and shall not otherwise impair the validity of this Deed and Agreement or limit its enforceability in any way.
- J. Unless otherwise prohibited by law, trees may be cut to control insects and disease, prevent personal injury and property damage, obtain wood for personal use, construct fences as permitted herein, and, with advance written permission of Grantee, maintain grasslands. Except for trees produced as agricultural products, any commercial harvesting of trees shall be conducted in accordance with a King County approved forest stewardship plan prepared by a professional forester and in accordance with state and local regulations. This provision shall not be construed to allow uses otherwise inconsistent with agriculture and open space uses as defined herein.
- K. Existing fences may be repaired or replaced and new fences may be constructed for the purposes described in the Farm Management Plan referenced in this

instrument.

- L. Ditches, drainage tiles, and other water conveyance and/or impoundment features may be lawfully installed, repaired and maintained to support and further enhance the agricultural purposes cited in this conveyance.
- M. Construction, installation or relocation of roads and of public or private utilities including communication services and alternative energy facilities over or under the Protected Property, that affect the suitability of the Protected Property for agricultural use, are prohibited, except to the extent necessary to serve the Protected Property and uses permitted by this Deed and Agreement or unless, as specified in Ordinance 4341, the King County Council has found it necessary to convey a road or utility easement for such construction, installation or relocation. Grantor may not convey any road or utility easements, including temporary easements, without the express written permission of the Grantee.
- N. Grantor shall not engage in any use or activity that causes or is likely to cause significant soil degradation or erosion or significant contamination or pollution of any soils or surface or substrate waters on the Protected Property.
- O. Home occupations or home industries, as defined in Chapter 21A.06 of the King County Code, or its successor, and which are subordinate to the use of the Protected Property for agricultural purposes, are permitted, provided that:
  - (1) The home occupation or home industry must be consistent with the size, scale and intensity of the existing agricultural use of the Protected Property at the date of this Deed and Agreement and must maintain the primacy of and be subordinate to the use of the Protected Property for agricultural purposes; and
  - (2) The home industry or home occupation must adhere to the restrictions contained in this Deed and Agreement and in Chapter 21A.30 of the King County Code, or its successor; and
  - (3) The home industry or home occupation must be owned and operated by the property owner or the farm operator; and
  - (4) All activities associated with the home occupation or home industry must remain within the building envelopes as depicted in Exhibit B which is attached to this Deed and Agreement; all structures and surfaces within the building envelopes are subject to the limitation on non-tillable surfaces as is specified in Section IV.B. of this Deed and Agreement; and
  - (5) If the home industry is sited in a barn or other agricultural structure, the property owner must be able to provide verification that the home industry is subordinate to the use of the Protected Property as a farm; and
  - (6) No new structures or surfaces, to be used primarily for the operation of a home industry or home occupation, shall be constructed or installed on the Protected Property; and
  - (7) Should there be any discrepancy between the covenants and restrictions contained in this Deed and Agreement and the restrictions on home



industries and occupations contained in the King County Code, the more restrictive of the two shall prevail.

- V. Restriction on Use of the Protected Property to Satisfy Conservation and Open Space Requirements for Development or Use of Other Real Property.** Except as is otherwise provided below, in the event that an application is made at any time to a federal, state, or local governmental authority for permission to make use of any other real property including, but not limited to, real property that is contiguous to any of the Protected Property hereby restricted, which proposed use is conditioned by such government authority on the existence of a specified quantity of open space or other restrictions on development, the Protected Property shall not be used to contribute toward the satisfaction of any such open space requirement. This restriction shall not apply if the proposed use of the other real property is an agricultural or open space use, as defined herein.

### **ADDITIONAL COVENANTS AND AGREEMENTS**

Grantors and Grantee further agree as follows:

**Farm Management Plan.** Grantor, their heirs, successors, or assigns, shall maintain the Land and conduct all agricultural operations on the Protected Property in a manner consistent with a Farm Management Plan prepared in consultation with the King Conservation District and approved by Grantee. However, Grantors may develop and implement a management plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. Grantee shall have the right to enter upon the Protected Property, with advance notice to the Grantors, in order to monitor compliance with the Farm Management Plan.

