

1 June 26, 1995  
2 CL:kg

Introduced by: LARRY PHILLIPS  
BRIAN DERDOWSKI

Proposed No.: 95-456

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6 MOTION NO. 9636

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8  
9 A MOTION related to the preservation of Saddle Swamp.

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11  
12 WHEREAS, the King County council is committed to the long term preservation of  
13 Saddle Swamp wetlands adjacent to King County's Section 36 park, and

14 WHEREAS, the proposed stewardship plan will establish a partnership between the  
15 Beaver Lake Community, the property owners, Quadrant Corporation and Taiyo American  
16 Corp, the Seattle King County Land Conservancy and King County to accomplish the long  
17 term conservation, and

18 WHEREAS, the Interagency Committee for Outdoor Recreation (IAC) has granted  
19 King County \$1 million to preserve Saddle Swamp, and

20 WHEREAS, King County's interest will be preserved by acquisition of a conservation  
21 easement of the property, and

22 WHEREAS, the Seattle King County Land Conservancy will dedicate the funds  
23 acquired by the sale of the Conservation Easement to King County to the enhancement and  
24 stewardship of Saddle Swamp, and

25 WHEREAS, Quadrant Corporation has agreed to donate the land to the Conservancy,  
26 and

27 WHEREAS, Quadrant homeowners and Taiyo Golfers will contribute funding to the  
28 ongoing stewardship of the property, and

29 WHEREAS, the IAC has agreed to transfer the remaining funds to Section 36 for  
30 conservation of a portion of that park, and the two properties are contiguous, and

31 WHEREAS, the attached Stewardship agreement is an excellent example of  
32 public/private cooperation;

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NOW, THEREFORE, BE IT MOVED by the council of King County:

The executive is hereby authorized to purchase a conservation easement of the saddle swamp property and to enter into the stewardship agreement as set forth in the attached.

PASSED by a vote of 13 to 0 this 7<sup>th</sup> day of August, 19 95

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

Kent Pullen  
Chair

ATTEST:

Gerald A. Peterson  
Clerk of the Council

\_\_\_\_\_, 1995

**STEWARDSHIP AGREEMENT**

between

**KING COUNTY**

and

**SEATTLE-KING COUNTY LAND CONSERVANCY**

and

**QV ASSOCIATES L.P.**

and

**TAIYO AMERICAN CORPORATION**

**Contract No.:**

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## STEWARDSHIP AGREEMENT

AN AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 199\_ by and between SEATTLE-KING COUNTY LAND CONSERVANCY (the "Land Conservancy"), a Washington nonprofit corporation, having an address at 1150 19th Avenue East, Seattle, Washington 98112, KING COUNTY, a political subdivision of the State of Washington (the "County"), having an address at 707 Smith Tower, 506 Second Avenue, Seattle, Washington 98104, QV ASSOCIATES L.P. ("QV"), a Washington limited partnership, having an address at Quadrant Plaza, Suite 500, N.E. 8th at 112th, Bellevue, Washington 98009, and TAIYO AMERICAN CORPORATION ("Taiyo"), a Washington corporation, having an address at Quadrant Plaza, Suite 750, 11100 N.E. 8th Street, Bellevue, Washington 98004 (collectively, the "Parties").

## BACKGROUND/RECITALS

A. In furtherance of its organizational purposes as described in Paragraph B below, the Land Conservancy has acquired a fee simple interest in a certain approximately 116-acre parcel, located south of NE 8th, east of 228th Avenue SE, and north of Beaver Lake on the East Lake Sammamish Plateau, north of Issaquah, Washington (the "Land"). The legal description of the Land is provided in Exhibit "A."

B. The Land Conservancy is a nonprofit corporation whose purpose is to promote the preservation of open space and critically important ecological systems in Seattle, King County and Washington State. The Land Conservancy's purposes are set forth in its Articles of Incorporation, which are attached to this Agreement as Exhibit "B." The Land Conservancy is a tax-exempt corporation under Section 501(c)(3) of the Internal Revenue Code ("IRC") and is a publicly supported organization as defined in IRC Sections 1-70(b)(1)(A)(vi) and 509(a). The Land Conservancy is also qualified as a nonprofit nature conservancy corporation under RCW 64.04.130 and 84.34.250. The Land Conservancy has adopted the 1989 Statement of Land Trust Standards & Practices as issued by the Land Trust Alliance (hereinafter "Standards and Practices;" attached as Exhibit "C") and its operating practices substantially comply with the Standards and Practices.

C. The County has acquired an easement in the Land from the Land Conservancy under that certain Open Space and Access Easement Agreement (the "Easement") attached as Exhibit "D." Under the Easement, the Land Conservancy agreed to convey and quit claim to the County a perpetual, nonexclusive easement over the Land, for the purposes of (a) public access for educational and passive recreational activities and for environmental stewardship, training and research, and (b) limiting the future use of the Land to open space uses.

D. QV is the prior owner of the Land and the present owner of property to the west, north and east of the Land. QV is developing its property into a residential subdivision (Beaverdam) whose common areas will be owned and managed by a residential homeowner's association. QV has reserved an easement over the property to construct and maintain an

equestrian/pedestrian trail required under the conditions of its preliminary plat approval for the Beaverdam Development (Beaverdam Preliminary Plat Approval S90P0038) and for other purposes (the "Reservation of Easement"), a copy of which is attached as Exhibit "E." QV will transfer its rights under the Reservation of Easement to the homeowner's association for the Beaverdam Development and to Taiyo as provided in Paragraph E below, who will jointly retain responsibility for constructing and maintaining the equestrian/pedestrian trail until such time as the homeowner's association and the Land Conservancy agree to have the responsibility for trail maintenance transferred to the Land Conservancy.

E. Taiyo will receive from QV ownership to portions of QV's property to the north and east of the Land. Taiyo plans to develop its property into a golf course.

F. The Parties have concluded and agree that the protection, maintenance and enhancement of the Land will be most effective if the Parties work cooperatively for that purpose.

G. The County is authorized to enter into stewardship agreements for the protection, maintenance and enhancement of park and open space properties.

H. The Land Conservancy is willing to take responsibility for the protection, maintenance and enhancement of the Land, and to make any necessary improvements to the Land in accordance with the terms and conditions set forth in this Stewardship Agreement.

NOW THEREFORE, in a spirit of mutual cooperation, and in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, the Parties agree as follows:

1. Stewardship of the Land. The Land Conservancy hereby agrees to take responsibility for the protection, maintenance and enhancement of the Land, and to make any necessary improvements to the Land in accordance with the terms and conditions set forth in this Stewardship Agreement. The County, QV and Taiyo hereby agree to work together with the Land Conservancy to protect, maintain and enhance the Land in accordance with the terms and conditions set forth in this Stewardship Agreement.

2. Term of the Stewardship Agreement.

A. The term of this Stewardship Agreement ("Term") shall be for a period which shall commence upon the execution of this document and shall continue in full force and effect for ten (10) years.

B. This Stewardship Agreement shall be automatically renewed for additional ten (10) year Terms unless agreement is reached by three of the four Parties, or their successors and assigns, to terminate the Stewardship Agreement as set forth in Paragraph 3.

3. Termination of the Stewardship Agreement.

A. In addition to the right to terminate at the end of the 10 year Term as provided in Paragraph 2 above, this Stewardship Agreement also may be terminated at any time upon agreement of three of the four Parties, upon ninety (90) days prior written notice to all Parties and the Saddle Swamp Advisory Committee. The Parties shall remain responsible for their financial obligations to the Saddle Swamp Operating Fund as provided for in Paragraph 7 herein through the end of the year of termination, and shall not be entitled to any reimbursement of contributions already made by the Parties to this Operating Fund. This Operating Fund shall continue to be the sole property of the Land Conservancy upon termination of the Stewardship Agreement.

B. Termination of this Stewardship Agreement shall have no effect on the County's or the Land Conservancy's rights or obligations pursuant to the Easement or on QV's or Taiyo's rights or obligations pursuant to the Reservation of Easement.

4. Saddle Swamp Advisory Committee.

A. The Parties shall establish the Saddle Swamp Advisory Committee (the "Advisory Committee") to make recommendations concerning management of the Land to the Land Conservancy and, as appropriate, to the County.

B. The Advisory Committee shall evaluate the draft Capital Improvement Plan, and draft yearly Work Programs and Alterations proposed by the Land Conservancy and submitted to the Advisory Committee as set forth in Paragraphs 9-11. Based on this evaluation, the Advisory Committee shall offer suggestions and recommendations for changes to the draft Capital Improvement Plan and draft yearly Work Programs and Alterations to the Land Conservancy. The Land Conservancy shall carefully consider the recommendations made by the Advisory Committee in finalizing or approving the Capital Improvement Plan and Work Programs and Alterations, but is not required to abide by such recommendations, except as provided for in the Easement.

C. The Advisory Committee shall evaluate Alterations proposed by any of the Parties (other than the Land Conservancy) and submitted to the Advisory Committee as set forth in Paragraph 11. Based on this evaluation, the Advisory Committee shall offer suggestions and recommendations for changes to the proposed Alterations to the party proposing the Alterations. The party proposing the Alterations shall carefully consider the recommendations made by the Advisory Committee in finalizing its Alterations, but is not required to abide by such recommendations, except as provided for in the Easement or Reservation of Easement.

D. The Advisory Committee shall consist of a representative from each of the following organizations, or their successors and assigns:

- i. QV Associates L.P.

- ii. Taiyo American Corporation
- iii. King County, through its Parks, Cultural and Natural Resources Department (or successor department)
- iv. Seattle-King County Land Conservancy
- v. Beaver Lake Community.

Each representative shall be entitled to one vote. The Parties shall select, by majority vote, the representative of the Beaver Lake Community out of a list of four potential representatives submitted by the Beaver Lake Community to the Land Conservancy.

E. The Advisory Committee shall be chaired by the Program Advisor of the Land Conservancy, who shall also serve as the Land Conservancy's representative to the Advisory Committee.

F. The Advisory Committee shall prepare by-laws or rules of procedure for conducting its activities.

G. The Advisory Committee shall meet at such times as provided for in the by-laws or rules of procedure adopted by the Advisory Committee, but in no event less than annually.

H. The Advisory Committee shall use its best efforts to expedite review of draft Capital Improvement Plans, Work Programs and Alterations submitted to the Advisory Committee by any of the Parties.

5. Saddle Swamp Capital Improvement Fund.

A. The Land Conservancy shall establish the Saddle Swamp Capital Improvement Fund (the "Capital Improvement Fund") upon execution of this Stewardship Agreement. The Capital Improvement Fund shall be comprised of One Hundred and Fifty Thousand and No/100 Dollars (US \$150,000.00) of the proceeds of the County's purchase of the Easement for the Land, less moneys used to cover initial transaction costs.

B. The Land Conservancy shall make disbursements from the Capital Improvement Fund to cover capital costs incurred by the Land Conservancy in carrying out its Capital Improvement Plans as set forth in Paragraph 9.

C. The Land Conservancy shall reinvest, in accordance with the fiscal policies adopted by its Board of Directors, any moneys that remain in the Capital Improvement Fund upon completion of the Capital Improvement Plan encompassing the length of one Term for use in the next Term.



6. Saddle Swamp Investment Fund.

A. The Land Conservancy shall establish the Saddle Swamp Investment Fund (the "Investment Fund"). The Investment Fund shall be comprised of One Hundred Thousand and No/100 Dollars (US \$100,000.00) of the proceeds of the County's purchase of the Easement for the Land. The Investment Fund shall be held in a trust account established by the Land Conservancy for the benefit of the Land and shall be invested prudently by its Board of Directors with the goal of ensuring that the Investment Fund increases with inflation.

B. The Land Conservancy shall make disbursements of the income from the Investment Fund, as set forth in Paragraph 7, to cover operating costs incurred by the Land Conservancy under Paragraph 10 of this Stewardship Agreement.

C. The Land Conservancy shall reinvest the income on the Investment Fund in accordance with the fiscal policies adopted by its Board of Directors, as necessary, to keep the Investment Fund growing at least at a rate equal to the inflation rate as that rate is determined annually for each calendar year by the Consumer Price Index published for Seattle by the U.S. Department of Labor, Bureau of Labor Statistics (the "Inflation Rate"). Any income not needed to keep the Investment Fund growing at least at the annual Inflation Rate shall be transferred to the Saddle Swamp Operating Fund described in Paragraph 7 on an annual basis, beginning with the one-year anniversary of the effective date of this Stewardship Agreement.

7. Saddle Swamp Operating Fund.

A. The Land Conservancy shall establish the Saddle Swamp Operating Fund, into which revenues can be deposited and from which disbursements can be made to cover yearly operating expenses incurred by the Land Conservancy under Paragraph 10 of this Stewardship Agreement (the "Operating Fund"). The Operating Fund shall operate on a calendar year basis.

B. The primary sources of revenue for the Operating Fund shall be:

- i. The income from the Investment Fund, less any funds needed for reinvestment to keep the Investment Fund growing at least at the Inflation Rate; and
- ii. Contributions from QV and Taiyo, or their successors and assigns, in the amount of Two Thousand and Five Hundred Dollars (US \$2,500.00) each as of the effective date of this Stewardship Agreement, and annually thereafter Nine Thousand Six Hundred and Seventy Dollars (US \$9,670.00) or such adjusted amount as determined by subparagraphs iii-v below.

