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*****THIS IS YOUR ORIGINAL DOCUMENT – DO NOT DESTROY*****

_____ 1st Deed of Trust

_____ Quit Claim Deed

_____ 2nd Deed of Trust

_____ Power of Attorney

_____ Statutory Warranty Deed

X Stewardship Agreement
& Restrictive Covenant

Your document was recorded in the following County: King Pierce Snohomish

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Puyallup, WA 98372
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WHEN RECORDED RETURN TO:
Pierce County Parks & Recreation Services
ATTN: Conservation Futures Coordinator
9850 64th St W
University Place, WA 98467

WASHINGTON STATE COUNTY AUDITOR'S/RECORDERS INDEXING FORM

Document Title: Pierce County Conservation Futures Stewardship Agreement and Restrictive Covenant

Grantor: Great Peninsula Conservancy, a Washington non-profit corporation

Grantee: Pierce County, a municipal corporation and political subdivision of the state of Washington

Abbreviated Legal: Portion SE1/4 of SW1/4 in STR 23-22-1W, W.M., Pierce County, Washington (More particularly described in Exhibit "A" (Legal Description) APN/Parcel ID(s): 002223-3005

Tax Parcel Number(s): 002223-3005

RECORDED BY

RAINIER TITLE

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recording only*

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**PIERCE COUNTY CONSERVATION FUTURES
STEWARDSHIP AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS**

THIS PIERCE COUNTY CONSERVATION FUTURES STEWARDSHIP AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") is made and entered into as of the Effective Date (defined in Section 26 below) by and between GREAT PENINSULA CONSERVANCY, a Washington non-profit corporation ("Sponsor") and PIERCE COUNTY, a municipal corporation and political subdivision of the state of Washington ("Pierce County"). Sponsor and Pierce County may hereinafter be referred to collectively as "the Parties" or individually as a "Party."

RECITALS

WHEREAS Sponsor is sole owner in fee simple of that certain parcel real property in Pierce County, Washington, legally described in **Exhibit A** attached hereto and by this reference incorporated herein ("Protected Property"); and

WHEREAS the Protected Property includes Pierce County Tax Parcel No.002223-3005, containing approximately five acres according to the Pierce County Assessor-Treasurer, and was previously owned by Beverly J. Ellis; and

WHEREAS Sponsor acquired title to the Protected Property in part with funds from Pierce County's Conservation Futures Fund in exchange for its promise to hold title thereto in perpetuity as open space land for and on behalf of the general public in accordance with the terms of this Declaration; and

WHEREAS the Protected Property contains significant elements, features, attributes and amenities of great importance to Sponsor, Pierce County, the people of Pierce County and the state of Washington, described in and designated for protection under chapter 84.34 of the Revised Code of Washington ("RCW") and chapters 2.96 and 2.97 of the Pierce County Code ("PCC") including, without limitation: (a) open spaces; (b) forest lands; (c) wetlands; (d) streams; and (e) salmonid habitat (collectively "Conservation Characteristics"); and

WHEREAS the Parties desire to establish in this Declaration the terms, covenants and conditions under which Sponsor shall use and manage the Protected Property and to impose upon the Protected Property such restrictive covenants as are necessary to protect, preserve, maintain, improve, restore, limit the future development and use of and otherwise conserve, in perpetuity, the Protected Property and its Conservation Characteristics.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Sponsor and Pierce County hereby agree as follows:

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Tax Parcel Number(s): 002223-3005

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NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Sponsor and Pierce County hereby agree as follows:

A G R E E M E N T

1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference as if fully set forth.

2. **Restrictive Covenants; Purpose.**

2.1 **Restrictive Covenants.** Sponsor hereby declares that the terms, covenants and conditions of this Declaration shall, pursuant to Chapter 84.34 RCW and Chapter 2.97 PCC: (a) constitute restrictive covenants and/or equitable servitudes running with the Protected Property in perpetuity in fulfillment of the legal and contractual obligations of Sponsor with respect thereto; and (b) forever bind Sponsor and its successors-in-interest.

2.2 **Purpose.** The intention and purpose of the Parties (collectively "the Purpose") in executing, delivering and performing this Declaration is: (a) to ensure the Protected Property is held by Sponsor and its successors-in-interest in perpetuity as open space land so as to protect, preserve, maintain, conserve, enhance and improve its Conservation Characteristics; and (b) to prevent any use of the Protected Property that will damage or destroy its Conservation Characteristics or prevent their maintenance, restoration or enhancement.

