KING COUNTY 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 (Enter name(s) of Grantor(s)) hereinafter referred to as “Grantor(s),” AND KING COUNTY, a political subdivision of the State of Washington hereinafter referred to as “Local” “Grantee” {Insert if the United States is a Grantee: and the United States of America, acting by and through the United States Department of Agriculture, Natural Resources Conservation Service, on behalf of the Commodity Credit Corporation, hereinafter referred to as the “United States”.

[Insert THIRD PARTY BENEFICIARIES, as appropriate: Each of the following third party beneficiaries (collectively the “Beneficiaries” and individually the “Beneficiary”) has certain rights hereunder, including third party rights of enforcement: The State of Washington, by and through the Recreation and Conservation Office (“RCO”); and/or the United States of America, acting by and through the United States Department of Agriculture, Natural Resources Conservation Service on behalf of the Commodity Credit Corporation, hereinafter referred to as the “United States.”]

WHEREAS:
The Grantors are the present owners of the lands described in Exhibit A (the “Protected Property”) and graphically depicted in the Site Plan (Exhibit B); said Protected Property includes Water Rights as described in Exhibit C; all of which exhibits are attached hereto and incorporated herein by reference.

King County and the Grantors [Insert as appropriate: and the State of Washington and/or the United States has/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.

The Grantors recognize that the Protected Property is Farm and Agricultural Land as defined in RCW 84.34.020(2) [Omit if State funding is used: or Farm and Agricultural Conservation Land as defined in RCW 84.34.020(8)] and that 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. The Protected Property also contributes natural, open space, ecological, habitat, and scenic values, referred to herein as “Open Space Values”, which are of importance to the Grantors, the Grantee(s). [Insert as appropriate: the people of the State of Washington] and the citizens of King County.

The Grantors desire to cooperate with the Grantee(s) [Insert as appropriate: and the Beneficiary/Beneficiaries] in preserving land devoted to agricultural and open space uses. The characteristics of the Protected Property are documented in an inventory of relevant features of the Protected Property, dated ____________________, 20__ and located in a file entitled Baseline
Documentation on file at the offices of the {Local} Grantee and incorporated herein by this reference. The Baseline Documentation consists of reports, maps, photographs, surveys of known cultural sites and other documentation that provide, collectively, an accurate representation of the Protected Property as of the date of this Deed and Agreement and which are intended to serve as an objective information baseline for monitoring compliance with the terms of this Deed and Agreement.

The Grantors are willing to grant and convey to the {Local} Grantee [Omit if United States is not a Grantee: and the United States] the Development Rights in the Protected Property as such rights are defined in King County Ordinance No. 4341 (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), on the terms and conditions and for the purposes hereinafter set forth. The Grantee(s) is {are} willing to purchase the Development Rights in the Protected Property and accept this instrument of conveyance.

The [Local] Grantee has determined that the acquisition by the [Local] Grantee of Development Rights in Farmland and Open Space Land will benefit the public through the preservation of property devoted to agricultural and open space uses.

[Insert if State funding is used: Permanent protection of the Protected Property will further the purposes of the Washington State Farmlands Preservation Account (FPA) established under RCW 79A.15.130(1), which provides that moneys appropriated to the FPA “must be distributed for the acquisition and preservation of farmlands in order to maintain the opportunity for agricultural activity upon these lands.” The legislatively declared policies of the State of Washington in the Washington State Open Space Tax Act, Chapter 84.34 RCW (OSTA), provide that “it is in the best interest 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.” Under the OSTA, lands eligible for preferential real property tax treatment include lands such as the subject Protected Property where the preservation in its present use would conserve and enhance natural resources and promote conservation of soils. Pursuant to this legislative directive, King County has adopted an Open Space Tax Program, Ordinance No.1076, as amended, that recognizes the importance of and provides preferential tax treatment for the production of food and fiber crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the county and its citizens.]

[Insert if State funding is used: These Development Rights are acquired in part with a grant from RCO pursuant to that certain grant agreement [insert grant agreement number] between RCO and {Local} Grantee dated _________ (“RCO Grant Agreement”).]

[Insert if federal funding is used: Part of the funds for the purchase of these Development Rights is being provided by the Farm and Ranch Lands Protection Program (FRPP), 16 USC 3838h and 3838i. Under the FRPP, the Secretary of Agriculture acting through the Natural Resources Conservation Service (NRCS), on behalf of the Commodity Credit Corporation, purchases Conservation Easements and other interests in land on behalf of the United States for the purpose of protecting topsoil from conversion to non-agricultural uses.]