- iii. During calendar year 1996, QV and Taiyo may each offset up to two-thirds of their annual contribution (US \$6,470.00) by completing capital improvements to the Land; provided, however, that such capital improvements shall be over and above any capital improvements to the Land required by King County as a condition to the preliminary plat approval of the Beaverdam Development and the conditional use and variance approval of the Beaverdam golf course. Such capital improvements must be reviewed and approved as provided in the Reservation of Easement, and must be of equivalent value to the amount of the Operating Fund that is actually offset, as agreed to by the Land Conservancy based on documentation provided to the Land Conservancy by QV or Taiyo as appropriate (the Land Conservancy's approval not to be unreasonably withheld).
- iv. Contributions from QV and Taiyo shall be adjusted on an annual basis, beginning on January 1, 1997 to equal the average annual Inflation Rate during the previous calendar year (the 1996 "Base Year"); provided, however, that the contributions from QV and Taiyo shall not be adjusted more than 5.5 percent for each party over the previous year, shall not be adjusted cumulatively, and shall not, in any event, exceed Twenty Thousand Dollars (\$20,000.00) each (the "Initial Annual Contribution Cap") except as provided in subparagraph v below. QV and Taiyo, or their successors and assigns, shall have flexibility in collecting their contribution from home owners and golf course users, respectively.
- v. When the annual contributions from QV and Taiyo reach the Initial Annual Contribution Cap, the Land Conservancy shall reasonably demonstrate that its anticipated Work Program requires a higher cap and shall propose a new 10 year annual contribution cap to the parties hereto, which shall become the Annual Contribution Cap for the next 10 year term unless it is rejected by three of the four parties hereto. The Land Conservancy shall use this same procedure for setting an Annual Contribution Cap during successive 10 year term over the life of this Agreement. The Land Conservancy may exceed any Annual Contribution Cap within any 10 year term where it can reasonably demonstrate that its anticipated Work Program requires a higher adjustment and the other parties hereto agree to such higher adjustment.
- vi. The Land Conservancy shall elect to decline acceptance of any annual inflationary adjustment should such an adjustment be unnecessary, as reasonably determined by the Land Conservancy, to

fulfill its duties and obligations under this Stewardship Agreement for a particular year. However, the Land Conservancy's declining such an annual adjustment shall not affect future annual adjustments for inflation, and future annual adjustments shall be calculated to include all annual inflationary adjustments, whether or not such adjustments were declined by the Land Conservancy.

C. QV and Taiyo shall pay each year's annual contribution to the Land Conservancy in two installments of one-half of the year's annual contribution each, with the first installment due by January 31st and the second installment due by July 31st.

D. The parties to this Stewardship Agreement shall meet and evaluate funding and operations after the third, seventh and final full year of operation under each Term. If appropriate, the Parties shall make necessary amendments to this Stewardship Agreement as provided for in Paragraph 21 herein.

8. Access.

A. The Land Conservancy may facilitate the general public's access to the Land and shall use its best efforts to ensure such access is consistent with the wetland protection purposes of this Stewardship Agreement, the Reservation of Easement, and the Easement entered into between the Land Conservancy and the County.

B. The Land Conservancy may post signs in a reasonable number, at selected points in and around the perimeter of the Land. Such signs may notify the general public of the educational opportunities available at the Land and how and when access to the Land will be provided. Such signs may include any additional information that the Land Conservancy determines is appropriate, including, but not limited to, identification of those areas within the Land that should be avoided in furtherance of the wetland protection purposes of this Stewardship Agreement.

C. The Land Conservancy shall ensure that its signage on the Land is compatible with that found on adjacent QV and Taiyo properties. To ensure such compatibility, the Land Conservancy shall provide representatives of QV and Taiyo serving on the Advisory Committee the opportunity to review and approve the location and design of proposed signage for the Land, provided that such approval shall not be unreasonably withheld.

9. Capital Improvements. The Land Conservancy, at its sole cost and expense using funds provided for in the Capital Improvement Fund, shall make such capital improvements as are necessary to protect, maintain and enhance the Land in its natural state as a conservation and passive educational area. Specifically, the Land Conservancy shall:

A. Provide to the Advisory Committee, within six (6) months of the beginning of each term, a long-range capital improvement plan (the "Capital Improvement Plan") encompassing the length of each Term;

B. Make no Alterations to the Land inconsistent with Paragraph 11 below;  
and

C. Carry out the Capital Improvement Plan, approved by the Land Conservancy upon review by the Advisory Committee, limited by such funds as are available in the Capital Improvement Fund provided for in Paragraph 5 herein.

10. Operations, Maintenance and Repair. The Land Conservancy, at its sole cost and expense using funds provided for in the Operating Fund, shall protect, maintain and enhance the Land in its natural state as a conservation and passive educational area. Specifically, the Land Conservancy shall:

A. Keep the Land in good order, repair and a clean condition, consistent with the wetland protection purposes of this Stewardship Agreement;

B. Regularly pick up and remove from the Land all trash and litter, including from areas of standing water;

C. Make no Alterations to the Land inconsistent with Paragraph 11 below;

D. Provide to the Advisory Committee, within six (6) months of executing this Stewardship Agreement, and annually thereafter, an annual work program for protecting, maintaining and enhancing the Land (the "Work Program"); and

E. Make repairs necessary to keep all trails, gates, fences, and other equipment in good order and repair.

11. Alterations of the Land.

A. As used in this Stewardship Agreement, "Alteration" shall mean:

i. any restoration, rehabilitation, modification, renovation or improvement to the Land by the Land Conservancy, except ordinary maintenance and repair as provided in Paragraph 10 above; and

ii. any work, construction or other activity that would or might affect in any manner, or have any impact upon, the structure, character, appearance or design of the Land.

B. The Land Conservancy shall not begin any Alteration to the Land until the Advisory Committee has reviewed the Capital Improvement Plan, Work Program or proposed Alteration, as appropriate, and made any recommendations nor shall the Land Conservancy begin any Alteration prior to the completion of all reviews and approvals necessary for the Alteration required by any agency or entity of government with jurisdiction over the Land.

C. The Land Conservancy shall undertake any Alteration in full compliance with all applicable laws, rules, and regulations.

D. The Land Conservancy shall not make any Alteration that is inconsistent with the purpose of this Stewardship Agreement, the Easement or the Reservation of Easement.

12. Report To the Advisory Committee. Within ninety (90) days after the first anniversary of the execution of this Stewardship Agreement, and annually thereafter, the Land Conservancy shall deliver to the Advisory Committee a report setting forth in detail the activities that occurred on the Land during the preceding year.

13. Monitoring. The Land Conservancy shall monitor the condition of the Land through its own expenditures, not to exceed Four Thousand Dollars (\$4,000.00) annually, and, where possible, through a community-based volunteer program organized and managed by the Land Conservancy and King County. The Land Conservancy shall work with QV and Taiyo so that the monitoring it performs on the Land may provide all or part of the monitoring information on the Land required under the preliminary plat requirements of the Beaverdam Development (Beaverdam Preliminary Plat Approval S 90P0038) and the conditional use and variance approvals for the Beaverdam golf course (Beaverdam Golf Course Approval L93 CU0005 and L93 VA045); provided, however, that QV and Taiyo acknowledge that they, not the Land Conservancy, shall retain responsibility for satisfying all conditions and other obligations for monitoring under the preliminary plat requirements of the Beaverdam Development and the conditional use and variance approvals for the Beaverdam golf course. The Land Conservancy shall make available to QV and Taiyo any monitoring results the Land Conservancy determines to be of reasonable quality. The Land Conservancy's obligation to monitor the condition of the Land shall terminate at such time as QV and Taiyo are no longer required to perform monitoring under the preliminary plat requirements of the Beaverdam Development and the conditional use and variance approvals for the Beaverdam golf course.

14. Liability Insurance.

A. The Land Conservancy shall, at its own cost and expense, procure and maintain liability insurance throughout each Term that will protect the Land Conservancy and the County, QV and Taiyo as additional insured parties, respectively, from any claims for loss or damage to property and for personal injuries, including death, which may arise directly or indirectly from their activities conducted pursuant to this Stewardship Agreement. Such insurance shall provide for a combined single limit liability coverage of at least Five Million and

No/100 Dollars (US \$5,000,000) and shall name the County, QV and Taiyo as additional insured parties under the policy.

B. Failure of the Land Conservancy to procure or maintain any insurance required under this Stewardship Agreement shall not relieve the Land Conservancy from any liability under this Stewardship Agreement.

15. Contractors. Any party hereto shall use licensed and bonded contractors in carrying out Capital Improvements as described in Paragraph 9 and Alterations as described in Paragraph 11. Such contractors shall agree to abide by the terms of this Stewardship Agreement. The requirements of this Paragraph shall not apply to Land Conservancy or King County volunteers undertaking other activities required or permitted under this Stewardship Agreement. Such exempted volunteer activity includes, but is not limited to, the following: (1) activities associated with the Work Program described in Paragraph 10; (2) activities undertaken in connection with the Land Conservancy's requirements under Paragraph 10 to operate, maintain and repair the Land; and (3) any monitoring activities undertaken by the Land Conservancy in connection with the requirements of Paragraph 13.

16. Assumption of Risk. Any party hereto assumes all risk in its activities pursuant to this Stewardship Agreement and agrees to comply, at its own cost and expense, with all laws and regulations affecting the Land or its activities on the Land.

17. Employees. Under no circumstances shall any person employed by any of the Parties to perform any activity pursuant to this Stewardship Agreement be considered an employee of the other Parties to this Stewardship Agreement.

18. Manner of Notice. Where provision is made herein for notice to be given in writing, the same shall be given by mailing a copy of such notice by first class mail, sent to the address provided herein, or to such other address as shall be provided to the Parties, by delivering such other address to the Parties at the address provided herein. Notices shall be sent to the following addresses:

SEATTLE-KING COUNTY LAND  
CONSERVANCY:

1150 19th Avenue East  
Seattle, Washington 98112

KING COUNTY:

707 Smith Tower  
506 Second Avenue  
Seattle, Washington 98104

QV ASSOCIATES L.P.:

Quadrant Plaza, Suite 500  
N.E. 8th at 112th  
P.O. Box 130  
Bellevue, Washington 98009

TAIYO AMERICAN CORPORATION:

Quadrant Plaza, Suite 750  
11100 N.E. Eighth Street  
Bellevue, Washington 98004

19. Assignment. The Parties intend that their rights and obligations under this Stewardship Agreement may be assigned. The Parties anticipate that QV will eventually assign its rights and obligations under this Stewardship Agreement to a yet to be formed home owners association. Should the Land Conservancy or the County wish to assign its rights and obligations under this Stewardship Agreement, the Parties agree that the Land Conservancy or the County will assign its rights and obligations only to an organization that is a qualified organization at the time of assignment under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under RCW 64.04.130 or RCW 84.34.250 (or any successor provision then applicable), such as the Seattle Audubon Society or The Nature Conservancy of Washington. The Conservancy agrees to assign moneys within the Capital Improvement Fund, the Investment Fund, and the Operating Fund along with any assignment of its rights and obligations under this Stewardship Agreement; provided, however, that the Land Conservancy may retain moneys from such funds in an amount equal to the monetary value that the Land Conservancy has reasonably added to the Land as a result of its stewardship of the Land. Any party assigning its rights and obligations under this Stewardship Agreement shall require the assignee to abide by the provisions of this Stewardship Agreement.

20. Performance of Terms. Failure of the Parties to insist on strict performance of any term, agreement or condition herein shall not constitute or be construed as a waiver or relinquishment of that party's right thereafter to enforce any such term, agreement, or condition, and such term, agreement or condition shall continue in full force and effect.

21. Modification. This Stewardship Agreement may be modified from time to time by mutual agreement three of the four Parties. No modifications or amendments shall be valid unless in writing and executed by the Parties.

22. Severability. If any provision of this Stewardship Agreement, or the application thereof to any person or circumstance, is invalid, the remainder of the provisions of this Stewardship Agreement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

23. Integration. This Stewardship Agreement constitutes the entire agreement between the Parties and there are no promises, conditions, terms, obligations, statements, or guarantees other than those contained herein.

24. Captions. The table of contents and captions found herein have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

25. Beaverdam Development Final Plat Requirements. The Parties will cooperate in providing any releases or approvals required by King County in connection with the recording of the final plat for the Beaverdam Development, including, without limitation, any drainage releases or easements, and further agrees to execute the final plat or to allow the Land to be included in the final plat or any subsequent phase final plat and to be governed by the conditions of the final plat approval if required by King County for any phase of the Beaverdam Development; provided, however, that QV and Taiyo acknowledge that they, not the Land Conservancy, shall retain responsibility for satisfying all conditions and other obligations under the final plat or any subsequent phase final plat for the Beaverdam Development. The Land Conservancy may work with King County staff on developing suitable language for any document it is required to sign under this paragraph.

26. Effective Date. The effective date of this Stewardship Agreement is the date provided for at the beginning of this agreement.