3. **Stewardship.** Sponsor agrees for itself and its successors-in-interest to use and manage the Protected Property in perpetuity in accordance with the Purpose, this Declaration and all Applicable Laws (defined in Section 4.1 below).

4. **Obligations to Protect and Provide Public Access - Permitted Uses.**

4.1 **Obligation to Protect.** Sponsor shall use the Protected Property in accordance with: (a) all applicable federal, state, county and local laws, rules, regulations and standards (collectively "Applicable Laws"); (b) the Property Management Plan (as defined in and consistent with Section 7 below); and (c) this Declaration; so as to forever protect, preserve, maintain, conserve, enhance and improve the Conservation Characteristics thereof.

4.2 **Obligation to Provide Public Access.** Sponsor shall have 90 days from Closing the acquisition of the Protected Property to ensure that the Protected Property is opened to public access. Sponsor shall identify and submit to Pierce County a map depicting the location of at least one public access opportunity which shall serve as interim access until long-term public access opportunities are developed by Sponsor and set forth in the Property Management Plan to be completed by Sponsor as set forth in Section 7. Sponsor shall permit the public to have regular access to the Protected Property consistent with the requirements of Pierce County Code, the Administrative Guidelines, the Purpose, this Declaration and the Property Management Plan. In the event that the Sponsor anticipates submitting a Property Management Plan that will involve limitations on regular public access to protect sensitive natural areas, Sponsor shall identify and explain in writing any potential conflicts between providing public access to the Protected Property and restoration activities and other Conservation Futures priorities for the Protected Property and submit Sponsor's request for Pierce County's approval of limitations on public access within 120 days of the Effective Date of this Declaration. At a minimum, public access to the Protected Property shall include, but not be limited

to passive recreational activities such as: (a) hiking; (b) wildlife viewing; and (c) nature study. Sponsor's obligation to permit access to the Protected Property by the public does not include an affirmative duty to develop parking for vehicles and/or bicycles, restroom facilities or any other facilities or infrastructure.

4.3 Acknowledgements, Written Materials and Signs. Sponsor may, at its sole cost and expense, elect to create written materials and/or erect signs describing the Protected Property or any past, present or future Conservation Futures projects related thereto. If Sponsor shall make such an election, all such written materials and signs shall comply with the Purpose, this Declaration and all Applicable Laws and shall include an express acknowledgement of the role played by the Pierce County Conservation Futures program in acquiring the Protected Property. Sponsor shall coordinate with Pierce County regarding language to describe the County's Conservation Futures Program to be included in such express acknowledgments. In addition, all signs placed upon the Protected Property shall be: (a) prominently placed upon Protected Property in full view of the general public; and (b) designed to harmonize with the aesthetic features of the Protected Property.

4.4 Use of Northern Strip for Landscaping Purposes.

Although the Protected Property shall be owned and maintained as a nature preserve, this Declaration contemplates the licensing of a small rectangular area of approximately 0.25 acres comprising the northern strip of the Protected Property located between unvacated County right-of-way and an existing road, depicted in **Exhibit B**, that provides access to the Protected Property and to other Rocky Creek Property owned by Sponsor ("License Area"). The Sponsor may enter into a revocable license agreement with the owner of land to the north of the unvacated County right-of-way ("Northern Neighbor") to allow the Northern Neighbor to use the License Area for landscaping purposes, including mowing and maintaining a lawn, and planting, maintaining and pruning landscape trees; provided that such license shall not permit expansion of the License Area, construction of any improvements within the License, nor shall it allow any use, encroachment upon nor disturbance of any portion of the Protected Property outside of the License Area.

5. Prohibited Uses and Restrictions on Permitted Uses.

5.1 General. Any use of, or activity on, the Protected Property inconsistent with the Purpose, this Declaration or any Applicable Law is prohibited and Sponsor acknowledges and agrees it will not knowingly conduct, engage in, or permit any such use or activity.

5.2 No Conversion to Incompatible Uses. Sponsor shall not convert the Protected Property to any residential, commercial or industrial development or use or to any other use that is incompatible with the Purpose, this Declaration or any Applicable Laws.

