

BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT

RESOLUTION 2012-16

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT, KITSAP COUNTY, WASHINGTON, ACCEPTING THE TRANSFER OF THE SCHEL-CHELB PROPERTIES FROM THE CITY OF BAINBRIDGE ISLAND, AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO APPROPRIATE AGREEMENT(S) WITH THE CITY AFFECTING SUCH TRANSFER.

WHEREAS, the City of Bainbridge Island and the Bainbridge Island Metropolitan Park & Recreation District have worked to collaborate and cooperate with each other in acquiring, maintaining and operating park and open space properties located within the City to ensure that adequate public parks and open space properties are available to the public; and

WHEREAS, the City has determined through its Resolution No. 2011-16 that the Schel-Chelb properties and trail easements identified by Kitsap County Tax Parcel Nos. 042402-1-060-2007, 042402-1-061-2006, 042402-1-075-2000, 042402-1-086-2007, 042402-1-072-2003, 042402-1-073-2002 and 042402-1-074-2001("Schel-Chelb Properties") are surplus to the City's needs and may be appropriately transferred to the Park District; and

WHEREAS, the City has determined that the Park District is in the best position to develop, manage, maintain and operate Schel-Chelb Properties for their intended purpose as public parks and/or open space properties; and

WHEREAS, the Park District desires to receive the Schel-Chelb Properties, and accepts the contingencies, terms and conditions set forth in the attached transfer agreement (or one that is in substantially similar form as referenced below as "Exhibit A"),

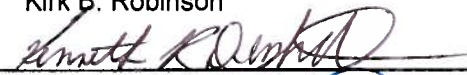
NOW THEREFORE, BE IT RESOLVED AS FOLLOWS by the Board of Commissioners of the Bainbridge Island Metropolitan Park & Recreation District, Kitsap County, Washington, that:


- 1) The transfer of the Schel-Chelb Properties from the City of Bainbridge Island to the Bainbridge Island Metropolitan Park & Recreation District is in the best interest of the public, and the Board is willing to accept these properties; and
- 2) The Executive Director is authorized to execute an agreement that is in substantially similar form as that set forth in "Exhibit A", attached to this Resolution and incorporated by this reference, as well as any other documents necessary to accept the City's interest in the Schel-Chelb Properties by the Bainbridge Island Metropolitan Park & Recreation District as set forth in this Resolution.

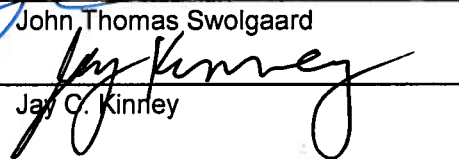
PASSED by the Board of Commissioners of the Bainbridge Island Metropolitan Park & Recreation District, Kitsap County, Washington, at a regular meeting thereof held this 7th day of June, 2012, the undersigned commissioners being present.

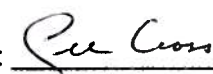
BAINBRIDGE ISLAND METROPOLITAN PARK & RECREATION DISTRICT

BY: _____
Kirk B. Robinson

BY: 
Kenneth R. DeWitt

BY: 
John Thomas Swolgaard

BY: 
Jay C. Kinrey

ATTEST: 
Lee Cross - Secretary

AFTER RECORDING RETURN TO:
City of Bainbridge Island, Washington
Attn: City Manager
280 Madison Avenue North
Bainbridge Island, Washington 98110

EXHIBIT A

AGREEMENT REGARDING TRANSFER OF PARK PROPERTY

Grantor(s): City of Bainbridge Island, Washington, a municipal corporation

Grantee(s): Bainbridge Island Metropolitan Park and Recreation District, a Washington special purpose district

Short Legal Description: **Blossom:** PORTION OF GOVERNMENT LOT 4, SECTION 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., KITSAP COUNTY, WASHINGTON

Schel-Chelb: LOTS A, B, C AND D OF CITY OF BAINBRIDGE ISLAND SHORT PLAT NO. BI-100 (SPT 11-28-94-1), RECORDED UNDER AUDITOR'S FILE NOS. 3181501/502, IN VOLUME 15 PAGE 137 OF SHORT PLATS

[Complete legal description on Exhibit A]