KING COUNTY, by and through the King  
County Parks, Cultural and Natural Resources  
Department

SEATTLE-KING COUNTY LAND  
CONSERVANCY

By \_\_\_\_\_  
Its

By \_\_\_\_\_  
Its

QV ASSOCIATES L.P.  
By The Quadrant Corporation  
Its General Partner

TAIYO AMERICAN CORPORATION

By \_\_\_\_\_  
Its

By \_\_\_\_\_  
Its



## EXHIBIT A

## Legal Description of Property

The land is located in the County of King, State of Washington, and is described as follows:

THAT PORTION OF THE FRACTIONAL NORTH HALF OF THE NORTH HALF OF SECTION 2, TOWNSHIP 24 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON AND THE SOUTH HALF OF SECTION 35, TOWNSHIP 25 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 35;  
 THENCE SOUTH 88°14'59" EAST ALONG THE SOUTH LINE THEREOF A DISTANCE OF 2,375.07 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT;  
 THENCE SOUTH 88°14'59" EAST CONTINUING ALONG SAID SOUTH LINE A DISTANCE OF 106.09 FEET;  
 THENCE NORTH 00°34'16" WEST A DISTANCE OF 620.49 FEET;  
 THENCE NORTH 60°22'56" WEST A DISTANCE OF 122.63 FEET;  
 THENCE NORTH 00°34'16" WEST A DISTANCE OF 46.88 FEET TO A POINT OF CURVE;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 276.00 FEET THROUGH A CENTRAL ANGLE OF 22°12'59" A DISTANCE OF 107.02 FEET TO A POINT OF REVERSE CURVE;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 424.00 FEET THROUGH A CENTRAL ANGLE OF 10°07'53" A DISTANCE OF 74.97 FEET;  
 THENCE SOUTH 85°40'13" EAST A DISTANCE OF 216.66 FEET;  
 THENCE NORTH 07°20'19" WEST A DISTANCE OF 30.00 FEET;  
 THENCE NORTH 39°04'36" WEST A DISTANCE OF 175.63 FEET;  
 THENCE NORTH 11°54'55" WEST A DISTANCE OF 127.88 FEET;  
 THENCE NORTH 28°00'31" WEST A DISTANCE OF 236.81 FEET;  
 THENCE NORTH 10°39'35" EAST A DISTANCE OF 76.56 FEET;  
 THENCE NORTH 39°17'09" WEST A DISTANCE OF 147.06 FEET;  
 THENCE NORTH 32°51'49" WEST A DISTANCE OF 322.55 FEET;  
 THENCE NORTH 48°20'13" WEST A DISTANCE OF 115.14 FEET TO A POINT ON THE ARC OF A CURVE, THE CENTER OF WHICH BEARS NORTH 32°02'42" EAST;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 77°34'37" A DISTANCE OF 135.40 FEET;  
 THENCE NORTH 07°43'40" EAST A DISTANCE OF 202.78 FEET TO A POINT ON THE ARC OF A CURVE, THE CENTER OF WHICH BEARS SOUTH 88°17'36" EAST;  
 THENCE NORTHERLY AND EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 74°48'58" A DISTANCE OF 130.58 FEET;  
 THENCE NORTH 76°31'22" EAST A DISTANCE OF 47.33 FEET TO A POINT OF CURVE;  
 THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 70°39'02" A DISTANCE OF 123.31 FEET;  
 THENCE SOUTH 44°29'14" EAST A DISTANCE OF 81.81 FEET;  
 THENCE SOUTH 56°16'40" EAST A DISTANCE OF 138.49 FEET;  
 THENCE NORTH 66°05'52" EAST A DISTANCE OF 35.22 FEET TO A POINT OF CURVE;  
 THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 75°18'30" A DISTANCE OF 131.44 FEET;  
 THENCE SOUTH 38°35'39" EAST A DISTANCE OF 17.70 FEET TO A POINT OF CURVE;  
 THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A

EXHIBIT A  
(continued)

RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 55°02'12" A DISTANCE OF 96.06 FEET;

THENCE SOUTH 11°32'18" WEST A DISTANCE OF 86.30 FEET;

THENCE SOUTH 33°07'00" EAST A DISTANCE OF 72.12 FEET;

THENCE NORTH 78°20'06" EAST A DISTANCE OF 198.97 FEET;

THENCE NORTH 11°27'50" WEST A DISTANCE OF 69.69 FEET;

THENCE NORTH 08°02'13" WEST A DISTANCE OF 48.02 FEET;

THENCE NORTH 13°16'36" WEST A DISTANCE OF 24.78 FEET;

THENCE NORTH 45°36'57" WEST A DISTANCE OF 75.23 FEET;

THENCE NORTH 16°04'03" WEST A DISTANCE OF 61.25 FEET;

THENCE NORTH 13°43'49" WEST A DISTANCE OF 104.64 FEET;

THENCE NORTH 08°47'32" WEST A DISTANCE OF 79.47 FEET;

THENCE NORTH 05°38'24" WEST A DISTANCE OF 98.26 FEET TO A POINT ON THE ARC OF A CURVE, THE CENTER OF WHICH BEARS NORTH 80°52'59" EAST;

THENCE NORTHERLY AND EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 145°01'45" A DISTANCE OF 253.12 FEET;

THENCE SOUTH 44°05'16" EAST A DISTANCE OF 105.96 FEET;

THENCE SOUTH 41°49'09" EAST A DISTANCE OF 77.09 FEET;

THENCE SOUTH 19°50'03" EAST A DISTANCE OF 184.62 FEET;

THENCE SOUTH 17°33'53" EAST A DISTANCE OF 177.83 FEET;

THENCE SOUTH 09°47'44" EAST A DISTANCE OF 208.71 FEET;

THENCE SOUTH 01°15'06" EAST A DISTANCE OF 124.02 FEET;

THENCE SOUTH 87°16'28" EAST A DISTANCE OF 183.75 FEET;

THENCE SOUTH 77°47'45" EAST A DISTANCE OF 88.16 FEET TO A POINT OF CURVE;

THENCE EASTERLY AND SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 84°50'16" A DISTANCE OF 148.07 FEET;

THENCE SOUTH 08°54'49" WEST A DISTANCE OF 230.23 FEET;

THENCE SOUTH 30°56'34" EAST A DISTANCE OF 105.52 FEET;

THENCE SOUTH 35°04'19" EAST A DISTANCE OF 127.90 FEET;

THENCE SOUTH 83°27'57" EAST A DISTANCE OF 26.73 FEET TO A POINT OF CURVE;

THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 48°40'19" A DISTANCE OF 84.95 FEET;

THENCE SOUTH 37°51'37" EAST A DISTANCE OF 306.05 FEET TO A POINT ON THE ARC OF A CURVE, THE CENTER OF WHICH BEARS SOUTH 40°05'12" WEST;

THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 67°34'50" A DISTANCE OF 117.95 FEET;

THENCE SOUTH 08°44'14" EAST A DISTANCE OF 121.53 FEET;

THENCE SOUTH 44°33'42" EAST A DISTANCE OF 71.69 FEET TO A POINT ON THE ARC OF A CURVE, A CENTER OF WHICH BEARS SOUTH 16°26'49" EAST;

THENCE EASTERLY AND SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 108°37'47" A DISTANCE OF 189.59 FEET;

EXHIBIT A  
(continued)

THENCE SOUTH 02°00'17" WEST A DISTANCE OF 160.47 FEET;  
 THENCE SOUTH 89°54'30" EAST A DISTANCE OF 103.50 FEET;  
 THENCE SOUTH 77°38'24" EAST A DISTANCE OF 126.74 FEET;  
 THENCE SOUTH 34°38'47" EAST A DISTANCE OF 75.74 FEET;  
 THENCE SOUTH 19°25'36" EAST A DISTANCE OF 145.57 FEET TO A POINT ON THE ARC OF A  
 CURVE, THE CENTER OF WHICH BEARS SOUTH 56°43'32" WEST;  
 THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A  
 RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 51°21'59" A DISTANCE OF 89.65  
 FEET;  
 THENCE SOUTH 18°05'31" WEST A DISTANCE OF 54.75 FEET;  
 THENCE NORTH 69°06'56" EAST A DISTANCE OF 96.56 FEET TO A POINT ON THE ARC OF A  
 CURVE, THE CENTER OF WHICH BEARS SOUTH 38°34'03" EAST;  
 THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS  
 OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 66°30'02" A DISTANCE OF 116.07 FEET;  
 THENCE SOUTH 62°04'01" EAST A DISTANCE OF 26.61 FEET TO A POINT OF CURVE;  
 THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A  
 RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 115°17'59" A DISTANCE OF 201.24;  
  
 THENCE SOUTH 53°13'58" WEST A DISTANCE OF 34.05 FEET TO A POINT ON THE ARC OF A  
 CURVE, THE CENTER OF WHICH BEARS SOUTH 20°09'15" WEST;  
 THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A  
 RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 63°30'59" A DISTANCE OF 110.86  
 FEET;  
 THENCE SOUTH 01°59'08" WEST A DISTANCE OF 87.87 FEET;  
 THENCE SOUTH 22°52'10" WEST A DISTANCE OF 196.72 FEET TO A POINT OF CURVE;  
 THENCE SOUTHERLY AND WESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE  
 HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 82°13'26" A DISTANCE OF  
 143.51 FEET;  
 THENCE SOUTH 16°47'48" WEST A DISTANCE OF 92.07 FEET;  
 THENCE SOUTH 31°48'21" WEST A DISTANCE OF 167.77 FEET;  
 THENCE SOUTH 38°01'29" WEST A DISTANCE OF 98.51 FEET;  
 THENCE SOUTH 43°24'43" WEST A DISTANCE OF 49.36 FEET;  
 THENCE SOUTH 46°02'15" WEST A DISTANCE OF 43.98 FEET;  
 THENCE SOUTH 53°14'55" WEST A DISTANCE OF 52.12 FEET;  
 THENCE SOUTH 60°55'36" WEST A DISTANCE OF 47.96 FEET;  
 THENCE SOUTH 52°47'52" WEST A DISTANCE OF 69.97 FEET;  
 THENCE SOUTH 39°28'29" WEST A DISTANCE OF 31.55 FEET TO A POINT ON THE SOUTH LINE  
 OF SAID FRACTIONAL NORTH HALF OF THE NORTH HALF OF SECTION 2;  
 THENCE NORTH 88°13'20" WEST ALONG THE SOUTH LINE A DISTANCE OF 1,297.85 FEET;  
 THENCE NORTH 30°19'41" WEST A DISTANCE OF 299.05 FEET;  
 THENCE NORTH 02°13'23" EAST A DISTANCE OF 212.34 FEET;  
 THENCE NORTH 39°48'28" WEST A DISTANCE OF 116.31 FEET TO A POINT ON THE ARC OF A  
 CURVE, THE CENTER OF WHICH BEARS NORTH 88°44'52" WEST;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS  
 OF 359.00 FEET THROUGH A CENTRAL ANGLE OF 45°13'28" A DISTANCE OF 283.36 FEET TO  
 A POINT OF REVERSE CURVE;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A  
 RADIUS OF 249.00 FEET THROUGH A CENTRAL ANGLE OF 43°24'05" A DISTANCE OF 188.62  
 FEET;  
 THENCE NORTH 00°34'16" WEST A DISTANCE OF 32.55 FEET TO THE TRUE POINT OF  
 BEGINNING.

**EXHIBIT B**

**Articles of Incorporation  
for  
Seattle-King County Land Conservancy**




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STATE of WASHINGTON SECRETARY of STATE

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I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

*CERTIFICATE OF AMENDMENT*

to

SEATTLE-KING COUNTY LAND TRUST

a Washington Non Profit corporation. Articles of Amendment were filed for record in this office on the date indicated below.

Changing name to SEATTLE-KING COUNTY LAND CONSERVANCY

U.B.I. Number: 601 185 304

Date: October 21, 1992



Given under my hand and the seal of the State of Washington, at Olympia, the State Capital

*RALPH MUNRO*

Ralph Munro, Secretary of State

OCT 21 1992

RALPH MUNRO  
SECRETARY OF STATE

ARTICLES OF AMENDMENT

OF

SEATTLE-KING COUNTY LAND TRUST

(RENAMED SEATTLE-KING COUNTY LAND CONSERVANCY)

(a nonprofit corporation)

9636

Articles of amendment of the articles of incorporation of Seattle-King County Land Trust, renamed below Seattle-King County Land Conservancy, a nonprofit Washington corporation under the Washington Nonprofit Corporation Act, Chapter 24.03 RCW (the "Nonprofit Act"), are herein executed in duplicate by said corporation, as follows:

1. The name of the corporation is Seattle-King County Land Trust, renamed below Seattle-King County Land Conservancy.

2. The amendments to the articles of incorporation adopted by said corporation are as follows:

NEW ARTICLE I

NAME

The name of the corporation shall be Seattle-King County Land Conservancy (formerly Seattle-King County Land Trust).

NEW ARTICLE III

CORPORATE PURPOSES

The corporation is organized exclusively for religious, charitable, scientific, literary or educational purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as hereinafter amended (the "Code"), in order to teach and promote the preservation of open space and critically important ecological systems in Seattle and King County and surrounding counties. The corporation shall qualify and function as a nonprofit nature conservancy corporation for purposes of RCW 84.34.250. As such, its principal purposes shall be conducting or facilitating of scientific research; the conserving of natural resources, including but not limited to biological resources, for the general public; and the conserving of open spaces, including but not limited to wildlife habitat to be utilized as public access areas, for the use and enjoyment of the general public.