5.3 Land Division. Sponsor shall not further subdivide or partition the Protected Property, whether by physical or legal process, including, without limitation: (a) subdivision; (b) short subdivision; (c) platting; (d) binding site plan; (e) testamentary division; or (f) other process by which the Protected Property is divided into lots, or in which title to different portions of the Protected Property are not held in unified ownership (collectively "Land Division"),

to passive recreational activities such as: (a) hiking; (b) wildlife viewing; and (c) nature study. Sponsor's obligation to permit access to the Protected Property by the public does not include an affirmative duty to develop parking for vehicles and/or bicycles, restroom facilities or any other facilities or infrastructure.

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without the prior written consent of Pierce County, which consent may be granted, withheld, conditioned or delayed by Pierce County in its sole and absolute judgment and discretion, and then only for purposes, and in a manner, consistent with the Purpose, this Declaration and all Applicable Laws.

5.4 Limitations on Natural Resource Use.

5.4.1 Aquatic Products. Sponsor shall not engage in, or permit others to engage in, the commercial production of cultivated marine or freshwater aquatic products.

5.5 Limitations on Mining. Sponsor shall not conduct, engage in, or permit the commercial mining or commercial extraction of soil, sand, gravel, oil, natural gas, fuel, or any other mineral substance, using any surface mining method. Sponsor may conduct or engage in mineral extraction if such extraction is not accomplished by any surface mining method and the method of extraction has a limited, localized impact on the land that does not damage, impair or endanger the Conservation Characteristics of the Protected Property. No extraction permitted pursuant to this Section 5.5 shall occur without prior written notice to and consent of Pierce County and such notice shall include a description of the type of extraction, the areas within which such extraction shall occur, and the anticipated impact thereof.

5.6 No Significant Erosion or Pollution. Sponsor shall not knowingly engage in any use or activity that causes or is likely to cause significant soil degradation or erosion or significant contamination or pollution of any soils or surface or subsurface waters on the Protected Property.

5.7 Forest Health and Timber Management. Sponsor may not conduct, engage in, or permit commercial forest management on the Protected Property; provided, timber management solely for purposes of forest health is permitted if in accordance with recommendations as described in the Forest Management Plan on file with Pierce County. The Forest Management Plan may be incorporated into the Property Management Plan described in Section 7 below. Forest management on the Protected Property shall meet the Pierce County Forest Practices requirements set forth in Title 18H PCC.

5.8 Limitations on Waste Disposal. Sponsor shall not accumulate and store ashes, garbage or other waste on the Protected Property. Nor shall Sponsor knowingly dispose of or Release (or knowingly permit the disposal or release of) any Hazardous Substance on the Protected Property. The term "Release" shall mean any release, generation, treatment, disposal, dumping, burying, or abandonment. The term "Hazardous Substance" shall mean any substances, materials, or wastes that are hazardous, toxic, dangerous, or harmful or are designated as, or contain components that are, or are designated as, hazardous, toxic, dangerous, or harmful and/or which are subject to regulation as hazardous, toxic, dangerous, or harmful or as a pollutant by any federal, state, or local law, regulation, statute, or ordinance, including, but not limited to, petroleum or any petroleum product. The term "Hazardous Substances" shall not include biosolids, herbicides, pesticides, rodenticides, insecticides, and fertilizers applied in accordance with all Applicable Laws. No storage of Hazardous Substances shall be allowed on the Protected Property.

5.9 No Compensatory Mitigation. The creation, enhancement, restoration or preservation of wetlands, fish or wildlife habitat, or other natural resources for the purpose of, directly or indirectly, compensating for or mitigating resource losses or damages in any way associated with actual or potential impacts of development except for impacts caused by Sponsor on the Protected Property ("Compensatory Mitigation") is prohibited on the Protected Property. Compensatory Mitigation includes, but is not limited to, mitigation banking, conservation banking, and any other sale or exchange of mitigation credits based on the creation, restoration, enhancement and/or preservation of such natural resources within the Protected Property.

6. Transfers by Sponsor.

6.1 Definition. "Transfer" includes, but is not limited to: (a) any sale, grant, lease, hypothecation, encumbrance, assignment or conveyance of the Protected Property, or any portion thereof or interest therein; (b) any transaction the purpose of which is to effect a sale, grant, hypothecation, encumbrance, assignment or conveyance of the Protected Property, or any portion thereof or interest therein; or (c) any legal proceeding the purpose of which is to effect a taking of the Protected Property, or any portion thereof or interest therein.

