



Staff Report

Agenda Item:	6	Name:	Charlotte Archer
Proposed No.:	FCD2025-11	Date:	October 14, 2025

Proposed Resolution FCD2025-11: Authorizing King County to Execute a Real Property Covenant on Certain Real Property Purchased by King County Utilizing Funding from the King County Flood Control District.

King County has submitted a request for the Board of Supervisors to authorize the execution of a real property covenant that would encumber one parcel originally purchased in 2008 by King County utilizing King County Flood Control District funding. This request is made pursuant to King County Code Section 4.56.060.E.1.a, which requires the District's approval by resolution before King County can convey (including transmittal of an encumbrance of this nature) a real property interest acquired by King County utilizing District funding.

By this Resolution, the Board of Supervisors would authorize King County to execute the proposed Declaration of Land Use Restriction and Real Property Covenant for the identified parcel, King County Tax Parcel No. 322306-9042 (the "Parcel").

Background for Request from King County:

King County purchased the Parcel in 2008, utilizing funds from the District, as well as other grant funding, to make the purchase.

In 2004, the King County Council established King County's **Mitigation Reserves Program** ("KC MRP"), which is currently implemented by King County through an in-lieu fee ("ILF") program, as approved by the King County Council in 2012, and as administered by the Water and Land Resources Division of the King County Department of Natural Resources and Parks. The KC MRP has been acknowledged by the US Army Corps of Engineers ("Corps") and the Washington State Department of Ecology ("Ecology") as meeting federal and state programmatic requirements for operating an ILF program, which is defined as:

A program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements. Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor.

33 CFR 332.2.

Through the KC MRP, King County completed construction of the **Rainbow Bend Mitigation Project** in 2020 on the Parcel, which was a project that re-established and enhanced wetland and riparian habitat by removing fill material and re-grading the Parcel to create more natural topography, installing large and small habitat logs and rootwads and planting native vegetation. The project complemented the work already completed at the site on adjacent parcels by adding additional hydrologically connected wetland, large wood and other habitat features that expand the functional area of floodplain and provide additional habitat, benefiting fish and wildlife, hydrology and water quality.

The federal mitigation rule (33 C.F.R. § 332.7) that governs the ILF requires permanent site protection to ensure mitigation sites established by KC MRP continue to provide ecological functions in perpetuity and permit the use of restrictive covenants to provide the necessary permanent site protection. The restrictive covenants ensure the Parcels remain as natural open space in perpetuity in order to meet the requirements of the KC MRP.

King County provided the Declaration of Land Use Restriction and Real Property Covenant to the Board that is attached to the Resolution as Exhibit A, which has been pre-approved by the Army Corps of Engineers and Washington State Department of Ecology.

At the time of District formation, the King County Council adopted the following provisions into the King County Code pertaining to real property purchased in the name of the District (relevant provision for this request in bold):

KCC 4.56.060 Real Property – responsibilities

E.1. As part of the services the county provides to the King County Flood Control Zone District under an interlocal agreement, the county, acting through the facilities management division in coordination with the department of natural resources and parks, is authorized to sell or otherwise convey real property and real property interests held in the name of the county that were acquired on behalf of the district, without being subject to the other requirements of this chapter, but only if:

a. the district, by resolution, directs the county to convey to the district or named third parties those real properties or real property interests acquired by the county for the district and held in the county's name. Within the time stated in the resolution, or within sixty days of the county's receipt of a copy of the resolution, if a time is not stated in the resolution, the division should execute the conveyance document, in a form approved by the district, and transmit

it to the district unless the resolution directs the conveyance document be transmitted to named third parties; or

b.(1) the district, by resolution, directs the county to sell those real properties or real property interests acquired by the county for the district and held in the county's name, with the proceeds of the sales remitted to the district. Unless otherwise directed by the district by resolution, all sales shall be made to the highest responsible bidder at public auction or by sealed bid. Within the time stated in the resolution, or within sixty days of the county's receipt of a copy of the resolution, if a time is not stated in the resolution, the division should initiate the process to sell real properties or real property interests; and

(2) not more than thirty days after bids are received, the county shall provide the district with notice of all bids received and the county's determination of the highest responsible bidder. Before closing on any sale, the county shall obtain written confirmation from the district's executive director that the district concurs in the county's determination of the highest responsible bidder.

2. The county shall provide monthly progress reports on all district-authorized conveyances or sales, including but not limited to in the case of a conveyance, the expected date of executing the conveyance documents or, in the case of a sale, the closing date. In each monthly report, if the expected date of the executing conveyance documents is delayed or the expected closing date of a sale is delayed, the county shall report to the district the reasons for the delay and the new expected date to convey or sell.

3. No later than March 31 of each year, the county shall provide to the executive director of the King County Flood Control Zone District an inventory of all real property and real property interests acquired by the county on behalf of the district and held in the name of the county.

Because the Parcel was purchased utilizing District funding, King County submitted a request to the Board of Supervisors pursuant to KCC 4.56.060.E.1.a, seeking approval by the District for the execution of the Declaration of Land Use Restriction and Real Property Covenant, which conveys a property right inherent in this Parcel to the Army Corps of Engineers and WA Department of Ecology. As a result of the proposed conveyance, the use of this Parcel would be restricted to natural open space in perpetuity. Again, the execution of this covenant is necessary for compliance with the federal regulations governing the ILF.

In summary, by adopting this Resolution, the Board would authorize—consistent with KCC 4.56.060.E.1.a—King County to “convey” the Parcel through the execution of the Declaration of Land Use Restriction and Real Property Covenant attached to the Resolution as Exhibit A.