The grant and conveyance of Development Rights by the Grantors to the Grantee{s} 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.

Grantor and Grantee{s} have agreed that, in order to maintain the opportunity for the commercial
production of agricultural products upon the Protected Property and to protect the 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 (Water Rights). 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.

The conveyance and preservation of the Development Rights by the Grantors to the Grantee{s} 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.

NOW THEREFORE WITNESSETH, that the Grantors, for and in consideration of ________________________DOLLARS lawful money of the United States of America, paid to the Grantors by the Grantee{s}, the receipt whereof is hereby acknowledged, and the Grantors being therewith fully satisfied, do by these presents grant, bargain, sell, transfer and convey unto the Grantee{s} forever all 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 conveyance is a conveyance of an interest in real property under the provisions of RCW 64.04.130.

The Grantors and Grantee{s} 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. The Grantee{s} strongly encourages (use singular if United States is a Grantee) the Grantor 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, also sometimes referred to herein as a “Conservation Plan”, as it exists as of the date of this agricultural conservation easement and as may be amended or revised in the future. Said Farm Management Plan is as defined in King County Administrative Rule PUT 8-21 (PR), or its successor, and approved by an agency or agencies designated by [Local] 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 offices of the 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 the [Local] Grantee [Insert if State funding is used: and by the State of Washington, by and through the RCO]. On-premises tasting and sampling of horticultural and agricultural crops is permitted if necessary 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 the [Local] Grantee [Insert if State funding is used: and by the State of Washington, by and through the RCO]. On-premises tasting and sampling of animals or their products is permitted if necessary for the performance of processing and marketing activities that are otherwise allowed herein.

(3) Uses that are consistent with the classification as “Farm and Agricultural Land” as defined in RCW 84.34.020(2).

(4) 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.

(5) 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 the [Local] Grantee[Insert if State funding is used: and by the State of Washington, by and through the RCO]. 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 that conserve and enhance natural, scenic, or designated historic resources on the Protected Property and that do not permanently compact, remove, sterilize, pollute, or otherwise impair the use of the soil on the Protected Property for the raising of horticultural or agricultural crops.

Neither open space nor agricultural uses include the following: commercial and industrial activities that are unassociated with agriculture; 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. Agricultural and open space uses do not allow or include the conversion of Protected Property to fish or wildlife habitat, unless such conversion will directly benefit the agricultural use of the Protected Property as approved in writing by the [Local] Grantee [Insert if State funding is used: and by the State of Washington, by and through the RCO] or unless the area is designated in the Baseline Documentation as being available for such conversion. 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). The Grantors reserve the right to the use of (may be zero) single-family dwelling unit(s). The location(s) of all reserved dwelling units, both those existing on the Protected Property at the date of this Deed and Agreement and those which are reserved but which do not exist on the Protected Property at the date of this Deed and Agreement, are shown on Exhibit B as the building envelope(s) within which the aforementioned reserved dwelling units must be located. Grantor may not change the location of any building envelope(s), as shown on Exhibit B, without the express written permission of the [Local] Grantee and of the Beneficiaries, if any.
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 subdivided or its boundaries are altered by the Grantor or by any successor in interest of the Grantor. If the Protected Property is subdivided, or its boundaries altered, reference to this Deed and Agreement must be shown on the map of the subdivided, or altered property and Exhibit B must be recorded as part of the subdivision or alteration so that any future conveyance 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 conveyed 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 subdivision, boundary alteration, or upon the conveyance 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.

[If Grantor chooses to limit the size of the reserved dwelling units, insert the following wording: The total living space square footage of any new or remodeled reserved dwelling unit shall not exceed 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 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. 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 subdivided or conveyed 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.

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 subdivided or conveyed 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(s) of accessory dwelling units and of agricultural employee dwelling units that exist on the Protected Property upon the date of this Deed and Agreement, are included within a building envelope as shown on Exhibit B.

The Grantor must obtain written permission from the {Local} Grantee prior to the construction or installation of any accessory dwelling units or 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 accessory dwelling units and/or agricultural employee dwelling units must be located within an existing building envelope. Any addition of accessory dwelling units and/or agricultural employee dwelling units shall be shown on an updated Site Plan which has been approved in writing by the {Local} Grantee and which shall be added to the Baseline Documentation on file at the offices of the {Local} Grantee.