In the event of noncompliance with the Farm Management Plan, Grantee shall work with Grantors to explore methods of compliance and give Grantors a reasonable amount of time, not to exceed twelve months, to take corrective action. If Grantors do not comply with the Farm Management Plan, Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the Farm Management Plan.

**Covenant against Encumbrances.** Grantors covenant that they have not done or executed, or allowed to be done or executed, any act, deed, or thing whatsoever whereby the Development Rights hereby conveyed, or any part thereof, now or at any time hereafter, will or may be charged or encumbered in any manner or way whatsoever.

**Subsequent Liens.** No provisions of this Deed and Agreement should be construed as impairing the ability of Grantor to use this Protected Property as collateral for a loan, provided that any mortgage or lien associated with the loan is subject to or subordinated to this Deed and Agreement.

**Responsibilities of Grantors and Grantee Not Affected.** Other than as specified here, this Deed and Agreement is not intended to impose any legal or other responsibility on Grantee or in any way affect any existing obligations of Grantors as the owner of the Protected Property.

**No Public Rights Conveyed by Deed and Agreement.** The parties acknowledge that, except as specifically provided herein, Grantors do not grant, expand or extend any rights to the general public through this Deed and Agreement, including without limitation, any rights of public access to on or across, or public use of, the Protected Property.

**Remedies.** Grantee has the right to enforce the terms of this Deed and Agreement and to prevent and correct or require correction of violations of the terms, conditions, restrictions and covenants of this Deed and Agreement. Grantee shall have the right to prevent, or cause Grantors to prevent, any use of, or activity on, the Protected Property that is inconsistent with the purpose and terms of this Deed and Agreement, including trespasses by members of the public, and shall have the right to undertake or cause to be undertaken the restoration of such areas or features of the Protected Property as may be materially damaged by activities contrary to the provisions hereof. After giving reasonable notice to the possessors of the Protected Property, Grantee or its authorized representative shall have the right to enter from time to time onto the Protected Property and into structures located thereon for the sole purposes of inspection and enforcement of the terms, conditions, restrictions and covenants hereby imposed. In addition, Grantee shall have the right to enter upon the Protected Property, at a mutually agreeable date and time and upon prior notice to Grantors, to inspect the Protected Property after major natural events occur, such as fires, windstorms, and floods. Grantee shall exercise its access rights in compliance with applicable law and in a manner that will not materially disturb or interfere with Grantors reserved rights, any other person's lawful use of the Protected Property, or Grantors quiet enjoyment of the Protected Property.

If Grantee becomes aware of or finds a violation of this Deed and Agreement, Grantee may at its discretion take any and all appropriate legal action in law or equity and/or pursue administrative remedies under the King County Code (KCC) for violations arising under the provisions of the KCC. Upon discovery of a violation, Grantee shall notify Grantor in writing of the violation. Except when an ongoing or imminent violation could, as determined by Grantee, seriously impair the Conservation Values or Open Space Values of the Protected Property, Grantee shall give Grantors written notice of the violation and 30 days to correct it before filing any legal action, including any administrative activity under the KCC.

If Grantors fail to cure the violation within 30 days after receipt of a notice of violation, Grantee may (1) seek enforcement under the provisions of the KCC and/or (2) bring an action in court to enforce the terms of this Deed and Agreement, to enjoin the violation, and to require restoration of the Protected Property to the condition that existed prior to any such injury. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Deed and Agreement are inadequate and that Grantee shall be entitled to the injunctive relief described in this Section both prohibitive and mandatory, in addition to



such other relief to which Grantee may be entitled, including specific performance of the terms of this Deed and Agreement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. All such actions for injunctive relief may be taken without Grantee being required to post bond or provide other security. Where a court finds that a violation has occurred, Grantor shall reimburse Grantee for all its expenses incurred in halting and correcting the violation, including but not limited to actual costs of restoration, court costs, and reasonable attorney's fees. In as much as the actual damages to the Agricultural Conservation Value that could result from a breach of this Deed and Agreement by Grantors would be impractical or extremely difficult to measure, the Parties agree that the money damages Grantee is entitled to recover from Grantors shall be, at Grantee's election, the higher of (i) the amount of economic gain realized by Grantors from violating the terms of the Deed and Agreement or (ii) the cost of restoring any Agricultural Conservation Values and/or Open Space Values that have been damaged by such violation. In the event Grantee chooses the second of these two measures, Grantors agree to allow Grantee, its agents or contractors, to enter upon the Protected Property and conduct restoration activities.