Assessor's Property Tax Parcel/Account Number(s): 042402-1-060-2007 and 042402-1-061-2006 (Blossom), 042402-1-075-2000, 042402-1-086-2007 (Easement), 042402-1-072-2003, 042402-1-073-2002 and 042402-1-074-2001 (Trail Easement) (Schel-Chelb)

Reference Number(s) of Documents Assigned or Released: N/A

THIS AGREEMENT REGARDING TRANSFER OF PARK PROPERTY (this "Agreement") is entered into this ____ day of _____, 2012, by and between the CITY OF BAINBRIDGE ISLAND, WASHINGTON, a municipal corporation (the "City") and BAINBRIDGE ISLAND METROPOLITAN PARK AND RECREATION DISTRICT, a Washington special purpose district (the "District").

Recitals

A. The City owns certain real property and trail and beach easements located in Bainbridge Island, commonly known as “Schel-Chelb Parcel and Easements” and the “Blossom Parcels” as legally described on **Exhibit “A,”** attached hereto and incorporated by this reference (collectively, the “Properties”).

B. The City acquired the Schel-Chelb Parcel and Easements on December 16, 2003 pursuant to a bond measure passed by the voters in 2001 pursuant to Ordinance No. 2001-36 (the “Ordinance”), which Ordinance funded the City’s purchase of open space properties and established the criteria and process for such purchases.

C. The City, through the Ordinance and with funding from the General Fund, acquired the Blossom Parcels on August 16, 2005.

D. The City and the District frequently collaborate and cooperate with each other in acquiring, maintaining and operating park and open space properties located within the City, to ensure that adequate public parks and open space properties are available to the public and that said properties offer the public the variety of desirable recreational and natural amenities that Bainbridge Island has to offer.

E. The City has determined that the District is in the best position to develop, manage, maintain and operate the Properties for their intended purpose as public parks, public trails and/or open space properties and to ensure that the criteria and standards established by the Ordinance are satisfied. In consideration of the City’s transfer of the Properties to the District, the District shall maintain, operate, and manage the Properties as public parks, public trails and/or open space properties. The District will assume all costs of maintenance, operations and improvement of the Properties, thereby saving the City these expenses, while also ensuring the City’s constituents that the Properties will continue to be accessible as public parks, public trails and/or open space properties.

F. After holding a public hearing on the subject, the City has determined, pursuant to Resolution No. 2011-16, that the Properties are surplus to the City’s needs and that the Properties may be appropriately transferred to the District for the purposes and subject to the contingencies, terms and conditions set forth herein.

G. The City will retain the utility easement granted by the Non-Exclusive Trail and Utilities Easement recorded under Kitsap County Auditor’s No. 200312310252 on December 31, 2003 and will transfer the trail easement to the District. The trail and utility easement are in the same location.

H. The District desires to receive the Properties, and accepts the contingencies, terms and conditions of said transfer, as set forth in this Agreement. The District recognizes the value of the City’s transfer and acknowledges and agrees that, in light of the value being conveyed to the

District, the contingencies, terms and conditions set forth in this Agreement are reasonable and shall be binding upon the District.

NOW, THEREFORE, for and in good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Transfer of Properties:** Upon mutual execution of this Agreement, the City shall quit claim and convey to the District all of the City's rights, title and interest to the Properties via a standard form quit claim deed. The District shall record such deed within ten (10) days of the City's delivery of the same, and the District shall be responsible for all recording fees associated therewith.

2. **Conditions of Transfer:** The City's transfer of the Properties is expressly conditioned and contingent upon the following terms:

2.1 **Use for Public Passive Park and/or Open Space Property.** The Properties shall be used exclusively for passive park and/or open space purposes. For purposes of this Agreement, the term "passive park" shall have the same definition as that set forth in the Ordinance, i.e., a public park without sports fields or sports facilities. Permitted passive park and open space uses shall include, but are not necessarily limited to, hiking, bicycling, horseback riding, swimming, boating and nature viewing. Open space uses shall include those set forth in **Exhibit B**, attached hereto and incorporated by this reference. The District shall have the sole discretion of determining which permitted uses shall be allowed on which portions of the Properties, and shall establish appropriate rules and regulations governing such use.

2.2 **Compliance with Ordinance.** The District's development, maintenance and operation of the Properties shall at all times comply with and satisfy the terms, conditions and mandates set forth in the Ordinance.