III. Emergencies. Grantor 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 Grantor shall first reasonably attempt to notify {Local} Grantee prior to taking such action. If {Local} Grantee cannot provide consent, with or without conditions, within such time as is reasonable under the circumstances, Grantor 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 the 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 subdivision of the Protected Property that reduces any parcel to less than 10 acres
As appropriate, replace with: 35 acres or, if federal funding is used replace with: _____(insert number) acres, which is the average size of farms in King County as of the most recent published Census of Agriculture,] shall be permitted. [Explanation for subdivision size if no federal funding is used: Parcels may not be subdivided or the minimum size of parcels created by any future subdivision will be restricted to 10 or 35 acres depending on the location of the property; properties in the Lower Green, Upper Green and Sammamish River Valley Agricultural Production Districts (APDs) and those outside of APDs will be restricted to a minimum parcel size of 10 acres, properties in the Snoqualmie River Valley and Enumclaw Plateau APDs will be restricted to a minimum parcel size of 35 acres.] The Grantor must obtain written permission from the {Local} Grantee and all Beneficiaries, if any, prior to initiating any subdivision or boundary line adjustment. All restrictions imposed by this Deed and Agreement shall survive any subdivision. 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. Subdivisions or boundary line adjustments 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 _____ percent [Insert maximum of 5, minimum of 2] of the Protected Property or of any parcel thereof resulting from any future subdivision of the Protected Property, boundary line adjustment, or conveyance of a portion of the Protected Property, shall be covered by structures and/or non-tillable surfaces [Insert as appropriate: and no more than _____ percent [Insert maximum of 5, minimum of 2] of Parcels(s) _____ of the Protected Property or of any parcel thereof resulting from any future subdivision of the Protected Property, boundary line adjustment, or conveyance of a portion of the Protected Property, shall be covered by structures and/or non-tillable surfaces]. [Explanation: Certain properties or specific parcels within a property may be restricted to less than 5 percent non-tillable surface.] “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 ____% 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 the {Local} Grantee and the Third Party Beneficiaries, if any, subsequent to this Deed and Agreement, shall not be counted against the ____% 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 as of the date of this Deed and Agreement exceed ______ percent [Insert maximum of 5, minimum of 2], such parcel cannot be sold 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 _____ percent [Insert maximum of 5, minimum of 2] of their total acreage.

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. [Insert as appropriate: Notwithstanding anything in this Section to the contrary, Grantor shall comply with all applicable state and federal laws and shall give notice to and receive consent from {Local} 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;
   (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.

H. Recreational uses of the Protected Property are limited to passive recreational open
   space uses such as hiking, fishing, horseback riding, in-season hunting and fishing 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, the Grantor shall cooperate with the {Local} Grantee to help
   assure the maintenance of the Water Rights. Grantor 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.
   Grantor 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 the
       {Local} 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
       Grantor is unable to take the Water Rights Maintenance Actions and the Water
       Rights are under threat of abandonment, relinquishment, loss or forfeiture, Grantor
       shall convey ownership of said Water Rights to {Local} Grantee for {Local}
       Grantee’s use in order to maintain the opportunity for commercial agricultural
       production on the Protected Property.

If Protected Property possessing divisible Water Rights is subdivided, a Water Right of
sufficient quantity to support any present or future economically viable agricultural
practice must be allocated to each parcel created by the subdivision. Any
relinquishment, loss or forfeiture of the Water Rights shall not be deemed or construed to be a waiver of {Local} 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.

I. 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 {Local} 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.

J. 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.

K. 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.

L. 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. [Insert if State and/or federal funding is used: Should the King County Council find it necessary to convey a road or utility easement for which compensation is required, the compensation received will be distributed between/among the Grantor, Grantee(s) and all Beneficiaries, if any, according to the distribution method specified in this Deed and Agreement in the section titled “Condemnation.”] Grantor may not convey any road or utility easements, including temporary easements, without the express written permission of the {Local} Grantee.