Enforcement of the terms of this Deed and Agreement shall be at the discretion of the Grantee, and any forbearance by Grantee to exercise its rights under this Deed and Agreement in the event of any breach of any terms of this Deed and Agreement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any of Grantee's rights under this Deed and Agreement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantors shall impair such right or remedy or be construed as a waiver. Moreover, any failure by Grantee to discover a violation of this Deed and Agreement or forbearance by Grantee in exercising its rights under this Deed and Agreement in the event of any violation of its terms by Grantors shall not be deemed a waiver by Grantee of such rights with respect to any subsequent violation. No waiver or waivers by Grantee, or by its successors or assigns, of any breach of a term, condition, restriction, or covenant contained herein shall be deemed a waiver of any subsequent breach of such term, condition, restriction or covenant or of any other term, condition, restriction, or covenant contained herein.

**No Alteration or Amendment.** The terms, conditions, restrictions, and covenants contained herein shall not be altered or amended unless such alteration or amendment shall be made with the written consent of Grantee or their successors or assigns, and any such alteration or amendment shall be consistent with the purposes of King County Ordinance No. 4341, as heretofore or hereafter amended. Any amendment to this Deed and Agreement shall be recorded in the official records of King County, Washington.

**Restrictions Binding on Successors and Third Parties.** Grantors and Grantee agree that the terms, conditions, restrictions, and covenants contained herein shall be binding upon Grantors, their agents, personal representatives, heirs, assigns, and all other successors in interest to the Protected Property and possessors of the Protected Property, and shall be permanent terms, conditions, restrictions, covenants, servitudes, and easements running with and perpetually binding the Protected Property. Any interests in the Protected Property held or obtained by third parties shall be subordinate to the terms of this Deed and Agreement.

**Notice.** Certain provisions of this Deed and Agreement require Grantor to give notice to Grantee prior to undertaking certain uses and activities (i.e., those sections listed in Exhibit, attached hereto and incorporated herein by reference) for the purpose of affording Grantee an opportunity to adequately ensure that the proposed use or activity is designed and implemented in a manner that is consistent with the purpose of this Deed and Agreement. Whenever such notice is required, and no other timeline for notice is set forth elsewhere in this Deed and Agreement, Grantor shall provide such notice in writing not less than ninety (90) days prior to the date Grantor intends to undertake the use or activity in question. The notice shall describe the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the terms of the Deed and Agreement. Grantee shall provide a written response to the notice in a timely manner.

**Consent Not Unreasonably Withheld.** Wherever in this Deed and Agreement a Party's consent is required, such consent may be withheld only upon a reasonable determination by the consenting party that the action as proposed would be inconsistent with the purpose or terms of this Deed and Agreement and cannot be modified to make the proposed action consistent with the purpose and terms of this Deed and Agreement. Any consent may include reasonable conditions consistent with the purpose and terms of this Deed and Agreement that must be satisfied in undertaking the proposed action, use, or activity.

**Addresses for Notices.** Any notice, demand, request, consent, concurrence, approval, or communication that either party desires or is required to give to the other shall be in writing either served personally or sent by registered mail or overnight courier with proof of delivery, addressed as follows:

To Grantor:

To Grantee: King County  
Farmland Preservation Program  
201 South Jackson Street, Suite 600  
Seattle, WA 98104

**Transfer of Rights by Grantee.** Grantee agrees that the Development Rights to the Protected Property shall not be sold, given, divested, transferred, or otherwise reconveyed in whole or in part in any manner except as provided in King County Code 21A.37, as heretofore or hereafter amended.

**Subsequent Transfers.** For the purposes of this Section and Articles II and IV above, "Transfer" includes but is not limited to any sale, grant, lease, hypothecation, encumbrance, assignment, devise, conveyance, or any transaction the purpose of which is to effect a sale, grant, lease, hypothecation, encumbrance, assignment, devise, or conveyance. Grantors shall give written notice to Grantee of the transfer of any interest in all or a portion of the

Protected Property at least thirty (30) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or such transferee's representative. Grantors agree to: (1) incorporate by express reference the terms of this Deed and Agreement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property; and (2) describe this Deed and Agreement in and append it to, any executory contract for the transfer of any interest in the Protected Property. The failure of Grantors to perform any act required by this Section shall not impair the validity of the Deed and Agreement or limit its enforceability in any way. A party's rights and obligations under this Deed and Agreement terminate upon the transfer of the party's interest in the Protected Property or this Deed and Agreement, as the case may be, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**No Merger.** If Grantee at some future time, acquire the underlying fee title in the Protected Property, the interest conveyed by this Deed and Agreement will not merge with fee title but will continue to exist and be managed as a separate estate.