2.3 **Compliance with Terms Agreed to By City Upon Acquisition.** The District shall further comply with and satisfy all other conditions, restrictions or terms established or agreed to by the City at the time of the City's acquisition of the Properties, or otherwise of record at the time of conveyance.

2.4 **Right of First Refusal.** The parties acknowledge and agree that the City is transferring the Properties and the City's interests therein to the District in consideration of the parties' relationship and the District's unique position to best manage and operate the Properties. The District therefore agrees that, prior to offering, on any terms, any portion of the Properties, or any fee simple interest therein, to any third party, the District shall first notify the City in writing of the District's intent to transfer any portion of the Properties and shall offer to re-convey such Property back to the City, without monetary remuneration or additional consideration. The City shall have twenty (20) days from its receipt of the District's offer to accept said offer. If the City fails to accept the District's offer within such time, the District's offer shall be deemed rejected, and the District may proceed with the proposed transfer under such terms and conditions as the District determines.

2.5 Reservation of Automatic Reverter.

THE CONVEYANCE OF THE PROPERTIES IS EXPRESSLY AND UNCONDITIONALLY SUBJECT TO THE CITY'S RESERVATION OF AN AUTOMATIC REVERTER IN ITS FAVOR, AS FOLLOWS:

If the Properties or any portion thereof at any time ceases to be used and/or occupied by the District or the District's successors, heirs and assigns, exclusively for public passive park and/or open space purposes (other than by reason of condemnation or other occurrence outside of the District's or the District's successors', heirs' and assigns' control), then at such time, without demand and without commencement of any legal action or proceeding, title to the entire Property, and the possession thereof, shall automatically revert to and be restored to the City or the City's successors, heirs and assigns.

The possibility of reverter reserved to the City herein, and the rights and obligations set forth in this Agreement shall be deemed to be a permanent covenant, shall be binding upon the District and the District's successors, heirs and assigns, shall run with the land and shall forever burden the title to the Properties. The City may, at any time, exercise and assert the right of reverter set forth herein, in accordance with this Agreement, and the passage of time without action taken by the City shall not limit or extinguish the covenants relating to the City's right of reverter.

By taking possession of the Properties hereof, the District acknowledges and agrees that the City's reservation of the automatic reverter is reasonable and appropriate to effectuate the City's intent that the Properties are used in perpetuity for their intended purpose as public passive parks and/or open space, and the District accepts the Properties subject to this reservation and the covenants set forth in this Agreement.

2.6 City Shoreline Mitigation Reservation. The City reserves the right to implement shoreline restoration/mitigation projects on the properties identified as Kitsap County Tax Parcel Nos. 042402-1-060-2007, 042402-1-061-2006, and 042402-1-075-2000. Shoreline restoration/mitigation projects under this section shall mean shoreline restoration and/or mitigation projects required of the City by the Washington Department of Ecology, Washington State Department of Transportation or similar federal or state agency. Design for City shoreline restoration/mitigation projects shall be subject to approval by the District. The City agrees to consider alternative property locations for the shoreline restoration/mitigation projects if presented with feasible alternative locations by the District. The District agrees to provide the City with any necessary easements or agreements for access, construction, use, and maintenance in connection with any shoreline restoration/mitigation project.

2.7 Utility Easement. The City retains the utility easement granted by the Non-Exclusive Trail and Utilities Easement recorded under Kitsap County Auditor's No. 200312310252 on December 31, 2003 and transfers the trail easement to the District. The trail and utility easement are in the same location. The District agrees that the City may excavate or

otherwise disrupt the trail in order to utilize the utility easement, provided that the City returns the trail to its former condition.

3. **Properties "AS-IS"**. The District accepts the Properties, and the City's interests therein, in their present condition "AS-IS, WHERE IS," without warranty or representation.

4. **Indemnity**. The District shall hold harmless, indemnify, and defend the City and its officers, employees, agents, and contractors and the heirs, personal representatives, successors and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Properties, regardless of cause, unless due solely to the gross negligence or intentional misconduct of any of the Indemnified Parties; (2) the District's or the District's officers', employees', agents' or contractors' violation of any covenant or restriction touching or concerning any of the Properties; and (3) the District's ownership, operation and maintenance of the Properties or any interest therein.

5. **Covenants to Survive Transfer**. The covenants, conditions and contingencies set forth herein shall survive the City's transfer of the Properties and its interests therein, and shall be binding upon the District subsequent to the recording of the deeds.