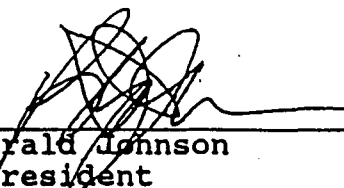
3. There are no members of said corporation having voting rights. A meeting of the Board of Directors of said corporation was held on October 13, 1992, at which said meeting said

amendment was adopted; said amendment received the vote of a majority of said directors in office.

SEATTLE-KING COUNTY LAND CONSERVANCY

9636

By

  
\_\_\_\_\_  
B. Gerald Johnson  
Its President

Dated:

Oct 20, 1992

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9636

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STATE of WASHINGTON · SECRETARY of STATE

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I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

**CERTIFICATE OF INCORPORATION**

to

**SEATTLE-KING COUNTY LAND TRUST**

a Washington Non Profit corporation. Articles of Incorporation were filed for record in this office on the date indicated below.

U. B. I. Number: 601 185 304

Date: June 12, 1989

Given under my hand and the seal of the State of Washington, at Olympia, the State Capitol.

Ralph Munro, Secretary of State

2-414219-2



601 185 304

9636

FILED

ARTICLES OF INCORPORATION

JUN 12 1989

OF

SECRETARY OF STATE  
STATE OF WASHINGTON

SEATTLE-KING COUNTY LAND TRUST

(a nonprofit corporation)

The undersigned, in order to form a nonprofit corporation under the Washington Nonprofit Corporation Act, Chapter 24.03 of the Revised Code Washington, hereby signs and delivers to the Secretary of State in duplicate these Articles of Incorporation.

ARTICLE I

NAME

The name of the corporation is Seattle-King County Land Trust.

ARTICLE II

DURATION

The period of duration of the corporation shall be perpetual.

ARTICLE III

CORPORATE PURPOSES

The corporation is organized exclusively for religious, charitable, scientific, literary or educational purposes, within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as hereinafter amended (the "Code"), in order to teach and promote the preservation of open space and critically important ecological systems in Seattle and King County. The corporation shall qualify and function as a nonprofit nature conservancy corporation for purposes of RCW 84.34.520. As such, its principal purposes shall be the conducting or facilitating of scientific research; the conserving of natural resources, including but not limited to biological resources, for the general public; and the conserving of open spaces, including but not limited to wildlife habitat to be utilized as public access areas, for the use and enjoyment of the general public.

## ARTICLE IV

LIMITATIONS ON CORPORATE EARNINGS AND ACTIVITIES

4.1. Stock. The corporation shall have no capital stock.

4.2. Earnings. No part of the net earnings of the corporation shall inure to the benefit of or be distributable to any of its members, if any, directors, officers or other private persons, except that the corporation is authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III.

4.3. Limitations on Activities. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, except as may be permitted to Section 501(c)(3) organizations by the Code, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles of Incorporation, the corporation shall not conduct or carry on any other activities not permitted to be conducted or carried on: (i) by an organization exempt from federal income tax under Section 501(c)(3) of the Code; or (ii) by an organization, contributions to which are deductible under Section 170(c)(2) of such Code.

4.4. Powers. In general, and subject to such limitations and conditions which are or may be prescribed by law, these Articles of Incorporation and the corporation's Bylaws, the corporation shall have all powers which now or are hereafter conferred by law upon a corporation organized for the purpose hereinabove set forth, or necessary or incidental to the powers so conferred or conducive to the attainment of the purpose of the corporation. The authority to make, alter, amend or repeal the Bylaws is vested in the board of directors and may be exercised at any annual, regular, or special meeting of the board.

## ARTICLE V

LIMITATION OF LIABILITY AND INDEMNIFICATION

5.1. Directors and Officers. The corporation shall indemnify all present and former directors and officers against any liability, including expenses and advance of expenses, arising out of any proceeding (including by or in the right of the corporation) to which a director or officer may be a party by reason of the fact that he or she is or was a director or officer of the corporation, all as defined in and to the fullest extent per-

mitted by the Nonprofit Act, and to the extent applicable, the Washington Business Corporation Act (the "Corporation Act"), provided that no such indemnity shall indemnify any director or officer: (i) from or account of acts or omissions of such directors or officers finally adjudged to be intentional misconduct or a knowing violation of law; or (ii) from or account of conduct of such director finally adjudged to be in violation of Section 23A.08.450 of the Revised Code of Washington; or (iii) from or account of any transaction with respect to which it was finally adjudged that such director or officer personally received a benefit in money, property, or services to which the director was not legally entitled; and further provided that indemnification for any officer who is not a director shall be limited to such indemnification which would be permitted if such officer were a director. If, after the effective date of this Article, the Nonprofit Act, or to the extent applicable, the Corporation Act, is amended to authorize further indemnification of directors or officers, then directors and officers of this corporation shall be indemnified to the fullest extent permitted by the Nonprofit Act and the Corporation Act, as so amended.

5.2. Employees and Agents. The corporation may indemnify present and former employees and agents of the corporation to such extent, consistent with law, as may be provided by general or specific action of the Board of Directors, or by contract.

5.3. Insurance. The corporation may purchase and maintain insurance to protect itself and any person who is or was a director, officer, employee, or agent of the corporation against any liability asserted against such person and incurred by such person in any such capacity or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of the Nonprofit Act or to the extent applicable, the Corporation Act.

## ARTICLE VI

### DISSOLUTION

No member, director or officer shall be entitled to share in the distribution of any of the corporate assets upon dissolution of the corporation, or the winding up of its affairs. Upon such dissolution or winding up, all remaining assets of the corporation, after payment of or provision for all corporate debts and obligations, shall be distributed by the board of directors for identical uses and purposes to an organization that then qualifies for exemption under the provisions of Section 501(c)(3) of the Code.

## ARTICLE VII

ADDRESS OF OFFICE AND REGISTERED AGENT

The address of the initial registered office of the corporation is 219 First Avenue South, Suite 310, Seattle, Washington 98104 and the name of the initial registered agent of the corporation at the above address is Padraic Burke.

## ARTICLE VIII

DIRECTORS

The management of the corporation shall be vested in a board of directors. The number, qualifications, terms of office, manner of election, time and place of meetings and powers and duties of the directors shall be prescribed in the Bylaws, but the number of persons constituting the initial board of directors shall be eight (8), and the names and addresses of the persons who are to serve as directors until the first annual meeting of the corporation or until their successors are elected and qualified are:

Frank Pritchard  
P.O. Box 871  
Bellevue, WA 98009

Margaret Moe  
4417 Forest Avenue  
Mercer Island, WA 98040

Lucy Steers  
2817 Cascadia Avenue South  
Seattle, WA 98144

Robert Fuerstenberg  
102 North 66th  
Seattle, WA 98103

Gerald Adams  
28803 N.E. Big Rock Road  
Duvall, WA 98019

Padraic Burke  
Suite 310  
219 First Avenue South  
Seattle, WA 98104

B. Gerald Johnson  
5400 Columbia Seafirst Center  
701 Fifth Avenue  
Seattle, WA 98104-7011

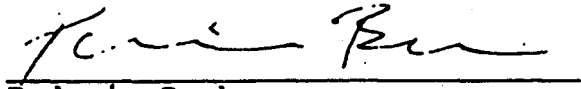
Glenna Hall  
4143 University Way N.E.  
Seattle, WA 98105

ARTICLE IX

INCORPORATOR

The name and address of the incorporator is Padraic Burke, Suite 310, 219 First Avenue South, Seattle, Washington 98104.

The undersigned incorporator has signed these articles of incorporation in duplicate originals on this 8<sup>th</sup> day of June, 1989.



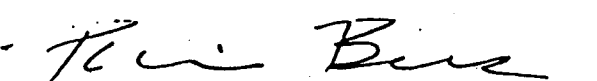
Padraic Burke  
Incorporator

9636

## CONSENT TO APPOINTMENT AS REGISTERED AGENT

I, Padraic Burke, hereby consent to serve as registered agent, in the State of Washington, for Seattle-King County Land Trust. I understand that as agent for the corporation, it will be my responsibility to receive service of process in the name of the corporation; to forward all mail to the corporation; and to immediately notify the office of the Secretary of State in the event of my resignation or of any change in the registered office address of the corporation for which I am agent.

Dated: June 27<sup>th</sup>, 1989.

  
Padraic Burke  
Suite 310  
219 First Avenue South  
Seattle, Washington 98104

OCT 24 1991

RALPH MUNRO  
SECRETARY OF STATE

BYM

COPY  
9636

STATEMENT OF CHANGE OF REGISTERED OFFICE AND REGISTERED AGENT

The Seattle-King County Land Trust, a nonprofit Washington corporation, herein changes its registered office and registered agent in the State of Washington, pursuant to the provisions of Revised Code of Washington 24.03.055, as follows:

1. The name of the corporation is the Seattle-King County Land Trust.

2. The address of the present registered office of said corporation is 219 First Avenue South, Suite 310, City of Seattle, County of King, Washington, 98104.

3. The address to which said registered office is to be changed is 5400 Columbia Center, 701 Fifth Avenue, City of Seattle, County of King, Washington, 98104-7078.

4. The name of the present registered agent of said corporation is Padraic Burke.

5. The name of the successor registered agent of said corporation is PTSGE CORP.

6. The address of the registered office and the address of the registered agent of said corporation, as changed, will be identical.

7. Said changes were authorized by resolution duly adopted on June 10, 1991, by the Board of Directors of said corporation.

Dated: 10/17, 1991

The Seattle-King County Land Trust

By 

Gerald Johnson, Its President

CONSENT TO APPOINTMENT AS REGISTERED AGENT

To the Secretary of State of the State of Washington, and to the officers and directors of the Seattle-King County Land Trust:

PTSGE CORP hereby consents to serve as registered agent, in the state of Washington, for the Seattle-King County Land Trust. As agent for the corporation, it will be the responsibility of PTSGE CORP to receive service of process in the name of the corporation; to forward all mail to the corporation; and to immediately notify the office of the Secretary of State in the event of the resignation of PTSGE CORP or of any change in the registered office address of the corporation for which PTSGE CORP is agent.

10-17-91  
Date

PTSGE CORP

By: *Lucy Wash*  
Its *Secretary*



EXHIBIT C

1989 Statement of  
Land Trust Standards and Practices

STATEMENT OF  
LAND TRUST  
STANDARDS  
& PRACTICES

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A national network of nonprofit  
land conservation organizations

## PART ONE: ORGANIZATIONAL STRENGTH

### STANDARD #1: GOALS AND PURPOSES

A land trust must have clear goals and purposes.

A land trust has the responsibility to always act in ways that will benefit public rather than private interests. Unless everyone connected with a land trust has a similar understanding of the organization's goals and purposes, the group may be asked to take on programs and transactions that further individual interests but that do not advance the purposes for which the land trust was organized. Goals and purposes may change over time, but change should be a deliberate decision, not an accident.

#### Practices

- a. Has the board adopted a clear, realistic statement of goals and purposes, including the public interest(s) to be served and the beneficiaries of its programs?
- b. Does the trust periodically review its programs and activities to be sure they are consistent with and supportive of its goals and activities?

### STANDARD #2: BOARD ACCOUNTABILITY

The Board of Directors (not staff, advisory groups, or committees) must assume legal responsibility and accountability for the affairs of the organization.

Every board member or trustee is responsible for knowing what is going on in the organization. A board member who does not exercise reasonable oversight for the organization may be held liable for the organization's wrongdoings or errors of judgment, even if he or she had no involvement in the action. Anyone who cannot assume this responsibility should not be on the board, but could serve the land trust in some other way.

#### Practices

- a. Do all board members understand their legal responsibility and accountability for the organization?
- b. Does the board meet regularly and often enough to conduct the business of the land trust and fulfill its responsibilities?

- c. Does every board member attend a majority of meetings, or stay informed about the land trust business and participate regularly in some other way?
- d. Do the land trust's governing documents contain policies and procedures, such as provisions for a quorum and adequate meeting notices, that prevent a minority of board members from acting for the organization without proper delegation of authority?
- e. Has the board discussed and agreed on the delegation of decision-making authority—for example, what kinds of decisions can be made by an executive committee, which require full board action, which can be made by staff (if there is a staff)?

### STANDARD #3: CONFLICT OF INTEREST

**Board members must take care to avoid conflicts of interest.**

A land trust that has received tax-exempt status (as most have) must not operate for the benefit of any individual, but rather must operate in the public interest. A person with obvious conflicts should not serve on the board, both for legal reasons and for the land trust's credibility. Occasionally, however, it may be difficult to avoid *all* conflicts of interest or appearance of such. Some actions that clearly produce a public benefit also benefit an individual. A board member who thinks a board action could be viewed as a conflict should not vote on that action, and possibly should not be present for discussion of the issue.

#### **Practices**

- a. Has the board discussed and taken steps to avoid conflicts of interest, and to deal with them appropriately when they occur?
- b. Are board members uncompensated except for reimbursement of expenses and, in some circumstances, for professional services that would otherwise be contracted out? (A paid staff member is sometimes also a board member, but should not be the presiding officer.)
- c. Is the board sufficiently large and diverse so that a broad range of interests is represented?

## STANDARD #4: BASIC LEGAL REQUIREMENTS

A land trust must understand and fulfill its basic legal requirements as a nonprofit organization.