M. 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.

N. The creation, enhancement, restoration or preservation of wetlands, fish or wildlife habitat, or other natural resources for the purpose of, directly or indirectly, compensating for or mitigating resource losses or damages in any way associated with actual or potential impacts of development except for impacts caused by Grantor on the Protected Property ("Compensatory Mitigation") is prohibited on the Protected Property. Compensatory Mitigation includes, but is not limited to, mitigation banking,
conservation banking, and any other sale or exchange of mitigation credits based on the creation, restoration, enhancement and/or preservation of such natural resources within the Protected Property.

P. Home occupations or home industries, as defined in Chapter 21A.06 of the King County Code, or its successor, [Insert if State funding is used: which are consistent with the provisions of RCW 84.34.020(2)] 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 envelope as depicted on the Site Plan (Exhibit B) which is attached to this Deed and Agreement; all structures and surfaces within the building envelope 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

The Grantors and Grantee[s] further agree as follows:
**Conservation Plan.** The Grantor, his/her heirs, successors, or assigns, shall maintain the Land and conduct all agricultural operations on the Land in a manner consistent with a Conservation Plan, also sometime referred to herein as a “Farm Management Plan”, prepared in consultation with the Natural Resources Conservation Service (NRCS) and which meets the approval standards of [Insert if State funding is used: the State of Washington, by and through the RCO and] any other agency or agencies as designated by the {Local} Grantee. This Conservation Plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12 that are in effect on __________, 20___. However, the Grantor 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. The {Local} Grantee and the Beneficiaries, if any, shall have the right to enter upon the Protected Property, with advance notice to the Grantor, in order to monitor compliance with the Conservation Plan.

[Insert if no federal funding is used: In the event of noncompliance with the Conservation Plan, the Grantee shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the Conservation Plan, the Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the Conservation Plan.]

[Insert if the United States is a Grantee or a Third Party Beneficiary: In the event of noncompliance with the Conservation Plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the Conservation Plan, NRCS will inform {Local} Grantee of the Grantor’s noncompliance. The {Local} Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the Conservation Plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of noncompliance with the Conservation Plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Deed and Agreement based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.]

**Covenant Against Encumbrances.** The 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 The 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 Grantor and Grantee[s] Not Affected.** Other than as specified here, this Deed and Agreement is not intended to impose any legal or other responsibility on Grantee[s] or in any way affect any existing obligations of Grantor as the owner of the Protected Property.
No Public Rights Conveyed by Deed and Agreement. The parties acknowledge that, except as specifically provided herein, Grantor does 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. {Local} Grantee has the right to enforce the terms of this Deed and Agreement and to prevent or require correction of violations of the terms, conditions, restrictions and covenants of this Deed and Agreement. {Local} Grantee shall have the right to prevent, or cause Grantor 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, the {Local} 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, {Local} Grantee shall have the right to enter upon the Protected Property, at a mutually agreeable date and time and upon prior notice to Grantor, to inspect the Protected Property after major natural events occur, such as fires, windstorms, and floods. {Local} Grantee shall exercise its access rights in compliance with applicable law and in a manner that will not materially disturb or interfere with Grantor’s reserved rights, any other person’s lawful use of the Protected Property, or Grantor’s quiet enjoyment of the Protected Property.

If {Local} Grantee becomes aware of or finds a violation of this Deed and Agreement, {Local} 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, {Local} Grantee shall notify Grantor in writing of the violation. Except when an ongoing or imminent violation could, as determined by {Local} Grantee, seriously impair the Conservation Values of the Protected Property, {Local} Grantee shall give Grantor written notice of the violation and 30 days to correct it before filing any legal action, including any administrative activity under the KCC.