6. **Miscellaneous**.

6.1 **Attorneys' Fees**. In the event of any dispute, including mediation, arbitration or litigation concerning this Agreement or if this Agreement is otherwise placed with an attorney for action, then the prevailing party shall be awarded all reasonable litigation costs and expenses, and reasonable attorneys' fees. In the event of trial, the amount of the attorneys' fees shall be fixed by the court. The venue of any such suit shall be Kitsap County, Washington.

6.2 **Binding Effect**. This Agreement applies to, inures to the benefit of, and is binding on not only the parties hereto, but on their heirs, devisees, legatees, administrators, executors and assigns.

6.3 **Computation of Time**. Any time limit in or applicable to a notice shall commence on the day following receipt of the notice and shall expire at midnight of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in which event the time limit shall expire at midnight of the next business day. Any specified period of five (5) days or less shall include business days only. Time is of the essence in this Agreement.

6.4 **Notices**. All notices, demands, consents, approvals and other communications which are required or desired to be given by either party to the other hereunder shall be in writing and shall be hand delivered or sent by United States regular mail, postage

prepaid, return receipt requested, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when delivered or three (3) days after mailing to the following addresses:

To the City: City of Bainbridge Island
Attn: City Manager
280 Madison Avenue North
Bainbridge Island, Washington 98110
(206) 842-2545
(206) 780-8600 facsimile

To the District: Bainbridge Island Metropolitan Park and
Recreation District
Attn: Director
P. O. Box 10010
Bainbridge Island, Washington 98110
(206) 842-2306
(206) 842-0207 facsimile

6.5 Assignment. The District shall not assign this Agreement except with the express written consent of the City, which consent may be withheld for any reason.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year indicated above.

THE CITY:
City of Bainbridge Island, Washington

THE DISTRICT:
Bainbridge Island Metropolitan Park
and Recreation District

By: _____
Morgan Smith, Interim City Manager

By: _____
Terry Lande, Director

STATE OF WASHINGTON)
) ss
COUNTY OF KITSAP)

I certify that I know or have satisfactory evidence that Morgan Smith is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument, and acknowledged it as the Acting City Manager of the City of Bainbridge Island, Washington to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: _____

NAME: _____
(Print Name)
Notary Public in and for the State of Washington
Commission Expires: _____

STATE OF WASHINGTON)
) ss
COUNTY OF KITSAP)

I certify that I know or have satisfactory evidence that Terry Lande is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the Director of Bainbridge Island Metropolitan Park and Recreation District to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

DATED: _____

NAME: _____
(Print Name)
Notary Public in and for the State of Washington
Commission Expires: _____

Exhibit A

Legal Description of Properties

BLOSSOM

Kitsap County Parcel Nos. 042402-1-060-2007 and 042402-1-061-2006

ALL THAT PORTION OF GOVERNMENT LOT 4, SECTION 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTH LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 250 FEET WESTERLY OF THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 4, SAID POINT BEING HEREINAFTER DESIGNATED AS POINT "A"; THENCE WESTERLY ALONG SAID NORTH LINE 200 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID GOVERNMENT LOT 4 A DISTANCE OF 640 FEET TO A POINT HEREINAFTER DESIGNATED AS POINT "B" AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH PARALLEL WITH SAID EAST LINE 341 FEET, MORE OR LESS, TO THE HIGH TIDE LINE OF RICH PASSAGE; THENCE EASTERLY ALONG SAID HIGH TIDE LINE 202 FEET, MORE OR LESS, TO A POINT HEREINAFTER DESIGNATED AS POINT "C" WHICH BEARS SOUTHERLY ON A LINE PARALLEL WITH THE EAST LINE OF SAID GOVERNMENT LOT 4 FROM SAID POINT "A", SAID PARALLEL LINE BEING HEREINAFTER DESIGNATED AS LINE "A-C"; THENCE NORTH PARALLEL WITH SAID EAST LINE 313 FEET, MORE OR LESS, TO A POINT WHICH BEARS EASTERLY ON A LINE PARALLEL WITH THE NORTH LINE OF SAID GOVERNMENT LOT 4 FROM SAID POINT "B" AND THE POINT OF BEGINNING; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 200 FEET TO THE POINT OF BEGINNING;