6.2 Limitations on Transfers. Sponsor shall not effect a Transfer except to a city, town, federally recognized Indian tribe, metropolitan park district, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association as defined in RCW 84.34.250, without the prior written consent of Pierce County, which consent may be granted, withheld, conditioned or delayed by Pierce County in its sole and absolute judgment and discretion.

6.3 Notice; Binding Effect. Sponsor shall give Pierce County written notice of not less than SIXTY (60) calendar days and not more than ONE HUNDRED TWENTY (120) calendar days prior to the date of any Transfer. In addition, any deed or other legal instrument effecting a Transfer shall: (a) expressly provide that the new owner of the Protected Property shall be subject to and strictly bound by all of the terms, covenants and conditions of this Declaration; and (b) incorporate therein the terms, covenants and conditions of this Declaration by express reference. The failure of Sponsor to perform any act required by this Section 6.3 shall not impair the validity of this Declaration or limit its enforceability in any way.

7. Property Management Plan. Sponsor shall, within ONE (1) year from the Effective Date, prepare and deliver to Pierce County a comprehensive written plan consistent with the requirements of Pierce County Code and the Administrative Guidelines that describes in detail (a) how Sponsor will maintain or steward the Protected Property over time; and (b) how Sponsor will implement and monitor activities associated with the Conservation Futures Priorities described in Sponsor's application for Conservation Futures Funding (hereinafter "Property Management Plan").

The Property Management Plan shall address, at a minimum, the following:

7.1 Long-term management goals for the Protected Property (desired future conditions);

5.9 No Compensatory Mitigation. The creation, enhancement, restoration or preservation of wetlands, fish or wildlife habitat, or other natural resources for the purpose of, directly or indirectly, compensating for or mitigating resource losses or damages in any way associated with actual or potential impacts of development except for impacts caused by Sponsor on the Protected Property ("Compensatory Mitigation") is prohibited on the Protected Property. Compensatory Mitigation includes, but is not limited to, mitigation banking, conservation banking, and any other sale or exchange of mitigation credits based on the creation, restoration, enhancement and/or preservation of such natural resources within the Protected Property.

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7.1 Long-term management goals for the Protected Property (desired future conditions);

7.2 Restoration activities related to Sponsor's primary project goal of protecting intact high-quality critical salmonid habitat from development, including but not limited to:

- (a) Forest thinning for habitat enhancement in accordance with Forest Management Plan;
- (b) Planting native vegetation;
- (c) Regular monitoring and removal of invasive vegetation;
- (d) Plan for regular removal of trash;
- (e) Plan for exclusion of motorized access to all portions of the Protected Property;
- (f) Plan for prohibition of any horse access within 150 feet of streams and wetlands on the Protected Property;

7.3 Program for monitoring the Protected Property in perpetuity in accordance with the standards and practices of the Land Trust Alliance;

7.4 Provision of passive public access opportunities on the Protected Property compatible with natural resources protection;

7.5 Maps including: (i) a U.S. Geological Survey quadrant map or recent aerial photo and county assessor's parcel map; (ii) a map showing all human-made and natural features; and (iii) the location of public access and use areas.

7.6 Implementation timeline and budget that identifies the source of funding for elements of the Plan.

8. Maintenance; Reporting.

8.1 Maintenance. Sponsor shall, at its sole cost and expense, keep and maintain the Protected Property, together with any improvements or alterations in, on, under or about the Protected Property, in a good and sound state of repair and in a neat, clean, safe and sanitary condition in accordance with the Purpose, all Applicable Laws and this Declaration.

8.2 Reporting. Sponsor shall, at least once every THREE (3) years from the Effective Date, issue to Pierce County a comprehensive written report documenting the then physical condition of the Protected Property, any improvements or alterations to the Protected Property, and Sponsor's compliance with Section 4.1 above.

9. Pierce County's Rights. To accomplish the Purpose, Pierce County shall have the following rights under this Declaration:

9.1 Protection. Pierce County shall have the right to identify, protect, preserve, maintain, improve, restore and conserve, in perpetuity, the Conservation Characteristics of the Protected Property.

9.2 Access. To enter upon the Protected Property at such other times as are necessary if there is reasonable cause to believe that a violation of this Declaration is occurring, solely for the purposes of enforcing the provisions of this Declaration. Prior to entry, Pierce County shall provide notice to Sponsor and shall describe the reasonable cause to believe that a violation is occurring on the Protected Property.