If Grantor fails to cure the violation within 30 days after receipt of a notice of violation, {Local} 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 {Local} Grantee’s remedies at law for any violation of the terms of this Deed and Agreement are inadequate and that {Local} Grantee shall be entitled to the injunctive relief described in this Section both prohibitive and mandatory, in addition to such other relief to which {Local} 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 {Local} Grantee being required to post bond or provide other security. Where a court finds that a violation has occurred, Grantor shall reimburse {Local} 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 Grantor would be impractical or extremely difficult to measure, the Parties agree that the money damages {Local} Grantee is entitled to recover from Grantor shall be, at {Local} Grantee’s election, the
higher of (i) the amount of economic gain realized by Grantor 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 [Local] Grantee chooses the second of these two measures, Grantor agrees to allow [Local] 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 [Local] Grantee, and any forbearance by [Local] 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 [Local] Grantee of such term or of any of [Local] Grantee’s rights under this Deed and Agreement. No delay or omission by [Local] Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Moreover, any failure by [Local] Grantee to discover a violation of this Deed and Agreement or forbearance by [Local] Grantee in exercising its rights under this Deed and Agreement in the event of any violation of its terms by Grantor shall not be deemed a waiver by [Local] Grantee of such rights with respect to any subsequent violation. No waiver or waivers by the [Local] 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 the [Local] Grantee [Insert as appropriate: the United States (if a Grantee or Third Party Beneficiary)] and of [other] Beneficiaries, if any, 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. The Grantors and Grantee(s) agree that the terms, conditions, restrictions, and covenants contained herein shall be binding upon the 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 [Local] Grantee prior to undertaking certain uses and activities (e.g., Sections [insert reference numbers of pertinent Sections]) for the purpose of affording [Local] 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 [Local] Grantee to make an informed judgment as to its consistency with the terms of the Deed and Agreement. [Insert if there are Third Party Beneficiaries: Upon receipt of such notice, [Local] Grantee shall forward a copy to each Beneficiary to this Deed and Agreement.] [Local] Grantee shall provide a written response to the notice in a timely manner.

[Insert if State funding is used: Consent by Third Party Beneficiary Required. Wherever in
the Deed and Agreement {Local} Grantee’s consent is required, such consent is also required of the
State of Washington, by and through the RCO as a Third Party Beneficiary to this Deed and
Agreement. The RCO shall provide such consent in writing within a reasonable time.]

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:  name
            street address
            city, state, zip

To Grantee:  name
            street address
            city, state, zip

[Insert as appropriate:

To RCO:  name
            street address
            city, state, zip

To NRCS:  name
            street address
            city, state, zip]

Transfer of Rights by {Local} Grantee. The {Local} 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 Ordinance No.
4341, as heretofore or hereafter amended [Insert as appropriate: and with the consent of the RCO
(and NRCS) prior to initiating said transfer of rights. In the event of such transfer, the
reimbursement due the {Local} Grantee [Insert as appropriate: the United States if a funding
contributor] and the Beneficiaries, if any, shall be the percent of the compensation that is equal to
the percent of the {Local} Grantee’s [Insert as appropriate: the United States’] and the
Beneficiary/Beneficiaries’ funding that was originally used to acquire the Development Rights
interest as is set forth below in the condemnation provision.] The Grantors, their personal
representatives, heirs, successors or assigns, shall be given the first right of refusal to purchase the
Development Rights in the Protected Property provided such disposition and reconveyance be
lawfully approved.
Subsequent Transfers. For the purposes of this Section, “Transfer” includes but is not limited to any sale, grant, lease, hypothecation, encumbrance, assignment, conveyance, or any transaction the purpose of which is to effect a sale, grant, lease, hypothecation, encumbrance, assignment, or conveyance. Grantor shall give written notice to the {Local} 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 {Local} Grantee shall include the name, address, and telephone number of the prospective transferee or such transferee’s representative. Grantor agrees 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 the Grantor 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.

[Insert as appropriate: Succession. If {Local} Grantee shall cease to exist, then {Local} Grantee’s rights and duties hereunder shall become vested and fall upon RCO, who may then assign [Insert as appropriate: with NRCS’s consent, which shall not be unreasonably withheld] {Local} Grantee’s rights and duties hereunder to an organization with a similar mission to that of {Local} Grantee.]  

No Merger. If {Local} Grantee or the Beneficiaries, if any, 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, Grantor and {Local} 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. [Insert one of the following: i) Grantee; ii) Grantee and RCO; iii) {Local} Grantee and the United States; iv) {Local} Grantee, RCO and the United States] shall be entitled to compensation in accordance with the following Section, “Valuation,” for the value of the Development Rights taken and the Grantor shall be entitled to compensation in accordance with applicable law for the value of the underlying fee title and improvements taken. [Insert as appropriate: In the event that {Local} Grantee is the recipient of the proceeds from any condemnation, then {Local} Grantee shall distribute to [Insert one of the following: i) RCO; ii) the United States; iii) RCO and the United States] their respective shares of the proceeds as soon as is practicable.]