EXCEPT THAT PORTION THEREOF LYING SOUTHWESTERLY AND WESTERLY OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE ABOVE-DESIGNATED POINT "B"; THENCE SOUTHEASTERLY ON A STRAIGHT LINE TO A POINT ON THE NORTHERLY MARGIN OF CRYSTAL SPRINGS ROAD NE DISTANCE 100 FEET FROM, AS MEASURED ALONG SAID NORTHERLY MARGIN, THE POINT OF INTERSECTION OF SAID NORTHERLY MARGIN WITH THE ABOVE DESIGNATED LINE "A-C"; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID GOVERNMENT LOT 4 TO THE HIGH TIDE LINE OF RICH PASSAGE AND THE TERMINUS OF THE LINE DESCRIBED HEREIN;

AND EXCEPT CRYSTAL SPRINGS ROAD NE (ALSO KNOWN AS POINT WHITE DRIVE).

TOGETHER WITH THE TIDELANDS OF THE SECOND CLASS CONVEYED BY THE STATE OF WASHINGTON, SITUATE IN FRONT OF, ADJACENT TO AND ABUTTING THEREON.

SCHEL-CHELB

Kitsap County Parcel No. 042402-1-075-2000

LOT D CITY OF BAINBRIDGE ISLAND SHORT PLAT NO. SPT 11-28-94-1, RECORDED MAY 25, 1999 UNDER AUDITOR'S FILE NOS. 3181501 AND 3181502, BEING A PORTION OF GOVERNMENT LOT 4, SECTION 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., KITSAP COUNTY, WASHINGTON, TOGETHER WITH AN ACCESS AND UTILITY EASEMENT AS DESCRIBED IN INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO. 3128282.

BEACHFRONT EASEMENT (KITSAP COUNTY AUDITOR'S NUMBER 200312310253)

Kitsap County Parcel No. 042402-1-086-2007

UPLAND PORTION LYING SOUTH OF POINT WHITE DRIVE AND EAST OF THE OUTLET CHANNEL CORRIDOR:

THOSE PORTIONS OF THE FOLLOWING DESCRIBED PARCELS 1 AND 2 SITUATE IN GOVERNMENT LOT 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, WHICH LIE SOUTHERLY OF THE SOUTHERLY RIGHT OF WAY OF POINT WHITE DRIVE NE AND EASTERLY OF THE EASTERLY BOUNDARY OF THAT PARCEL B "OUTLET CHANNEL CORRIDOR" AS DESCRIBED IN THE WARRANTY DEED RECORDED UNDER KITSAP COUNTY AUDITOR'S FILE NO. 9601310314:

PARCEL 1:

THAT PORTION OF GOVERNMENT LOT 4, SECTION 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, LYING EASTERLY OF THE WESTERLY RIGHT OF WAY OF THAT CERTAIN COUNTY ROAD 30 FEET IN HALF WIDTH, CONVEYED BY DEED RECORDED UNDER KITSAP COUNTY AUDITOR'S FILE NO. 804507 AND THE SOUTHERLY PRODUCTION OF SAID RIGHT OF WAY TO THE SOUTHERLY LIMITS OF SAID GOVERNMENT LOT 4 (THE CENTERLINE OF WHICH COUNTY ROAD IS DESCRIBED IN SAID DEED AS BEING THE NORTH-SOUTH CENTERLINE OF SAID GOVERNMENT LOT 4);

EXCEPT THE EAST 450.00 FEET OF SAID GOVERNMENT LOT 4, SECTION 4;

PARCEL 2:

THAT PORTION OF GOVERNMENT LOT 4, SECTION 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTH LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 250 FEET WESTERLY OF THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 4, SAID POINT BEING HEREINAFTER DESIGNATED AS POINT "A"; THENCE WESTERLY ALON SAID NORTH LINE 200 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 640 FEET TO A POINT HEREINAFTER DESIGNATED AS POINT "B" AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH PARALLEL WITH SAID EAST LINE 341 FEET, MORE OR LESS, TO THE HIGH TIDE LINE OF RICH PASSAGE; THENCE EASTERLY ALONG SAID HIGH TIDE LINE 202 FEET, MORE OR LESS, TO A POINT HEREINAFTER DESIGNATED AS POINT "C" WHICH BEARS SOUTHERLY ON A LINE PARALLEL WITH THE EAST LINE OF SAID GOVERNMENT LOT 4 FROM SAID POINT "A", SAID PARALLEL LINE BEING HEREINAFTER DESIGNATED AS LINE "A-C"; THENCE NORTH PARALLEL WITH SAID EAST LINE 313 FEET, MORE OR LESS, TO A POINT WHICH BEARS EASTERLY ON A LINE PARALLEL WHT THE NORTH LINE OF SAID GOVERNMENT LOT 4 FROM THE TRUE POINT OF BEGINNING; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 200 FEET TO THE TRUE POINT OF BEGINNING;