**Condemnation.** If all or any of the Protected Property is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, so as to remove the previously acquired Development Rights interest, in whole or in part, Grantors and Grantee shall act jointly to recover the full value of the interest in the Protected Property subject to that taking or in lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase. Grantee shall be entitled to compensation for the value of the Development Rights taken and Grantors shall be entitled to compensation in accordance with applicable law for the value of the underlying fee title and improvements taken.

**No Affirmative Obligations; Indemnification.** Grantee, in purchasing the Development Rights and related interests described herein, assumes no affirmative obligations whatsoever for the management, supervision or control of the Protected Property or of any activities occurring on the Protected Property. Grantors shall indemnify Grantee and hold Grantee harmless from all damages, costs (including, but not limited to, attorneys' fees and other costs of defense incurred by Grantee and other expenses of every kind arising from or incident to any claim or action for damages, injury, or loss suffered or alleged to have been suffered on or with respect to the Protected Property. Nothing in his Deed and Agreement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of Grantor's activities on the Protected Property, or otherwise to become an operator with respect to the Protected Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"). This provision shall be binding upon the Grantors for so long as they hold fee title to the Protected Property, and shall bind their successors in interest to the fee title to the Protected Property.

**Environmental Warranty.** Grantors warrant that, to the best of Grantors' knowledge, the Protected Property is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantors warrant that there are no notices by any

governmental authority of any violation or alleged violation of non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Protected Property. Grantors further warrant that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

Moreover, Grantors hereby promises to hold harmless and indemnify Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantors' indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantors with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after the date of this Deed and Agreement to the Protected Property by Grantee.

"Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" are as defined in Section IV.E. of this Deed and Agreement.

**Remediation.** If, at any time, there occurs, or has occurred, a release in, on, or about the Protected Property of a hazardous substance, Grantors agree to take or compel responsible third parties to take all steps required under applicable law and necessary to assure its containment and remediation, including any cleanup that may be required (except that the use of institutional controls shall not be allowed without Grantee's consent), unless the release was caused by Grantee, in which case Grantee shall be responsible for such remediation to the extent the release was caused by Grantee. At its discretion, Grantee may assist Grantors in compelling third parties to contain and remediate any such release.

**Warranties.** Grantors warrant that they are the sole owners of and have title to the Protected Property in fee simple and that there is legal access to the Protected Property. Grantors further warrant, to the best of their knowledge that Grantors and the Protected Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Protected Property and its use.

**Rules of Construction.** This Deed and Agreement shall be interpreted under the laws of the State of Washington and the United States. Any ambiguities in this Deed and Agreement and questions as to the validity or interpretation of any of its specific provisions

shall be resolved in favor of the Grantee so as to preserve the agricultural and open space uses of the Protected Property and to obtain the goals and objectives expressed in King County Ordinance No. 4341.

**Severability.** If any section or provision of this Deed and Agreement shall be held by any court of competent jurisdiction to be unenforceable, this Deed and Agreement shall be construed as though such section or provision had not been included in it, and the remainder of this Deed and Agreement shall be enforced as the expression of the parties' intentions. If any section or provision of this Deed and Agreement is found to be subject to two constructions, one of which would render such section or provision invalid, and one of which would render such section or provision valid, then the latter construction shall prevail. If any section or provision of this Deed and Agreement is determined to be ambiguous or unclear, it shall be interpreted in accordance with the policies and provisions expressed in King County Ordinance No. 4341.

If any material provision of this Deed and Agreement, or the application thereof to any person or circumstance, is found to be invalid or unenforceable by any court of competent jurisdiction or is superseded by state or federal legislation, rules, regulations or decision, so that the intent of these provisions is frustrated, the parties agree to immediately negotiate a replacement provision to fulfill the intent of the superseded provisions consistent with the purpose of this Deed and Agreement and applicable law.