Valuation. These Development Rights constitute a real property interest immediately vested in the Grantee(s). For purposes of this Section, the Parties stipulate that these Development Rights have a fair market value determined by multiplying (a) the then fair market value of the Protected Property unencumbered by the Deed and Agreement (minus any increase in value attributable to improvements on the Protected Property), at the time of termination or extinguishment, as determined by an appraisal that meets standard real property appraisal methods by (b) the ratio of the value of the Development Rights at the time of this grant to the value of the Protected Property, unencumbered by the Deed and Agreement, at the time of this grant. For purposes of this Section, the Parties agree that the ratio of the value of the Development Rights to the value of the Grantor’s property unencumbered by the Deed and Agreement at the date of this conveyance is evidenced by
that certain real property appraisal prepared by ________, dated________, on file with {Local} Grantee. This ratio is ______(e.g., 0.375) and shall remain constant.

[Insert if RCO is a Third Party Beneficiary: The amount of compensation entitled to the RCO shall be the percent of the {Local}Grantee’s share that is equal to the percent of RCO funding that was originally used to acquire the Development Rights interest, which is_ __%. Upon recovery of the value of these Development Rights, {Local} Grantee shall promptly remit to the RCO its share of the proceeds.]

[Insert if the United States is a Grantee or a Third Party Beneficiary: The amount of compensation entitled to the United States shall be the percent of the {Local} Grantee’s share that is equal to the percent of federal funding that was originally used to acquire the Development Rights interest, which is_ __%. Upon recovery of the value of these Development Rights, {Local} Grantee shall promptly remit to the United States its share of the proceeds.]

**No Affirmative Obligations; Indemnification.** Grantee[s], 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[s] and hold Grantee[s] harmless from all damages, costs (including, but not limited to, attorneys’ fees and other costs of defense incurred by Grantee[s]) 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[s] [Insert as appropriate: or any Beneficiary to this Deed and Agreement] 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.** Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants 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. Grantor further warrants 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, Grantor hereby promises to hold harmless and indemnify the {Local} Grantee [Insert as appropriate: the United States and/or the Beneficiary(ies), if any.] 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. Grantor’s indemnification obligation shall not be affected by any authorizations provided by {Local} Grantee [Insert as appropriate: the United States and/or the Beneficiary(ies), if any.] to Grantor with respect to the Protected Property or any restoration activities carried out by {Local} Grantee at the Protected Property; provided, however, that {Local} Grantee shall be responsible for any Hazardous Materials contributed after the date of this Deed and Agreement to the Protected Property by {Local} 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, Grantor agrees 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 [Local] Grantee’s consent), unless the release was caused by [Local] Grantee, in which case [Local] Grantee shall be responsible for such remediation to the extent the release was caused by [Local] Grantee. At its discretion, [Local] Grantee may assist Grantor 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. The 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 [Local] 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 [Insert if State funding is used: and the Farmland Preservation Account as per RCW 79A.15.130]

**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 [Insert if State funding is used: and the Farmland Preservation Account as per RCW 79A.15.130].

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.

[Insert if federal funding is used: Rights of the United States of America. Under this Deed and Agreement, the same rights are granted to the United States that are granted to the {Local} Grantee. However, the Secretary of the United States Department of Agriculture (the Secretary), on behalf of the United States, will only exercise these rights under the following circumstances: in the event that {insert one of the following: i) {Local} Grantee fails or ii) {Local} Grantee or RCO fail} to enforce any of the terms of this Deed and Agreement as determined in the sole discretion of the Secretary, the Secretary and his or her successors or assigns may exercise the United States’ rights to enforce the terms of this Deed and Agreement through any and all authorities available under federal or State law. In the event that {insert one of the following: i) {Local} Grantee attempts or ii) {Local} Grantee or RCO attempt} to terminate, transfer or otherwise divest itself of any rights, title, or interests in this Deed and Agreement without the prior consent of the Secretary and, if applicable, payment of consideration to the United States, then, at the option of the Secretary, all right, title, and interest in this Deed and Agreement shall become vested solely in the United States of America.]