EXCEPT THAT PORTION THEREOF LYING NORTHEASTERLY AND EASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE ABOVE DESIGNATED POINT "B"; THENCE SOUTHEASTERLY ON A STRAIGHT LINE TO A POINT ON THE NORTHERLY RIGHT OF WAY OF POINT WHITE DRIVE NE, 100 FEET WESTERLY, AS MEASURED ALONG SAID NORTHERLY RIGHT OF WAY, OF THE POINT OF INTERSECTION OF SAID NORTHERLY RIGHT OF WAY WITH THE ABOVE DESIGNATED LINE "A-C"; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID GOVERNMENT LOT 4 TO THE HIGH TIDE OF RICH PASSAGE AND THE TERMINUS OF THE LINE DESCRIBED HEREIN.

PARCEL IV

UPLAND PORTION LYING SOUTH OF POINT WHITE DRIVE AND WEST OF THE OUTLET CHANNEL CORRIDOR:

THOSE PORTIONS OF THE FOLLOWING DESCRIBED PARCELS 1 AND 2 SITUATE IN GOVERNMENT LOT 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, WHICH LIE SOUTHERLY OF THE SOUTHERLY RIGHT OF WAY OF POINT WHITE DRIVE NE AND EASTERLY OF THE EASTERLY BOUNDARY OF THAT PARCEL B "OUTLET CHANNEL CORRIDOR" AS DESCRIBED IN THE WARRANTY DEED RECORDED UNDER KITSAP COUNTY AUDITOR'S FILE NO. 9601310314:

PARCEL 1:

THAT PORTION OF GOVERNMENT LOT 4, SECTION 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, LYING EASTERLY OF THE WESTERLY RIGHT OF WAY OF THAT CERTAIN COUNTY ROAD 30 FEET IN HALF WIDTH, CONVEYED BY DEED RECORDED UNDER KITSAP COUNTY AUDITOR'S FILE NO. 804507 AND THE SOUTHERLY PRODUCTION OF SAID RIGHT OF WAY TO THE SOUTHERLY LIMITS OF SAID GOVERNMENT LOT 4 (THE CENTERLINE OF WHICH COUNTY ROAD IS DESCRIBED IN SAID DEED AS BEING THE NORTH-SOUTH CENTERLINE OF SAID GOVERNMENT LOT 4);

EXCEPT THE EAST 450.00 FEET OF SAID GOVERNMENT LOT 4, SECTION 4;

PARCEL 2:

THAT PORTION OF GOVERNMENT LOT 4, SECTION 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, W.M., IN KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTH LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 250 FEET WESTERLY OF THE NORTHEAST CORNER OF SAID GOVERNMENT LOT 4, SAID POINT BEING HEREINAFTER DESIGNATED AS POINT "A"; THENCE WESTERLY ALON SAID NORTH LINE 200 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 640 FEET TO A POINT HEREINAFTER DESIGNATED AS POINT "B" AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH PARALLEL WITH SAID EAST LINE 341 FEET, MORE OR LESS, TO THE HIGH TIDE LINE OF RICH PASSAGE; THENCE EASTERLY ALONG SAID HIGH TIDE LINE 202 FEET, MORE OR LESS, TO A POINT HEREINAFTER DESIGNATED AS POINT "C" WHICH BEARS SOUTHERLY ON A LINE PARALLEL WITH THE EAST LINE OF SAID GOVERNMENT LOT 4 FROM SAID POINT "A", SAID PARALLEL LINE BEING HEREINAFTER DESIGNATED AS LINE "A-C"; THENCE NORTH PARALLEL WITH SAID EAST LINE 313 FEET, MORE OR LESS, TO A POINT WHICH BEARS EASTERLY ON A LINE PARALLEL WHT THE NORTH LINE OF SAID GOVERNMENT LOT 4 FROM THE TRUE POINT OF BEGINNING; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID GOVERNMENT LOT 4, A DISTANCE OF 200 FEET TO THE TRUE POINT OF BEGINNING;