9.3 Uses and Practices. To enter upon, inspect, observe and study the Protected Property, with such persons as Pierce County may require, at mutually agreeable dates and times and upon prior notice of not less than THIRTY (30) calendar days to Sponsor, solely for the purposes of: (a) identifying the current uses and practices on the Protected Property and the condition of the Protected Property; and (b) monitoring the uses and activities on the Protected Property to determine whether they are consistent with the Purpose. For each such entry, Sponsor shall have the right to designate an individual to accompany Pierce County during its inspections, observations and studies.

9.4 Natural Events. To enter upon the Protected Property, at a mutually agreeable date and time and upon prior notice to Sponsor, to inspect the Protected Property after major natural events occur, such as fires, windstorms, and floods.

9.5 No Material Interference. Pierce County shall exercise its rights in compliance with all Applicable Laws and in a manner that will not materially disturb or interfere with Sponsor's rights hereunder or its quiet enjoyment of the Protected Property.

9.6 Consent. Sponsor shall not unreasonably withhold or delay its consent to dates and times of access proposed by Pierce County.

9.7 Prevention and Restoration. Pierce County shall have the right to prevent, or cause Sponsor to prevent, any use of, or activity on, the Protected Property that is inconsistent with the Purpose, this Declaration or any Applicable Laws, and shall have the right to cause to be undertaken the restoration of such areas or features of the Protected Property as may be materially damaged by activities contrary to the provisions hereof.

9.8 Assignment or Conveyance. Pierce County shall have the right in its sole and absolute judgment and discretion to assign, convey or otherwise transfer its right, title and interest in and to the Protected Property under this Declaration to a city, town, metropolitan park district, metropolitan municipal corporation, nonprofit historic preservation corporation as defined in RCW 64.04.130, or nonprofit nature conservancy corporation or association as defined in RCW 84.34.250, without the prior consent of Sponsor. In the event of any such assignment, conveyance or transfer, Pierce County shall have absolutely no further liability with respect to the Protected Property or to Sponsor under this Declaration except as to matters of liability that have accrued and remain unsatisfied. Pierce County's successor-in-interest shall have all rights of Pierce County hereunder.

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10. Dispute Resolution.

10.1 Preventive Discussions. Except in circumstances contemplated in Section 11, Sponsor and Pierce County shall endeavor to resolve any dispute regarding the interpretation of the terms of this Declaration first through a discussion between the Representatives of the Parties identified in this Section 10, then escalated to each Party's respective Executive if the dispute has not been resolved within ten (10) business days. Sponsor and Pierce County shall promptly give the other Party notice of problems or concerns arising in connection with the others' actions under this Declaration or the use of or activities or conditions on the Protected Property, and shall meet as needed, but no later than THIRTY (30) calendar days after receipt of a written request for a meeting.

10.2 Mediation. If the Parties disagree as to the consistency of any proposed use or activity with the Purpose, this Declaration or any Applicable Laws, and the Parties are unable to resolve such disagreement through unassisted preventive discussions between themselves, and if Sponsor agrees not to proceed with the use or activity pending resolution of the dispute, Sponsor and Pierce County shall refer the dispute to mediation by request made in writing upon the other. Within TEN (10) business days of the receipt of such a request, the Parties shall select a single impartial mediator. Mediation shall then proceed in accordance with the following guidelines:

10.2.1 Purpose. The purpose of the mediation is to: (a) promote discussion among the Parties; (b) assist the Parties to develop and exchange pertinent information concerning the issues in dispute; and (c) assist the Parties to develop proposals which enable them to arrive at a mutually acceptable resolution of the controversy. The mediation is not intended to result in any express or de facto modification or amendment of the terms, covenants or conditions of this Declaration.

10.2.2 Participation. The mediator may meet with the Parties and their counsel jointly or *ex parte*. The Parties agree that they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. Representatives of the Parties with settlement authority will attend mediation sessions as requested by the mediator.

10.2.3 Confidentiality. All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only with the consent of the Parties or their respective legal counsel. The mediator shall not be subject to subpoena by any Party. No statements made or documents prepared for mediation sessions shall be construed as an admission of a party. Provided, however, this provision relating to confidentiality shall not be construed to constrain Pierce County's compliance with the Washington State Public Records Act nor to create any obligation for Pierce County to ensure the nondisclosure of records that may be required to be disclosed pursuant to the Washington State Public Records Act.