Filling out forms and filing legal documents are among the least exciting things a land trust does. However, failing to do so can jeopardize the organization's entire existence and thus any hope of carrying out its land-saving programs. A good lawyer who understands nonprofit organizations can, and in most cases should, help; but it is the board's responsibility to see that all requirements are met.

### Practices

- a. Has the organization prepared articles of incorporation and bylaws that conform to state law, and filed them as required by state law?
- b. If the land trust wishes to avoid paying income taxes and to accept tax-deductible donations, has it received exemption from federal income tax (generally as a public charity, possibly as a private foundation or satellite of an exempt entity) or has it filed Application for Recognition of Exemption with the IRS?
- c. Does the land trust understand and comply with all filing requirements of federal, state, and local law—for example, when applicable, federal 990 forms, state charity registration, and required annual reports?
- d. Does the land trust understand and comply with requirements for retaining its tax-exempt status, including meeting the required "public support test" if it is a public charity (as defined in Sections 509(a)(1) and 509(a)(2) of the Internal Revenue Code, which includes most land trusts) and complying with requirements relating to lobbying activities and unrelated business income, when applicable?

## STANDARD #5: FUND RAISING

A land trust must conduct fund-raising activities in an ethical and responsible manner.

Because fund raising is a critical, ongoing activity of every active land trust, it must be done not only with an eye toward how much can be raised this year, but with an understanding of how fund-raising practices affect the long-term credibility of the land trust.

### Practices

- a. Are all representations made in promotional, fund-raising, and other public information materials accurate and not misleading with respect

to the organization's accomplishments, activities, and intended use of the funds?

- b. Are all funds spent for the purpose(s) identified in the solicitation or, where not specifically solicited, in accordance with any stated wishes of the donor?
- c. Are overall costs of fund raising reasonable as a percentage of funds raised?
- d. Does the trust comply with state charitable solicitation laws?
- e. If a donor receives a premium or other substantial benefit in exchange for a contribution, does the land trust's fund-raising solicitation inform the donor that only the portion of the contribution in excess of the fair market value of the benefit is tax-deductible?

#### **STANDARD #6: FINANCIAL MANAGEMENT**

The Board of Directors must be absolutely certain that the land trust manages its finances and assets in a thoroughly responsible and accountable way.

Any organization that solicits funds from the public is accountable to the public for sound management of those funds. Moreover, poor financial management almost guarantees problems for the organization, possibly of a legal nature, but in any case is likely to jeopardize the future of the land trust and its land-saving programs. Sound financial management is the board's responsibility, no matter who does the books or prepares financial reports. Even a very small land trust, with modest revenue and expenditures, should have budgets and financial reports, although they may be very simple, and should keep accurate track of revenues and expenses.

##### **Practices**

- a. Does the land trust keep clear, complete, and accurate financial records, in a form appropriate to its scale of operation and in accordance with generally accepted accounting principles?
- b. If the land trust expects to have revenue and expenses, does it prepare an annual budget that is reviewed and approved by the board of directors?

- c. Are major deviations from the authorized budget approved by the board or appropriate board committee to which such authority has been delegated?
- d. Do the budgeted items relate to the goals and purposes of the organization?
- e. Although an occasional deficit budget may be necessary and appropriate, are expenses generally equal to or less than revenues?
- f. Does the board receive and review financial statements, in a form and with a frequency appropriate to the size of the land trust's financial activity?
- g. If the land trust receives and spends more than a few thousand dollars a year, does it have an annual audit or review by a Certified Public Accountant, in a manner appropriate to its scale of operation?
- h. Has the trust established a sound system of internal controls and procedures for handling money, appropriate for the scale of the organization?
- i. Does the organization have a system for the responsible and prudent management and investment of its assets?
- j. If circumstances warrant, has the board established policies on such matters as sale of assets and management of dedicated funds (e.g., endowment fund, legal defense fund)?
- k. Does the organization protect its assets through a program of assessing and managing its risks and by carrying appropriate liability and property insurance?

#### **STANDARD #7: VOLUNTEERS**

**Unstaffed land trusts (and frequently staffed ones) must have volunteer help, supplemented with paid consulting help when needed, with sufficient skills and in sufficient numbers to carry out its programs.**

Land trusts rarely ever have enough volunteer help. This is particularly true for land trusts with no paid staff. A land trust that acquires, owns, or manages property or easements, even temporarily, is dealing with complex issues and thousands or perhaps even millions of dollars worth of assets. Volunteers can and do successfully operate land trusts, but it requires substantial dedication, hard work, and persistence. It is possible,

but risky, for only one person to shoulder the load. To insure continuity and longevity, unstaffed land trusts (and, frequently, staffed land trusts as well) must make good use of volunteers, and must also use knowledgeable professional advisors (paid or unpaid) to perform those jobs for which volunteers lack appropriate skills, experience, or time.

#### Practices

- a. Does the land trust have an active program for attracting, utilizing, and recognizing the contributions of volunteers?
- b. Are program responsibilities shared by a sufficient number of volunteers so that a successful program does not depend solely on one person?
- c. Does the trust have and use *knowledgeable* and *dependable* sources of assistance for dealing with complex problems, even if it must sometimes pay for these?
- d. Do volunteers receive the technical information they need to do their jobs, through such means as technical publications, attendance at training workshops and meetings, and consultation with professionals and other land trusts?
- e. Does the board or a committee of the board (or staff, in staffed organizations) plan and guide the activities of nonboard volunteers, so that volunteers are used appropriately and effectively?
- f. If the land trust has an active program of land transactions, and consistently has difficulty finding enough good volunteers or paid consulting help, is it realistically evaluating the need for paid staff?

#### STANDARD #8: STAFF

**A land trust with paid staff must ensure that staff members are responsible and have the skills to do their job.**

The hiring of paid staff usually allows a land trust to increase its land conservation programs and help assure its longevity. As in most non-profits, land trust staff tend to be overworked and underpaid, and that may never change. But the work of a land trust is unusually complex and technical, and because the staffs are frequently small, staff are required to have a wide variety of skills. Thus land trust staff need to have access to continuing technical training as well as opportunities for networking and information-sharing with other professionals in the field.



### Practices

- a. Do staff members have appropriate training and education for their responsibilities and/or opportunities for on-the-job training and for sharing experiences and information with other land trust professionals?
- b. Are lines of authority and responsibility between board and staff clearly understood?
- c. Has the organization taken steps to avoid conflicts of interest on the part of its staff members, and to deal with such conflicts appropriately when they occur?
- d. If the trust has more than two or three staff members, does it have written personnel policies and do these policies conform with federal and state law?

## PART TWO: LAND TRANSACTIONS

### STANDARD #9: SELECTING PROJECTS

A land trust must be selective in choosing land-saving projects.

The idea of having choices about which projects to take on may seem like a real luxury. For most land trusts, every protection project is a struggle; the thought of turning one down may sound unlikely. Moreover, many land protection projects are done under great time pressure; the tendency is to protect now, think later. Sometimes that's inevitable, even appropriate. Yet unless the trust exercises care in reviewing its projects, it may find itself stuck with a property or easement that serves little public interest, or that is very costly to manage, or that doesn't really fit with the land trust's purposes. The trust may also open itself to public criticism, credibility problems, and even legal problems.

### Practices

- a. Does the land trust have guidelines and a procedure for judging the appropriateness of every transaction?
- b. Does every land transaction result in some public benefit? (This does not necessarily mean public ownership or access.)
- c. Are all transactions consistent with the land trust's goals and purposes?

EXHIBIT A  
(continued)

THENCE SOUTH 02°00'17" WEST A DISTANCE OF 160.47 FEET;  
 THENCE SOUTH 89°54'30" EAST A DISTANCE OF 103.50 FEET;  
 THENCE SOUTH 77°38'24" EAST A DISTANCE OF 126.74 FEET;  
 THENCE SOUTH 34°38'47" EAST A DISTANCE OF 75.74 FEET;  
 THENCE SOUTH 19°25'36" EAST A DISTANCE OF 145.57 FEET TO A POINT ON THE ARC OF A  
 CURVE, THE CENTER OF WHICH BEARS SOUTH 56°43'32" WEST;  
 THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A  
 RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 51°21'59" A DISTANCE OF 89.65  
 FEET;  
 THENCE SOUTH 18°05'31" WEST A DISTANCE OF 54.75 FEET;  
 THENCE NORTH 69°06'56" EAST A DISTANCE OF 96.56 FEET TO A POINT ON THE ARC OF A  
 CURVE, THE CENTER OF WHICH BEARS SOUTH 38°34'03" EAST;  
 THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS  
 OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 66°30'02" A DISTANCE OF 116.07 FEET;  
 THENCE SOUTH 62°04'01" EAST A DISTANCE OF 26.61 FEET TO A POINT OF CURVE;  
 THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A  
 RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 115°17'59" A DISTANCE OF 201.24;  
  
 THENCE SOUTH 53°13'58" WEST A DISTANCE OF 34.05 FEET TO A POINT ON THE ARC OF A  
 CURVE, THE CENTER OF WHICH BEARS SOUTH 20°09'15" WEST;  
 THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A  
 RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 63°30'59" A DISTANCE OF 110.86  
 FEET;  
 THENCE SOUTH 01°59'08" WEST A DISTANCE OF 87.87 FEET;  
 THENCE SOUTH 22°52'10" WEST A DISTANCE OF 196.72 FEET TO A POINT OF CURVE;  
 THENCE SOUTHERLY AND WESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE  
 HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 82°13'26" A DISTANCE OF  
 143.51 FEET;  
 THENCE SOUTH 16°47'48" WEST A DISTANCE OF 92.07 FEET;  
 THENCE SOUTH 31°48'21" WEST A DISTANCE OF 167.77 FEET;  
 THENCE SOUTH 38°01'29" WEST A DISTANCE OF 98.51 FEET;  
 THENCE SOUTH 43°24'43" WEST A DISTANCE OF 49.36 FEET;  
 THENCE SOUTH 46°02'15" WEST A DISTANCE OF 43.98 FEET;  
 THENCE SOUTH 53°14'55" WEST A DISTANCE OF 52.12 FEET;  
 THENCE SOUTH 60°55'36" WEST A DISTANCE OF 47.96 FEET;  
 THENCE SOUTH 52°47'52" WEST A DISTANCE OF 69.97 FEET;  
 THENCE SOUTH 39°28'29" WEST A DISTANCE OF 31.55 FEET TO A POINT ON THE SOUTH LINE  
 OF SAID FRACTIONAL NORTH HALF OF THE NORTH HALF OF SECTION 2;  
 THENCE NORTH 88°13'20" WEST ALONG THE SOUTH LINE A DISTANCE OF 1,297.85 FEET;  
 THENCE NORTH 30°19'41" WEST A DISTANCE OF 299.05 FEET;  
 THENCE NORTH 02°13'23" EAST A DISTANCE OF 212.34 FEET;  
 THENCE NORTH 39°48'28" WEST A DISTANCE OF 116.31 FEET TO A POINT ON THE ARC OF A  
 CURVE, THE CENTER OF WHICH BEARS NORTH 88°44'52" WEST;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS  
 OF 359.00 FEET THROUGH A CENTRAL ANGLE OF 45°13'28" A DISTANCE OF 283.36 FEET TO  
 A POINT OF REVERSE CURVE;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A  
 RADIUS OF 249.00 FEET THROUGH A CENTRAL ANGLE OF 43°24'05" A DISTANCE OF 188.62  
 FEET;  
 THENCE NORTH 00°34'16" WEST A DISTANCE OF 32.55 FEET TO THE TRUE POINT OF  
 BEGINNING.

**EXHIBIT B****Site Maps**

[See Preliminary Plat, Beaverdam Proposal, Preliminary Map 1,  
dated 8/21/90 and filed with the Preliminary Plat  
received by King County on 12/17/92]

## RESERVATION OF EASEMENT

THIS RESERVATION OF EASEMENT (the "Easement") is made this \_\_\_\_ day of \_\_\_\_\_, 1995 by QV ASSOCIATES L.P., a Washington limited partnership (the "Easement Holder"), in conjunction with the conveyance of fee title to that certain real property described herein to the SEATTLE-KING COUNTY LAND CONSERVANCY, a Washington nonprofit corporation (the "Grantee").

## I. RECITALS

This Easement is made with reference to the following facts and objectives:

A. The Easement Holder is conveying fee title to the Grantee to that certain real property (hereinafter the "Property") in King County, Washington, more particularly described in Exhibit "A" which is appended to the Statutory Warranty Deed and to which this Easement is also appended.

B. The Grantee is a publicly supported, tax-exempt nonprofit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended, and also qualified as a nonprofit nature conservancy corporation under RCW 64.04.130 and 84.34.250, whose purpose is to promote the preservation of open space and critically important ecological systems in Seattle, King County and Washington State.

C. The Property possesses value of great importance to the Grantee, the people of King County and the people of the State of Washington. In particular, the Property contains "open space land" as defined in RCW 84.34.020(1) and a "Class 1" wetland as defined in King County Code § 21A.06.1415 and associated habitat (collectively, the "Conservation Values").

D. The Easement Holder is conveying fee title to the Property to the Grantee, subject to permitted exceptions enumerated on Exhibit "B" which is appended to the Statutory Warranty Deed and to which this Easement is also appended.