**Entire Agreement.** This Deed and Agreement sets forth the entire agreement of the Parties with respect to the Development Rights and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Development Rights, all of which are merged herein. No alteration or variation of this Deed and Agreement shall be valid or binding unless contained in an amendment that complies with this Deed and Agreement.

**Recitals.** The Parties agree that the terms and recitals set forth in this Deed and Agreement are material to this Deed and Agreement, and that each Party has relied on the material nature of such terms and recitals in entering into this Deed and Agreement. Each term and recital set forth herein is fully incorporated into this instrument.

**IN WITNESS WHEREOF, the parties have hereunto set their hand and seals the day and year first above written.**

GRANTEE

GRANTORS

KING COUNTY

\_\_\_\_\_

BY \_\_\_\_\_

\_\_\_\_\_

**Schedule of Exhibits.**

**Exhibit A: Legal Description of the Protected Property**

**Exhibit B: Protected Property and Building Envelopes**

**Exhibit C: Water Rights**

**Exhibit D: Permitted Exceptions**

**Exhibit E: Potential Restoration Areas**









My appointment expires: \_\_\_\_\_

**TO BE COMPLETED IN ESCROW PRIOR TO CLOSING**

**EXHIBIT A  
Legal Description**

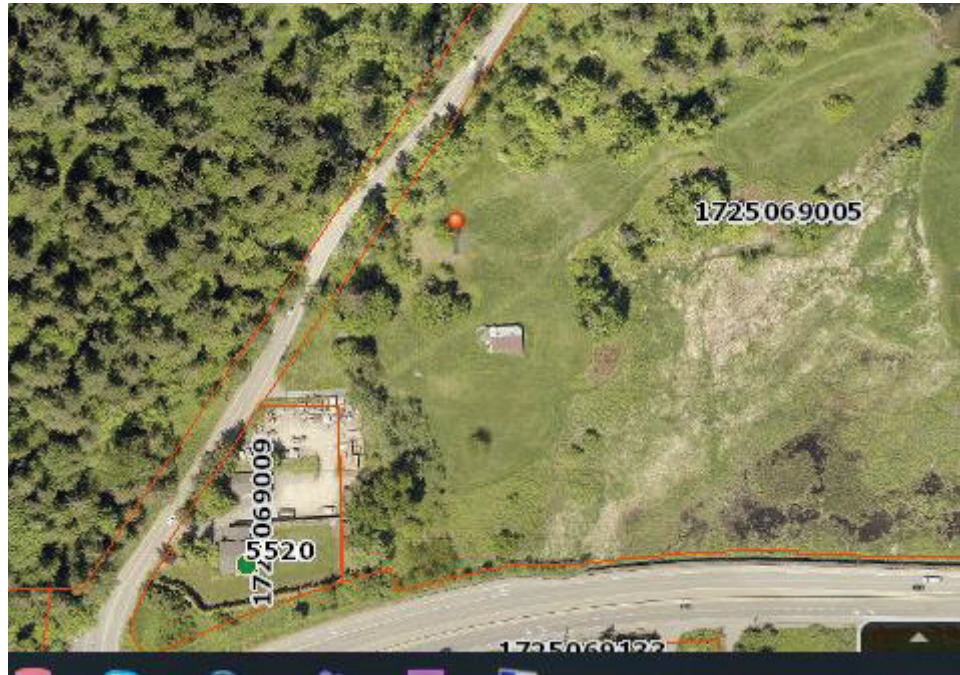
## TO BE COMPLETED IN ESCROW PRIOR TO CLOSING

### EXHIBIT B

#### Protected Property and Building Envelopes

This will have a map of the protected property and also do the following:

**Reserve the right to build a single residence on 1725069005 within a defined 5-acre “reserved residential area.” This will be in the western portion of the parcel near the access road, approx. by pin on the snip below:**



**TO BE COMPLETED IN ESCROW PRIOR TO CLOSING**

**EXHIBIT C**

**Water Rights**

**TO BE COMPLETED IN ESCROW PRIOR TO CLOSING**

**EXHIBIT D**

**Permitted Exceptions**

**TO BE COMPLETED IN ESCROW PRIOR TO CLOSING**

**EXHIBIT E**  
**Potential Restoration Areas**