10.2.4 Time Period. Neither Party shall be obligated to continue the mediation process beyond a period of SIXTY (60) calendar days from the date of receipt of the initial request or if the mediator concludes that there is no reasonable likelihood that continuing mediation will result in a mutually agreeable resolution of the dispute.

10.2.5 Costs. The costs mediation services shall be borne equally by the Parties. The Parties shall bear their own expenses, including attorney's fees, individually.

10.3 Arbitration. The Parties may, but are not required to, submit disputed matters to binding arbitration. In the event that one Party wishes to request that a disputed matter be submitted to binding arbitration, such Party shall provide notice in writing of its request and propose the rules for arbitration to be applied. Arbitration may take place only upon mutual agreement of the Parties with regard to the arbitrator, deadline for arbitration, and applicable rules for arbitration.

10.4 Representatives. The following shall be each Party's Representatives for purposes of initiating Preventive Discussions:

Pierce County:
Resource Stewardship Superintendent
9850 64th St W
University Place, WA 98467
Telephone: 253-798-4009

Great Peninsula Conservancy:
Executive Director
423 Pacific Ave., Suite 300
Bremerton, WA 98337
Telephone: 360-373-3500

11. Pierce County's Remedies.

11.1 Notice of Non-Compliance. If Pierce County determines Sponsor is in violation of the terms of this Declaration or that a violation is likely to occur, Pierce County shall give written notice to Sponsor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with this Declaration, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan to which Pierce County has given consent.

11.2 Grantors' Failure to Respond. Pierce County may bring an action as provided in Section 11.3 below if Sponsor: (a) fails to cure the violation within NINETY (90) calendar days after receipt of notice thereof from Pierce County; (b) under circumstances where the violation cannot reasonably be cured within the NINETY (90) calendar day period, fails to begin curing such violation within the NINETY (90) calendar day period; or (c) fails to continue diligently to cure such violation until finally cured.

11.3 Pierce County's Action. Pierce County may bring an action at law or in equity, or both, in a court of competent jurisdiction to enforce the terms of this Declaration, to enjoin the violation, as allowed under the applicable civil rules, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Declaration or injury to any of the Conservation Characteristics protected hereby, including damages for the loss

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thereof; and to require the restoration of the Protected Property to the condition that existed prior to any such injury. Without limiting Sponsor's liability therefor, Pierce County, acting in its sole and absolute judgment and discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Protected Property. All such actions for injunctive relief may be taken without Pierce County being required to post bond or provide other security.

11.4 Immediate Action Required. Notwithstanding any other provision of this Declaration to the contrary, if Pierce County, acting in its sole and absolute judgment and discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Characteristics, Pierce County may pursue its remedies under this Section 11 without prior notice to Sponsor, without participation in dispute resolution as provided in Section 10 above, or without waiting for the period provided for cure to expire.

11.5 Nature of Remedy. Pierce County's rights under this Section 11 apply equally in the event of either actual or threatened violations of the terms of this Declaration. Sponsor acknowledges and agrees Pierce County's remedies at law for any violation of the terms of this Declaration are inadequate and that Pierce County shall be entitled to the injunctive relief described in this Section 10 both prohibitive and mandatory, in addition to such other relief to which Pierce County may be entitled, including specific performance of the terms of this Declaration, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Pierce County's remedies described in this Section 11 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

11.6 Damages. Inasmuch as the actual damages to the Conservation Characteristics that could result from a breach of this Declaration by Sponsor would be impractical or extremely difficult to measure, the Parties agree that the money damages to which Pierce County is entitled shall be the higher of: (a) the amount of economic gain realized by Sponsor from violating the terms of this Declaration; or (b) the cost of restoring any Conservation Characteristics that have been damaged by such violation. If Pierce County chooses the second of these two measures, Sponsor agrees to allow Grantee and its agents or contractors, to enter upon the Protected Property and conduct restoration activities.

11.7 Pierce County's Discretion. Enforcement of the terms of this Declaration shall be at the discretion of the Pierce County and any forbearance by Pierce County to exercise its rights under this Declaration in the event of any breach of any of the terms, covenants or conditions hereof by Sponsor shall not be deemed or construed to be a waiver by Pierce County of such term, covenant or condition or of any of Pierce County's rights hereunder. No delay or omission by in the exercise of any right or remedy upon any breach by Sponsor shall impair such right or remedy or be construed as a waiver.