E. As a condition to preliminary plat approval for the Beaverdam Property (Beaverdam Preliminary Plat Approval S90P0038), of which the Property is a part, King County has required that the Easement Holder design, construct and maintain a delineated pedestrian/equestrian trail, a portion of which will cross over the Property and implement a water quality monitoring program. The King County requirements are specifically set forth in the Beaverdam Preliminary Plat Approval Conditions, which are attached herewith as Attachment "1" and incorporated herein by this reference (the "Approval Conditions"). These Approval Conditions are also required of Taiyo American Corporation ("Taiyo"), a Washington

corporation, as a condition to conditional use and variance approval for the Beaverdam golf course (Beaverdam Golf Course Approval L93CU005 and L93VA043).

F. In order to comply with the Approval Conditions, the Easement Holder wishes to reserve this Easement over the Property it is conveying and warranting to the Grantee. This Easement is appurtenant to, and for the benefit of, property retained by the Easement Holder, more particularly described in Attachment "2" hereto and incorporated herein by this reference (the "Appurtenant Property"). The Easement Holder intends to assign a portion of the Appurtenant Property to Taiyo for a golf course development to be owned and operated by Taiyo, and the remainder of the Appurtenant Property to a residential homeowner's association responsible for owning and managing the common areas of the Beaverdam residential development. This homeowner's association and Taiyo will retain responsibility for constructing and maintaining the equestrian/pedestrian trail until such time as the homeowner's association, Taiyo and the Grantee agree to have the responsibility for trail maintenance transferred to the Grantee.

G. In reserving the Easement, the Easement Holder agrees not to engage in or permit activities which might have a significant adverse impact on the Conservation Values of the Property. The Easement Holder and the Grantee agree that construction of the Improvements will not result in a significant adverse impact on the Conservation Values of the Property if such construction is made in accordance with the terms, conditions and covenants of Section III herein.

## II. RESERVATION

For the reasons stated above, the Easement Holder hereby reserves a non-exclusive perpetual easement for the purpose of designing, constructing and maintaining a delineated pedestrian/equestrian trail (the "Improvements") on, over and across the surface of that portion of the Property described in Attachment "3" hereto and incorporated herein by this reference (the "Easement Area") for the benefit of the Appurtenant Property; together with a temporary easement on, over and across the Property for the purpose of implementing the water quality monitoring program required by the Approval Conditions and a temporary construction easement on, over and across the Property to install certain improvements referenced in Paragraph 7.B.iii of the Stewardship Agreement by and between Easement Holder, Taiyo, Grantor and King County of even date herewith. The Easement is reserved on the terms and conditions herein described, all of which rights, obligations and reservations shall operate as covenants running with the land in perpetuity.

## III. TERMS, CONDITIONS AND COVENANTS

A. Costs of Construction and Maintenance. The Easement Holder shall bear and promptly pay all costs and expenses of design, construction and maintenance of the Improvements.

B. Specifications. The Easement Holder shall construct the Improvements in accordance with the specifications for the project set forth in the Approval Conditions.

C. Compliance with Laws and Regulations. The Easement Holder shall at all times exercise its rights under this Easement in accordance with the requirements (as time to time amended) of all applicable statutes, orders, rules and regulations of any public authority having jurisdiction.

D. The Easement Holder's Use and Activities. The Easement Holder shall exercise its rights under this Easement so as to minimize, and avoid if reasonably possible, interference with the Grantee's use of the Property and the Conservation Values of the Property. Without limiting the generality of the foregoing, the Easement Holder shall not:

1. Alteration of Land. Alter the surface of the land, including, without limitation, the excavation or removal of soil, sand, gravel, rock, peat, or sod, except for temporary disturbances of soil surfaces necessitated by the construction, alteration, replacement or removal of the Improvements. Temporarily disrupted soil surfaces shall be restored in a manner consistent with the Conservation Values of the Property, including restoration of the original soil horizon sequence within a reasonable period of time after such construction;

2. Erosion or Water Pollution. Cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters;

3. Alteration of Water Courses. Drain, fill, dredge, ditch, or dike wetland areas; alter or manipulate ponds and water courses; or create new wetlands, water impoundments, or water courses, except as necessitated by the construction and maintenance of the Improvements expressly provided for and limited by the Approval Conditions;

4. Removal of Trees and Other Vegetation. Prune, cut down, or destroy or remove live and dead trees and other vegetation located on the Easement Area, except as necessitated by the construction and maintenance of the Improvements expressly provided for and limited by the Approval Conditions;

5. Waste Disposal. Dispose of or store rubbish, garbage, debris, vehicles, abandoned equipment, parts thereof, or other unsightly, offensive, or hazardous waste or material on the Easement Area; or

6. Wildlife Disruption. Disrupt wildlife breeding and nesting activities.

E. Grantee's Cooperation. Grantee agrees to cooperate in providing releases or approvals required by King County in connection with the recording of any final plat or any application for a preliminary plat for the Appurtenant Property, including, without limitation, any drainage releases or easements, and further agrees to execute the final plat or to allow the Land to be included in the final plat or any subsequent phase final plat and to be governed by the conditions of final plat approval if required by King County for any phase of the Beaverdam Development; provided, however, that the Easement Holder shall retain responsibility for satisfying all conditions and other obligations under the final plat or any subsequent phase final

plat for the Beaverdam Development. Grantee may work with King County staff on developing suitable language for any document it is required to sign under this paragraph.

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#### IV. NOTICE AND APPROVAL

A. Notice. The Easement Holder shall notify the Grantee prior to undertaking the Improvements. The purpose of requiring the Easement Holder to notify the Grantee prior to undertaking the Improvements is to afford the Grantee an opportunity to review the Improvements and provide recommendations as to how the Improvements may be carried out in a manner that avoids or minimizes any interference with the Conservation Values of the Property. Whenever notice is required, the Easement Holder shall notify the Grantee in writing not less than thirty (30) days prior to the date the Easement Holder intends to undertake the Improvements. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed Improvements in sufficient detail to permit the Grantee to make an informed judgment as to the proposed Improvement's potential interference with the Conservation Values of the Property.

B. Review. Grantee shall review and comment on the Easement Holder's plans for proposed Improvements in writing within thirty (30) days of receipt of the Easement Holder's notice. The Easement Holder shall carefully consider the written recommendations of the Grantee as to avoiding or minimizing any interference with Grantee's use, or the Conservation Values, of the Property, but is not required to abide by such recommendations.

C. The Grantee's Failure to Comment Within the Required Time. Where the Grantee fails to comment or provide recommendations on the proposed Improvements within the time period and manner set forth herein, the Easement Holder may assume the Grantee has no concerns about the proposed Improvements.

D. Coordination of Activities. The Easement Holder shall coordinate the dates of its construction of the Improvements and other major activities in the Easement Area with the Grantee and shall provide the Grantee with at least five (5) days' prior written notice of its intent to enter upon the Easement Area to commence such activity; provided, however, that in the event of an emergency requiring immediate action by the Easement Holder for the protection of persons or property, the Easement Holder may take such action upon such notice as is reasonable under the circumstances.

E. Addresses for Notices. Any notice, demand, request, consent, 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 first class mail, postage prepaid, addressed to as follows:

To the Grantee:

Seattle-King County Land Conservancy  
1150 19th Avenue East  
Seattle, Washington 98112

To the Easement Holder:

c/o The Quadrant Corporation  
11100 N.E. 8th Street, Suite 500  
Bellevue, Washington 98004

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or to such other address as either party from time to time shall designate by written notice to the other.

#### V. THE GRANTEE'S REMEDIES

A. Notice of Failure. If the Grantee determines that the Easement Holder is in violation of the terms of this Easement or that a violation is threatened, the Grantee shall give written notice to the Easement Holder of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement or the Conservation Values of the Property, to restore the portion of the Property so injured. Within fifteen (15) days after receipt of the notice by the Easement Holder, the parties shall meet together to discuss the alleged violation or threat of violation and attempt resolution.

B. The Easement Holder's Failure to Respond. If the Easement Holder:

1. Fails to cure the violation within thirty (45) days after receipt of notice thereof; or

2. Under circumstances where the violation cannot reasonable be cured within the thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured;

the Grantee may bring an action as provided in subsection C.

C. The Grantee's Action. The Grantee may bring action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any Conservation Value protected by this Easement, including damages for the loss of Conservation Values; and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting the Easement Holder's liability therefore, the Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

D. Immediate Action Required. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Property, the Grantee may pursue its remedies under this section without prior notice to the Easement Holder or without waiting for the period provided for cure to expire.



E. Nature of Remedy. The Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement, and the Easement Holder agrees that the Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that the Grantee shall be entitled to the injunctive relief described in this section both prohibitive and mandatory, in addition to such other relief to which the Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. The Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

F. Costs of Enforcement. In the event the Grantee must enforce the terms of this Easement, the costs of restoration and the Grantee's reasonable enforcement expenses, including attorney's fees, shall be borne by the Easement Holder or those of its successors or assigns, against whom a judgment is entered. In the event that the Grantee secures redress for an Easement violation without initiating or completing a judicial proceeding, the costs of such restoration and the Grantee's reasonable expenses shall be borne by the Easement Holder and those of its successors or assigns who are otherwise determined to be responsible for the unauthorized activity or use. If the Easement Holder prevails in any judicial proceeding to enforce the terms of the Easement, the Easement Holder's cost of suit, including attorney's fees, shall be borne by the Grantee.

G. The Grantee's Discretion. Any forbearance by the Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by the Easement Holder shall not be deemed or construed to be a waiver by the Grantee of such term of any the Grantee's rights under this Easement. No delay or omission by the Grantee in the exercise of any right or remedy upon any breach by the Easement Holder shall impair such right or remedy or be construed as a waiver.

H. Acts Beyond the Easement Holder's Control. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Easement Holder to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Property resulting from causes beyond the Easement Holder's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by the Easement Holder under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

## VI. INDEMNIFICATION, INSURANCE, AND TAXES

A. Release and Indemnity. The Easement Holder does hereby release, indemnify and promise to defend and save harmless the Grantee from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorneys' fees incurred by the Grantee in defense thereof, asserted or arising directly or indirectly on account of or out of acts or omissions of the Easement Holder and the Easement Holder's agents, employees and contractors in the exercise of the rights granted herein; provided, however, this paragraph does not purport to indemnify the Grantee against liability for damages arising out of bodily injury to

persons or damage to property caused by or resulting from the sole negligence of the Grantee or the Grantee's agents or employees.

B. Insurance. During the course of any of the Easement Holder's construction activities or other substantial activities on the Easement Area and prior to the commencement thereof, the Easement Holder shall submit to the Grantee certificates of insurance in a form approved by the Grantee evidencing that the Easement Holder or the Easement Holder's contractors have comprehensive general liability coverage (including broad form contractual liability coverage) satisfactory to the Grantee with limits no less than the following:

Bodily Injury Liability, including automobile bodily injury liability	\$2,000,000 each occurrence
Property Damage Liability, including automobile property injury liability	\$2,000,000 each occurrence

The Grantee shall be named as an additional insured on such policies.

## VII. AMENDMENT AND TERMINATION

A. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, the Grantee and the Easement Holder are free to jointly amend this Easement; provided that any amendment shall be consistent with the Conservation Values of the Property and the purposes of this Easement. Any such amendment shall be recorded in the official records of King County, Washington, and any other jurisdiction in which such recording is required.

B. Termination. The Easement Holder and the Grantee are free to agree to the termination of this Easement, in which case the Easement Holder's obligations under the Approval Conditions will be assigned to the Grantee. In the event of termination of this Easement, Grantee shall record in the official records of King County, Washington, and any other jurisdiction in which such recording is required, a document to give notice of such termination of the Easement and its assumption of the obligations under the Approval Conditions.

## VIII. GENERAL PROVISIONS

A. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Washington.

B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed to promote the protection of the Conservation Values of the Property.

C. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement,

or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section VII herein.

E. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

F. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

G. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

H. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the Easement Holder, its successors and assigns, forever.

IN WITNESS WHEREOF, the Easement Holder has executed this instrument.

QV ASSOCIATES L.P., a Washington limited partnership

By The Quadrant Corporation, a Washington corporation, Its General Partner

By \_\_\_\_\_ Name \_\_\_\_\_ Its \_\_\_\_\_

STATE OF WASHINGTON ) ) ss. COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_, 199\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of THE QUADRANT CORPORATION, the Washington corporation that executed the within and foregoing instrument; and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that she/he is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the deal and year in this certificate above written.

NOTARY PUBLIC in and for the State of Washington, residing at \_\_\_\_\_ Print Name: \_\_\_\_\_ My commission expires \_\_\_\_\_

- d. Has the trust reviewed its geographic area of concern and identified properties of highest priority interest?

### STANDARD #10: CONSERVATION METHODS

A land trust must select the best available method for protecting each property.

In determining how to protect a property's resources, a land trust faces many questions. What use of the property is most compatible with its conservation values? How does the community wish to see the property used? What options is the landowner willing to consider? How much money is available for the property's protection? A land trust must balance these considerations, always giving the most weight to achieving the trust's overall goals and purposes. A trust that chooses methods that don't adequately serve its conservation goals opens itself to public criticism and suspicion of its motives.