[Insert if RCO is a Third Party Beneficiary: RCO Third Party Right of Enforcement. RCO is hereby granted third party right of enforcement of this Deed and Agreement. As such, RCO may exercise all the rights and remedies provided to {Local} Grantee herein, and is entitled to all of the indemnifications provided to {Local} Grantee in this Deed and Agreement. RCO and {Local} Grantee each have independent authority to enforce the terms of the Deed and Agreement; provided, however, that {Local} Grantee shall have primary responsibility for monitoring and enforcement of the Deed and Agreement. In the event that RCO and {Local} Grantee do not agree as to whether the Grantor is complying with the terms of the Deed and Agreement, RCO or {Local} Grantee may proceed with enforcement actions without the consent of the other. If RCO elects to enforce the terms of this Deed and Agreement, it shall first follow the process described in the Section titled “Remedies” above; provided, however, that RCO shall not be obligated to repeat any non-judicial dispute resolution steps already taken by {Local} Grantee. This third party right of enforcement does not extend to any other third party and will automatically transfer to another State agency charged with maintaining, preserving and/or restoring agricultural lands in the event RCO is dissolved or reorganized.

In the event that the Protected Property is used by Grantor in a manner that is not consistent with the purpose of this Deed and Agreement or the terms of the RCO Grant Agreement, RCO shall have the right, in addition to any other remedies described in this Deed and Agreement, to require that Grantor pay to RCO, at RCO’s election, the higher of (i) an amount equal to the fair market value of the Development Rights, which shall be determined and distributed as provided above; or (ii) an amount equal to the Total Project Cost as specified in the RCO Grant Agreement with interest due and payable from the date of breach at the rate provided for in RCW 43.17.240, as may be amended from time to time. Any costs, fees or damages paid by Grantor for enforcement of this Deed and Agreement or restoration of the Agricultural or Open Space Values of the Protected
Property shall be deducted from this amount. RCO agrees that it will follow the process described in the Section titled “Remedies” before exercising this right, unless legally compelled to do otherwise. Any amounts due and owing RCO under this paragraph shall be due and owing within 120 days of receiving a written demand for repayment by RCO. Upon grantor’s repayment of such amount to RCO, [Local] Grantee and ROC agree to prepare and record. [Insert if applicable: with NRCS’s consent (which shall not be unreasonably withheld),] a deed amendment to release Grantor from any further obligations to RCO or {Local} Grantee under this Deed and Agreement.

[Insert if RCO is a Third Party Beneficiary and/or if the United States is a Grantee or a Third Party Beneficiary: Before Grantee{s} or any Beneficiary to this Deed and Agreement exercises its rights to undertake mediation, arbitration or legal action, the party contemplating such action agrees to confer with the other parties holding enforcement rights under this Deed and Agreement as to whether they will join the mediation, arbitration or legal action and share costs and expenses related to such action; provided, however, that this agreement to confer shall not be construed as a limitation on the ability of Grantee{s} or any Beneficiary of this Deed and Agreement to exercise its enforcement and other rights under this Deed and Agreement. If Grantee{s} and/or any Beneficiary of this Deed and Agreement decide(s) to join in the action and share costs and expenses related to the action, the parties joining in the action and sharing costs and expenses related to the action shall apply any recovery to reimburse such parties for their costs and expenses; provided, however, that any amount received based on loss of value to the Development Rights or resulting from condemnation and/or extinguishment of the Deed and Agreement, shall be {Insert one of the following: i) distributed to RCO; or ii) shared equally by RCO and the United States} only after reimbursing such parties for their costs and expenses. If Grantee{s} or any Beneficiary of this Deed and Agreement choose[s] not to undertake mediation, arbitration or legal action and/or share costs and expenses related to such action, such party shall not be entitled to any recovery for enforcement costs; provided, however, that any amount received based on loss of value to the Development Rights, or resulting from condemnation and/or extinguishment of the Development Rights, shall be distributed in accordance with this Deed and Agreement only after first reimbursing any party for its costs and expenses that are not otherwise separately paid as part of any arbitration award or judgment.]

Schedule of Exhibits. (list the exhibits)

TO HAVE AND TO HOLD unto King County, Washington, its successors and assigns forever.

[If the United States is a Grantee substitute the following: TO HAVE AND TO HOLD unto King County, Washington, its successors and assigns, and unto the United States of America, forever.]

[Insert as appropriate:
Approved as to Form

King County Prosecuting Attorney Date]
IN WITNESS WHEREOF, the parties have hereunto set their hand and seals the day and year first above written.

GRANTEE

KING COUNTY

BY ____________________________

GRANTOR


[Insert as appropriate: signature blocks for the United States and Third Party Beneficiaries]

[Insert Notary acknowledgement(s)]