12. Fees and Charges. If Sponsor elects to charge user or other types of fees in connection with the public use of the Protected Property, fees and charges shall be commensurate with the value of the recreational services or opportunities furnished and are within the prevailing range of public fees and charges within the state of Washington for the particular activity involved.

13. Indemnification. Sponsor, for itself, its successors and assigns, shall defend, indemnify and forever hold Pierce County, and its elected and appointed officials, employees and agents, harmless to the maximum extent allowed by law from and against any and all liabilities, claims, demands, suits, judgments, costs and attorney fees of any kind, type or nature whatsoever arising out of or relating in any way relating to the Protected Property or to the subject matter of this Declaration.

14. Representations and Warranties.

14.1 By Sponsor. Sponsor represents and warrants to Pierce County that, as of the Effective Date, the following statements are true and correct:

14.1.1 Authority. Sponsor has full power and authority to execute and deliver this Declaration and the individual(s) who execute and deliver this Declaration are duly authorized to do so;

14.1.2 Litigation. There are no actions, suits or proceedings pending or threatened against Sponsor before any court or administrative agency which might result in Sponsor being unable to perform its obligations under this Declaration; and

14.1.3 No Other Representations or Warranties. Other than as expressly set forth in this Section 14.1, Sponsor makes no representations or warranties of any kind, type or nature whatsoever with respect to the Protected Property or the subject matter of this Declaration.

14.2 By Pierce County. Pierce County represents and warrants to Pierce County that, as of the Effective Date, the following statements are true and correct:

14.2.1 Authority. Pierce County has full power and authority to execute and perform this Declaration, and the individuals who execute and deliver this Declaration are duly authorized to do so;

14.2.2 Litigation. There are no actions, suits or proceedings pending or threatened against Pierce County before any court or administrative agency which might result in Pierce County being unable to perform its obligations under his Declaration;

14.2.3 No Other Representations or Warranties. Other than as expressly set forth in this Section 14.2, Pierce County makes no representations or warranties of any kind, type or nature whatsoever with respect to the Protected Property or the subject matter of this Declaration.

15. Notices. Notices required or desired to be given under this Declaration shall be in writing addressed to the Notice Representative and sent by either: (a) United States mail, return receipt requested; (b) recognized overnight express service which customarily maintains a contemporaneous permanent delivery record; or (c) such other address or addresses designated in writing from time to time by the method provided in this Section. The notice shall be deemed

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delivered on the earlier of: (a) Three (3) business days from deposit in the United States mail; or (b) the delivery date as shown in the regular business records of the overnight courier service. Notices shall be addressed as follows:

To Notice Representative for Sponsor:

Great Peninsula Conservancy
Attn: Executive Director
423 Pacific Ave., Suite 300
Bremerton, WA 98337

To Notice Representative for Pierce County:

Pierce County Parks & Recreation Services
Attn: Resource Stewardship Division
9850 64th St W
University Place, WA 98467

Copy to:

Pierce County Prosecuting Attorney/Civil Division
955 Tacoma Avenue South, Suite 301
Tacoma, WA 98402-2160

Any Party, by written notice to the other in the manner herein provided, may designate an address different from that set forth above. Any notices sent by a Party's attorney on behalf of such Party shall be deemed delivered by such Party. **NOTICE: Any electronic mail addresses provided above are for convenience only and are not valid for purposes of providing notices under this Declaration.**

16. Attorney Fees; Venue. The substantially prevailing party in any action or proceeding between the Parties for the enforcement of this Declaration shall be entitled to recover costs and reasonable attorney fees including, without limitation, reasonable attorney fees and expenses incurred in appellate proceedings, and expenses for witnesses (including expert witnesses), in addition to all other relief to which it may be entitled. The venue of any action arising out of or relating to this Declaration shall be in the Superior Court of Pierce County, Washington.

17. Negotiation. This Declaration was negotiated by the Parties with the assistance of their own legal counsel and shall be construed according to its fair meaning and not strictly for or against either Party.

18. Construction and Interpretation. This Declaration shall be construed and interpreted in accordance with the laws of the state of Washington so as to restrict use of the Protected Property to such activities that are consistent with the Purpose, the terms of this Declaration and all Applicable Laws.