#### Practices

- a. Does the trust select the best possible conservation tool, given the resources, needs, concerns, and constraints of the public, landowner, and land trust, and take care that the chosen method can reasonably be expected to protect the property's conservation values over time?
- b. Does the trust inform landowners of the full array of appropriate conservation tools, including those that may not directly involve the land trust?

### STANDARD #11: EXAMINING THE PROPERTY

A land trust must know the properties it protects.

A trust cannot make the judgments discussed above, structure sound transactions, nor plan for wise stewardship unless it examines the properties it expects to protect. The method of doing this depends on the property, the values to be protected, and the type of transaction. It may even depend on the time of year (it's hard to examine the ecological details of a property under five feet of snow). But provision must be made for gathering sufficient information to make sound judgments and avoid unacceptable risks.

#### Practices

- a. Does the trust inspect properties before buying them or accepting them as donations to be sure they meet the organization's criteria and to

identify any potential management problems, including hazardous waste sites?

- b. If potential management problems are identified, does the trust make a determination that the conservation values can nevertheless be protected and that the benefits of protecting the property outweigh the risks?
- c. Does the trust identify the conservation resources of each property and document their condition, in a manner appropriate to the individual parcel and the method of protection?
- d. Does the trust determine the boundaries of every protected property, through legal property descriptions, accurately marked property corners or, if appropriate, a survey?

#### **STANDARD #12: LEGAL/TECHNICAL ASPECTS**

**A land trust must ensure that every transaction is legally and technically sound, and take steps to avoid future legal problems.**

A land trust usually intends that the property it protects remain protected for perpetuity. Its transactions must hold up over time and withstand challenges from people who would try to "unlock" protected property. Land trust representatives need not be lawyers, but they must have very good legal advice, and they should familiarize themselves with basic principles of real estate, contracts, tax law and, if applicable, conservation easements. The trust should draw a landowner's attention to issues that must be addressed as the transaction proceeds. However, a trust must not represent itself as giving specific legal or financial advice; a landowner's own advisors should do that. In many transactions, a land trust may also need professional help with land planning, biological assessments, environmental assessments for various purposes including hazardous wastes, and land management.

#### **Practices**

- a. Does the trust have or obtain reliable and appropriate real estate, tax, financial, and land management expertise for every transaction?
- b. Does the trust obtain a legal review of *every* transaction, appropriate to its complexity?
- c. Does the trust strongly encourage, and recommend in writing, that all parties to each transaction obtain independent legal advice?

- d. Does the trust refrain from giving specific legal advice? (A land trust may, however, discuss general principles, actual experiences, and examples.)
- e. Does the trust ensure that landowners and the trust share a clear understanding of the intended purposes of each transaction, including intended uses of the property, and is this understanding documented?
- f. Does the trust investigate title to each property for which it intends to acquire title or an easement, to be sure that it is negotiating with the legal owner(s) and to uncover any liens, mortgages, or other encumbrances that may affect the transaction?
- g. Does the trust insure that all parties to transactions have a clear understanding of their respective roles, rights, and responsibilities in acquisition and management of the property through appropriate legal instruments and, if necessary, written memoranda of understanding signed by all parties?
- h. Does the trust keep written documentation of all legal agreements, studies, appraisals, and other matters related to each transaction and does it keep back-up copies of such documents in a separate, safe location?
- i. Are all transactions legally recorded at the appropriate records office according to local and state law?
- j. If the land trust buys property or easements, does it have or obtain adequate information on which to justify its acquisition price?
- k. If the trust acquires land and then sells it to a private individual, does it publicly list the property for sale through a real estate brokerage firm, or obtain an appraisal, letter of opinion, or other appropriate documentation to ensure that the sale is at not less than fair market value at the time of the sale?

### **STANDARD #13: TAX DEDUCTIONS**

A land trust must try to assure that transactions for which a landowner plans to claim a tax deduction comply with relevant IRS regulations and that the landowner is aware of and complies with appropriate IRS requirements, recognizing that the final responsibility for compliance is the landowner's.

It is the legal responsibility of the landowner, not the land trust, to comply with IRS requirements regarding tax deductions for the donation

of land or easements. Nevertheless, a land trust must do its best to assure that both the transactions and the landowners comply with the law. Deductions overturned by the IRS may make potential future donors wary of working with the land trust and, ultimately, can reduce support for deductions as incentives for land conservation. A trust also must take care never to guarantee a landowner that a deduction will be allowed.

#### Practices

- a. Does the trust take care that conservation easements for which a tax deduction is anticipated meet the criteria of Section 170(h) of the Internal Revenue Code and the accompanying Treasury regulations, and does it advise the easement donor that the easement must meet these criteria and regulations to qualify for a deduction?
- b. Does the trust inform every donor of property valued at more than \$5,000 (other than money and publicly traded securities) who expects to take a tax deduction of the obligations to substantiate and report the value of the donation according to requirements of the Tax Reform Act of 1984, and does the trust know and comply with its own responsibilities under that Act?
- c. Does the trust refrain from making representations as to whether or not land or easement donations will be deductible and/or about the specific monetary value that the IRS will accept?
- d. Does the land trust inform landowners that they are responsible for any determination of the value of their donation and should commission their own appraisals when needed?

#### STANDARD #14: BOARD APPROVAL

The full board must act on every land transaction.

This goes back to the legal responsibility and accountability of the board of directors. Because land transactions are usually the primary business of a land trust, and because transactions often represent substantial costs, both in acquisition and in future management, the full board must have an opportunity to act on all land transactions. These decisions should not be delegated to a few board members or to a committee, although a committee commonly is responsible for reviewing proposed projects and making recommendations to the full board. If time is a problem, bylaws may provide for telephone meetings. If the board is kept informed as a potential project progresses, final decisions can usually be made more quickly and efficiently.



### Practices

- a. Is every land transaction brought before the board of directors for approval or ratification? (This could include ratification of an action by the board's executive committee.)
- b. Does the board have complete and accurate information about every transaction, so it can act in an informed way?

### STANDARD #15: STEWARDSHIP

**A land trust must carry out a program of responsible stewardship for its land and easements.**

A land trust that owns property or holds conservation easements commits itself to stewardship of those assets. A trust must take care of its land and enforce its easements. A trust that fails to do so will eventually lose its credibility and may even find itself in court. A trust must also make contingency provisions for its land and easements in the event the trust can no longer fulfill its stewardship obligations.

### Practices

- a. If the trust acquires and holds land or conservation easements, does it determine the financial and management implications of each transaction and establish that it has or can raise the funds needed to manage the property (including liability insurance, maintenance, repairs, and taxes) or monitor and enforce the easement?
- b. If a trust holds land in fee, does it have an adequate management program to carry out the purposes of each acquisition?
- c. Does the trust monitor its conservation easement properties regularly, at least annually, in a manner appropriate to the size and restrictions of each property, and keep documentation (reports, photographs, maps, etc.) of each monitoring visit?
- d. Does the trust make owners of easement properties aware of its monitoring policies?
- e. Does the trust enforce the terms of its conservation easements and take all necessary steps to cure any violations?
- f. Does the trust inform new owners of easement-restricted properties about the easement restrictions (even if a title report has this information)?

- g. Does the trust inform the appropriate local jurisdiction and planning agency of the existence and terms of any conservation easements it holds?
- h. Has the trust made contingency provisions for all of its land and easement assets, in the event the trust ceases to exist or can no longer manage its land or easements?

**EXHIBIT D**

**Open Space and Access Easement Agreement**

WHEN RECORDED, RETURN TO:  
Preston Gates & Ellis  
5000 Columbia Center  
701 Fifth Avenue  
Seattle, WA 98104-7078  
Attn: Konrad J. Liegel

### **OPEN SPACE AND ACCESS EASEMENT AGREEMENT**

**THIS OPEN SPACE AND ACCESS EASEMENT AGREEMENT (the "Agreement") is made by and between SEATTLE-KING COUNTY LAND CONSERVANCY, a Washington nonprofit corporation, having a business address at 1150 19th Avenue East, Seattle, Washington 98112 (the "Grantor") and KING COUNTY, a political subdivision of the State of Washington, by and through the KING COUNTY PARKS, CULTURAL AND NATURAL RESOURCES DEPARTMENT, having an address at 707 Smith Tower, 506 Second Avenue, Seattle, Washington 98104 (the "Grantee").**

#### **I. RECITALS**

**This Agreement is made with reference to the following facts and objectives:**

**A. Grantor is the owner in fee simple of that certain real property (hereinafter the "Property") in King County, Washington, more particularly described in Exhibit "A" and shown as Tract Z on Exhibit "B," which are attached hereto and incorporated herein by this reference.**

**B. The legislatively declared policies of the State of Washington, in the Revised Code of Washington (hereinafter "RCW") chapter 84.34, and of King County, in King County Ordinance No. 4341, provide that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands, including wetlands, 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.**

**C. The Property is "open space land" as defined in RCW 84.34.020(1). In particular, the Property contains a "Class 1" wetland as defined in King County Code § 21A.06.1415 and associated habitat (collectively, the "Conservation Values" of the Property).**

**D. The Conservation Values of the Property are important to Grantor and Grantee, and both Grantor and Grantee desire to preserve and maintain the Conservation Values of the Property and to increase the opportunity for public access for educational and passive recreational activities and for environmental stewardship, training and research.**

NOW THEREFORE, for and in consideration of the mutual promises herein and other valuable consideration, receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee agree as follows:

## II. GRANT OF OPEN SPACE AND ACCESS EASEMENT

Pursuant to the laws of the State of Washington and in particular RCW 64.04.130 and 84.34.210, Grantor hereby conveys and quit claims to Grantee a perpetual, nonexclusive easement over the Property, for the purposes of (a) public access for educational and passive recreational activities and for environmental stewardship, training and research, and (b) limiting the future use of the Property to open space uses (as defined herein). The easement is given on the terms and conditions herein described and is subject to the reservation of rights contained herein, all of which rights, restrictions, reservations and obligations shall operate as covenants running with the land in perpetuity. This grant is also subject to all rights, covenants, conditions and other matters of record.

## III. RIGHTS CONVEYED TO GRANTEE

To accomplish the purposes of this Easement, the following rights are conveyed to Grantee by this Easement:

A. Public Access. To allow public trail access to the Property to persons or groups for educational and passive recreational activities, such as hiking and birdwatching; provided, however, that such activities are conducted in a manner and intensity that does not adversely impact the Conservation Values of the Property.

B. Environmental Steward, Training and Research Access. To allow access and use of the Property for the purposes of environmental stewardship, training and research; provided, however, that such activities are conducted in a manner and intensity that does not adversely impact Conservation Values on the Property, and further provided, however, that persons granted such access agree to provide the Grantor with copies of any data or reports resulting from such research.

C. Capital Facilities. To allow the design and construction of structures and improvements to facilitate educational and passive recreational activities on the Property; provided, however, that such activities are approved in advance by Grantor in accordance with Section VI herein, and further provided, however, that such structures or improvements are located more than one hundred (100) feet from the perimeter of the Property and have appropriate siting, design, and exterior color treatment that blends with the natural surroundings and is consistent with and does not adversely impact the Conservation Values of the Property.

D. Restriction on Use of Property. To restrict use of the Property to "Open Space Issues" in accordance with the provisions of Section IV below.

E. Inspection and Enforcement. To enter from time to time onto the Property, upon reasonable notice to Grantor, for the sole purpose of inspection and enforcement of the terms, conditions, restrictions and covenants imposed on Grantor by this Easement.

F. Enjoinment. To enjoin any activity on, or use of, the Property which is inconsistent with this Easement in accordance with Section VII below.

#### IV. RIGHTS RESERVED BY GRANTOR

A. General. Grantor reserves to itself, and to its successors and assigns, all rights and obligations accruing from its ownership of the Property, other than the rights conveyed to Grantee in this Agreement, and any activity on or use of the Property which is not inconsistent with the Conservation Values of this Easement and which is not prohibited herein. Without limiting the generality of the foregoing, Grantor specifically reserves to itself, and to its successors and assigns, the following rights from the Easement with respect to use of the Property:

B. Road, Trails and Interpretative Stations. To generally construct, maintain, renovate, expand, or replace roads, trails and interpretative stations incidental to passive recreational use of the Property by the public for such activities as hiking, bird watching and cross country skiing.

C. Wildlife Enhancement Structures. To place or construct structures for enhancing wildlife on the Property, such as snags, perch trees, nest boxes or floating logs.

D. Outlet Control Structures. To construct, maintain, renovate or replace an outlet control structure (weir) to manage the flow of water through the Property.

E. Fences and Gates. To construct and maintain fences and gates within or around the Property.

F. Signage. To place signs or displays on the Property and to state the name of the property and the address of the owner, to describe the conditions of access to the Property, to advertise any use or activity consistent with the Open Space Uses as defined in Section V.A. herein, to advertise the Property for sale or rent, and to provide interpretative information on the Property.

G. Public Access. To restrict public access to the Property, but only in a manner that prevents adverse impacts on the Conservation Values of the Property.

H. Emergency. To undertake other activities necessary to protect human health or safety on the Property, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity.

## V. RESTRICTIONS ON USE OF THE PROPERTY

A. Uses Restricted to Open Space Uses; Open Space Uses Defined. Use of the Property is permanently restricted solely to open space uses. "Open Space Uses," as used herein, means such uses that protect, conserve or enhance the Conservation Values of the Property and that do not significantly impair or interfere with such Conservation Values.