EXCEPT THAT PORTION THEREOF LYING NORTHEASTERLY AND EASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE ABOVE DESIGNATED POINT "B"; THENCE SOUTHEASTERLY ON A STRAIGHT LINE TO A POINT ON THE NORTHERLY RIGHT OF WAY OF POINT WHITE DRIVE NE, 100 FEET WESTERLY, AS MEASURED ALONG SAID NORTHERLY RIGHT OF WAY, OF THE POINT OF INTERSECTION OF SAID NORTHERLY RIGHT OF WAY WITH THE ABOVE DESIGNATED LINE "A-C"; THENCE SOUTH PARALLEL

WITH THE EAST LINE OF SAID GOVERNMENT LOT 4 TO THE HIGH TIDE OF RICH PASSAGE AND THE TERMINUS OF THE LINE DESCRIBED HEREIN.

TRAIL EASEMENT (KITSAP COUNTY AUDITOR'S NUMBER 200312310253)

Kitsap County Parcel Nos. 042402-1-072-2003, 042402-1-073-2002 and 042402-1-074-2001

A NON-EXCLUSIVE TRAIL EASEMENT FOR PEDESTRIAN AND OTHER NON-MOTORIZED TRAVEL PURPOSES, WHICH EASEMENT IS 10 FEET IN WIDTH, LYING 5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE NORTHWEST CORNER OF GOVERNMENT LOT 4, SECTION 4, TOWNSHIP 24 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN;

THENCE ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 4, S 88°39'03" E FOR 411.46 FEET TO THE SOUTH QUARTER CORNER OF SECTION 33, TOWNSHIP 25 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN; THENCE CONTINUING ALONG THE NORTH LINE OF SAID GOVERNMENT LOT 4, S 88°39'03" E FOR 443.56 FEET; THENCE S 1°20'57" W FOR 30.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIBED CENTERLINE;

THENCE S 50°59'50" W FOR 35.61 FEET;
THENCE S 50°19'57" W FOR 20.99 FEET;
THENCE S 36°20'00" W FOR 8.90 FEET;
THENCE S 20°45'50" W FOR 8.25 FEET;
THENCE S 0°28'44" W FOR 21.59 FEET;
THENCE S 29°16'07" W FOR 16.39 FEET;
THENCE S 53°05'40" W FOR 23.97 FEET;
THENCE S 42°44'33" W FOR 21.30 FEET;
THENCE S 17°36'56" W FOR 24.34 FEET;
THENCE S 8°34'39" E FOR 18.70 FEET;
THENCE S 3°14'35" W FOR 10.26 FEET;
THENCE S 17°44'57" W FOR 25.91 FEET;
THENCE S 58°42'34" E FOR 18.94 FEET;
THENCE S 67°46'24" E FOR 89.75 FEET;
THENCE S 1°08'14" W FOR 454.12 FEET;
THENCE S 27°54'49" E FOR 183.22 FEET;
THENCE S 13°34'18" E FOR 33 FEET, MORE OR LESS,

TO THE NORTHERLY RIGHT-OF-WAY LINE OF POINT WHITE ROAD AND THE TERMINUS OF THIS DESCRIBED LINE.

Exhibit B

Permitted Uses

The following activities are consistent with the purpose of this Agreement and such activities and uses on the Properties designated as open space properties are permitted:

1. Passive park activities, such as hiking, bicycling, horseback riding, boating, kayaking, swimming, picnicking and nature viewing. The use of motorized vehicles and equipment shall be permitted only to the extent that such use is necessary to maintain the Properties for, and to facilitate, the passive park and/or open space activities permitted herein;

2. The placement of signs or billboards may be displayed (i) to state the name and address of the Properties, (ii) to state the preserved nature of the Properties; (iii) to advertise the passive park and/or open space activities and operations conducted upon the Properties; and (v) to post the Properties to control unauthorized entry or use; and

3. All activities incidental and/or necessary to the use of the Properties for passive park and/or open space activities, in accordance with generally accepted industry standards and practices.