B. Specific Restrictions on Use of the Property. Potential uses of the Property are limited in that Grantor and Grantee shall only be entitled to use, maintain, or improve the Property for Open Space Uses, and shall comply with the following terms, conditions, restrictions, and covenants, which are permanently binding on the Property:

1. No subdivision of the Property shall be permitted.
2. No construction, placement or expansion of buildings or structures shall be permitted, except to the extent such uses are specifically allowed in Section III or reserved in Section IV of this Agreement.
3. No exploration for, or development or extraction of, minerals or hydrocarbons shall be permitted, except to the extent that such uses are specifically reserved in the original deed granted by the State of Washington.
4. No subsurface activities, including excavation for underground utilities, pipelines, or other underground installations, shall be permitted that cause permanent disruption of the surface of the Property. Temporarily disrupted soil surfaces shall be restored in a manner consistent with Open Space Uses, including restoration of the original soil horizon sequence within a reasonable period of time after such installation.
5. No storage, dumping or disposal of wastes, refuse, noxious materials, or other debris shall be permitted.
6. No pollution or degradation of any surface or subsurface waters on or under the Property that would exceed applicable federal, state or local limits shall be permitted.
7. No paving of any surfaces on the Property shall be permitted, except as may be required for the uses and activities specifically allowed in Section III or reserved in Section IV of this Agreement.
8. No signs shall be erected on the Property, except as may be required for the uses and activities specifically allowed in Section III or reserved in Section IV of this Agreement.

9. No access to the Property by the general public via motor or wheeled vehicles of any nature (except wheelchairs), except as otherwise agreed to by Grantor and Grantee.

## VI. NOTICE AND APPROVAL

A. Notice. Each party hereto shall notify the other party and receive the other party's written approval prior to exercising, in the case of Grantee, its right of construction of capital facilities provided for in Section III, Paragraph C, and, in the case of Grantor, its right of construction of an outlet control structure provided for in Section IV, Paragraph D. The requesting party shall notify the approving party in writing not less than thirty (30) days prior to the date the requesting party intends to undertake the use or activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit the approving party to make an informed judgment as to its consistency with the Conservation Values of the Property.

B. Approval. The approving party shall grant or withhold its approval in writing within thirty (30) days of receipt of the requesting party's written request for approval. The approving party's approval may be withheld only upon a reasonable determination by the approving party that the action as proposed would significantly impair or interfere with the Conservation Values of the Property. The approving party's approval may include reasonable conditions which must be satisfied in undertaking the proposed use or activity. The requesting party may assume the approving party's approval of the activity in question upon the approving party's failure to grant or withhold its approval in the time period and manner set forth herein.

C. Addresses for Notices. Any notice, demand, request, consent, 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 first class mail, postage prepaid, addressed to as follows:

To Grantor: Seattle-King County Land Conservancy  
1150 19th Avenue East  
Seattle, Washington 98112

To Grantee: King County Parks, Cultural and Natural Resources Department  
707 Smith Tower  
506 Second Avenue  
Seattle, Washington 98104

or to such other address as either party from time to time shall designate by written notice to the other.



## VII. REMEDIES

A. Rights and Responsibilities. Grantor and Grantee desire to preserve and protect the Conservation Values of the Property. In connection therewith Grantee and Grantor shall have the right to enforce compliance with the terms of this Agreement. In event of any violation of any provision contained in this Agreement, after thirty (30) days' written notice of violation to the party which is responsible for compliance under the terms hereof (the "Defaulting Party"), the nondefaulting party may take such action as it deems necessary to ensure compliance with this Agreement, including restoration of the Property to its condition prior to violation of the terms of this Agreement; provided, however, that any failure to so act by the nondefaulting party shall not be deemed to be a waiver of any right, condition, covenant or purpose of this Agreement. The cost of restoring the Property to its prior condition shall be borne by the Defaulting Party.

B. Legal Remedies. The parties hereto may seek such relief in law or equity as they may deem necessary to enforce the terms of this Agreement. In the event of litigation between the parties hereto, declaratory or otherwise, in connection with this Agreement, the prevailing party shall recover all costs and attorneys' fees actually incurred, including on appeal.

## VIII. COSTS AND LIABILITIES

Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to its ownership and use of the Property. Grantee agrees to bear all costs and liabilities of any kind related to its use of the Property. Grantor and Grantee agree to indemnify and hold each other harmless from all liability, including liability resulting from releases of hazardous substances or wastes under federal, state or local laws, arising out of their respective uses of the Property. This indemnity shall extend to liability arising out of use by agents, contractors, subcontractors and employees of the indemnifying party.

## IX. ALTERATION OR AMENDMENT

The terms, conditions, rights, restrictions, covenants and obligations contained herein shall not be altered or amended unless such alteration or amendment shall be made with the written consent of Grantor and Grantee, and any such alteration or amendment shall be consistent with the Open Space Uses of the Property. Any such amendment shall be recorded in the official records of King County, Washington, and any other jurisdiction in which such recording is required.

## X. ASSIGNMENT

Grantee agrees not to assign, transfer or encumber its interest in the Property granted hereby nor delegate its duties hereunder.

## XI. RECORDATION

Grantee shall record this instrument in timely fashion in the official records of King County, Washington, and any other appropriate jurisdictions and Grantee may re-record it at any time as may be required to preserve its rights in this Agreement.

## XII. GENERAL PROVISIONS

A. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Washington.

B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section IX herein.

E. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

F. "Grantor" - "Grantee". The terms "Grantor" and "Grantee," wherever used herein, and any pronouns used in the place thereof, shall be held to mean and include, respectively the above-named Grantor, and its personal representatives, heirs, successors, and assigns, and the above-named Grantee and its successors.

G. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

H. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

I. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

J. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

XIII. SCHEDULE OF EXHIBITS

A. Legal Description of Property Subject to Easement.

B. Site Maps.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 199\_.

SEATTLE-KING COUNTY LAND CONSERVANCY, Grantor

By \_\_\_\_\_ Its \_\_\_\_\_

STATE OF WASHINGTON ) ) ss. COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 199\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Seattle-King County Land Conservancy, the Washington nonprofit corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the deal and year in this certificate above written.

NOTARY PUBLIC in and for the State of Washington, residing at \_\_\_\_\_ Print Name: \_\_\_\_\_ My commission expires \_\_\_\_\_



## Legal Description of the Property

The land is located in the County of King, State of Washington, and is described as follows:

THAT PORTION OF THE FRACTIONAL NORTH HALF OF THE NORTH HALF OF SECTION 2, TOWNSHIP 24 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON AND THE SOUTH HALF OF SECTION 35, TOWNSHIP 25 NORTH, RANGE 6 EAST, WILLAMETTE MERIDIAN, IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 35;  
 THENCE SOUTH 88°14'59" EAST ALONG THE SOUTH LINE THEREOF A DISTANCE OF 2,375.07 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED TRACT;  
 THENCE SOUTH 88°14'59" EAST CONTINUING ALONG SAID SOUTH LINE A DISTANCE OF 106.09 FEET;  
 THENCE NORTH 00°34'16" WEST A DISTANCE OF 620.49 FEET;  
 THENCE NORTH 60°22'56" WEST A DISTANCE OF 122.63 FEET;  
 THENCE NORTH 00°34'16" WEST A DISTANCE OF 46.88 FEET TO A POINT OF CURVE;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 276.00 FEET THROUGH A CENTRAL ANGLE OF 22°12'59" A DISTANCE OF 107.02 FEET TO A POINT OF REVERSE CURVE;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 424.00 FEET THROUGH A CENTRAL ANGLE OF 10°07'53" A DISTANCE OF 74.97 FEET;  
 THENCE SOUTH 85°40'13" EAST A DISTANCE OF 216.66 FEET;  
 THENCE NORTH 07°20'19" WEST A DISTANCE OF 30.00 FEET;  
 THENCE NORTH 39°04'36" WEST A DISTANCE OF 175.63 FEET;  
 THENCE NORTH 11°54'55" WEST A DISTANCE OF 127.88 FEET;  
 THENCE NORTH 28°00'31" WEST A DISTANCE OF 236.81 FEET;  
 THENCE NORTH 10°39'35" EAST A DISTANCE OF 76.56 FEET;  
 THENCE NORTH 39°17'09" WEST A DISTANCE OF 147.06 FEET;  
 THENCE NORTH 32°51'49" WEST A DISTANCE OF 322.55 FEET;  
 THENCE NORTH 48°20'13" WEST A DISTANCE OF 115.14 FEET TO A POINT ON THE ARC OF A CURVE, THE CENTER OF WHICH BEARS NORTH 32°02'42" EAST;  
 THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 77°34'37" A DISTANCE OF 135.40 FEET;  
 THENCE NORTH 07°43'40" EAST A DISTANCE OF 202.78 FEET TO A POINT ON THE ARC OF A CURVE, THE CENTER OF WHICH BEARS SOUTH 88°17'36" EAST;  
 THENCE NORTHERLY AND EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 74°48'58" A DISTANCE OF 130.58 FEET;  
 THENCE NORTH 76°31'22" EAST A DISTANCE OF 47.33 FEET TO A POINT OF CURVE;  
 THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 70°39'02" A DISTANCE OF 123.31 FEET;  
 THENCE SOUTH 44°29'14" EAST A DISTANCE OF 81.81 FEET;  
 THENCE SOUTH 56°16'40" EAST A DISTANCE OF 138.49 FEET;  
 THENCE NORTH 66°05'52" EAST A DISTANCE OF 35.22 FEET TO A POINT OF CURVE;  
 THENCE EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 75°18'30" A DISTANCE OF 131.44 FEET;  
 THENCE SOUTH 38°35'39" EAST A DISTANCE OF 17.70 FEET TO A POINT OF CURVE;  
 THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A

EXHIBIT A  
(continued)

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RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 55°02'12" A DISTANCE OF 96.06 FEET;  
THENCE SOUTH 11°32'18" WEST A DISTANCE OF 86.30 FEET;  
THENCE SOUTH 33°07'00" EAST A DISTANCE OF 72.12 FEET;  
THENCE NORTH 78°20'06" EAST A DISTANCE OF 198.97 FEET;  
THENCE NORTH 11°27'50" WEST A DISTANCE OF 69.69 FEET;  
THENCE NORTH 08°02'13" WEST A DISTANCE OF 48.02 FEET;  
THENCE NORTH 13°16'36" WEST A DISTANCE OF 24.78 FEET;  
THENCE NORTH 45°36'57" WEST A DISTANCE OF 75.23 FEET;  
THENCE NORTH 16°04'03" WEST A DISTANCE OF 61.25 FEET;  
THENCE NORTH 13°43'49" WEST A DISTANCE OF 104.64 FEET;  
THENCE NORTH 08°47'32" WEST A DISTANCE OF 79.47 FEET;  
THENCE NORTH 05°38'24" WEST A DISTANCE OF 98.26 FEET TO A POINT ON THE ARC OF A CURVE, THE CENTER OF WHICH BEARS NORTH 80°52'59" EAST;  
THENCE NORTHERLY AND EASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 145°01'45" A DISTANCE OF 253.12 FEET;  
THENCE SOUTH 44°05'16" EAST A DISTANCE OF 105.96 FEET;  
THENCE SOUTH 41°49'09" EAST A DISTANCE OF 77.09 FEET;  
THENCE SOUTH 19°50'03" EAST A DISTANCE OF 184.62 FEET;  
THENCE SOUTH 17°33'53" EAST A DISTANCE OF 177.83 FEET;  
THENCE SOUTH 09°47'44" EAST A DISTANCE OF 208.71 FEET;  
THENCE SOUTH 01°15'06" EAST A DISTANCE OF 124.02 FEET;  
THENCE SOUTH 87°16'28" EAST A DISTANCE OF 183.75 FEET;  
THENCE SOUTH 77°47'45" EAST A DISTANCE OF 88.16 FEET TO A POINT OF CURVE;  
THENCE EASTERLY AND SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 84°50'16" A DISTANCE OF 148.07 FEET;  
THENCE SOUTH 08°54'49" WEST A DISTANCE OF 230.23 FEET;  
THENCE SOUTH 30°56'34" EAST A DISTANCE OF 105.52 FEET;  
THENCE SOUTH 35°04'19" EAST A DISTANCE OF 127.90 FEET;  
THENCE SOUTH 83°27'57" EAST A DISTANCE OF 26.73 FEET TO A POINT OF CURVE;  
THENCE SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 48°40'19" A DISTANCE OF 84.95 FEET;  
THENCE SOUTH 37°51'37" EAST A DISTANCE OF 306.05 FEET TO A POINT ON THE ARC OF A CURVE, THE CENTER OF WHICH BEARS SOUTH 40°05'12" WEST;  
THENCE SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 67°34'50" A DISTANCE OF 117.95 FEET;  
THENCE SOUTH 08°44'14" EAST A DISTANCE OF 121.53 FEET;  
THENCE SOUTH 44°33'42" EAST A DISTANCE OF 71.69 FEET TO A POINT ON THE ARC OF A CURVE, A CENTER OF WHICH BEARS SOUTH 16°26'49" EAST;  
THENCE EASTERLY AND SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 100.00 FEET THROUGH A CENTRAL ANGLE OF 108°37'47" A DISTANCE OF 189.59 FEET;