19. **Time.** Time is of the essence of this Declaration and of every term and provision hereof.

20. **Entire Agreement.** This Declaration constitutes the entire agreement of the Parties with respect to the subject matter of this Declaration and supersedes all written or oral agreement or understandings, if any. This Declaration may be modified only in writing signed by both Parties.

21. **Date of Performance.** If the date of any performance under this Declaration falls on a weekend or holiday, the time shall be extended to the next business day.

22. **Cost of Performance.** Except as otherwise expressly provided in this Declaration, all covenants, agreement and undertakings of a Party shall be performed at sole cost and expense of that Party without a right of reimbursement or contribution from the other Party.

23. **Binding Effect.** The terms, covenants, conditions and restrictions of this Declaration shall be binding upon and shall inure to the benefit of Sponsor and Pierce County and their respective successors-in-interest in perpetuity.

24. **Invalid Provision.** If any provision of this Declaration is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Declaration shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Declaration; and the remaining provisions of this Declaration shall remain in full force and effect and shall not be affected by such illegal, invalid or unenforceable provision or by its severance from this Declaration.

25. **Recording.** This Declaration shall be recorded in its entirety with the Auditor of Pierce County, Washington.

26. **Effective Date.** "Effective Date" shall mean the date upon which the Pierce County Executive (who shall be last person to sign) shall have executed this Declaration as indicated opposite his name below.

[SIGNATURES & ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES]

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[SIGNATURES & ACKNOWLEDGEMENTS APPEAR ON FOLLOWING PAGES]

SPONSOR'S SIGNATURE PAGE

GREAT PENINSULA CONSERVANCY, a Washington non-profit corporation:

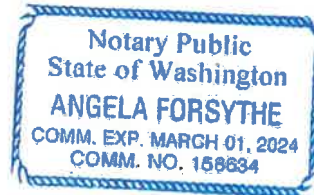
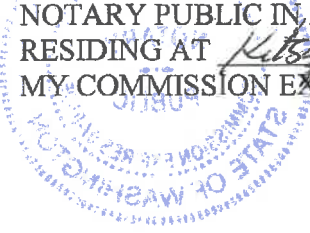
By: [Signature]
Printed Name: Nathan Daniel
Title: Executive Director
Date: 11/18/2021

STATE OF WASHINGTON)
COUNTY OF Pitkin) ss.

On this 18 day of November, 2021, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared NATHAN DANIEL, known to me to be the Executive Director of GREAT PENINSULA CONSERVANCY, a Washington non-profit corporation, who 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/she is authorized to execute the said instrument.


In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

[Signature]
NOTARY SIGNATURE
PRINTED NAME Angela Forsythe
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT Pitkin County
MY COMMISSION EXPIRES March 1, 2024



PIERCE COUNTY'S SIGNATURE PAGE

PIERCE COUNTY, a municipal corporation and political subdivision of the state of Washington:

 12/21/21

Pierce County Executive Date


STATE OF WASHINGTON)

) ss.

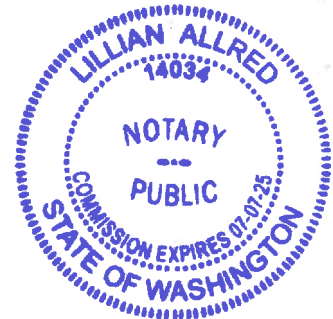
COUNTY OF PIERCE)

On this 21ST day of DECEMBER, 2021, before me, the undersigned, a notary public in and for the state of Washington, duly commissioned and sworn, personally appeared BRUCE F. DAMMEIER, known to me to be the executive of PIERCE COUNTY, a municipal corporation and political subdivision of the state of Washington, who executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.




NOTARY SIGNATURE
PRINTED NAME LILLIAN ALLRED
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,
RESIDING AT TACOMA, WA
MY COMMISSION EXPIRES 7-7-2025



PIERCE COUNTY'S SIGNATURE PAGE

PIERCE COUNTY, a municipal corporation and political
subdivision of the state of Washington:


Pierce County Executive Date 12/21/21

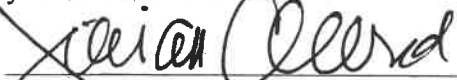
STATE OF WASHINGTON)

) ss.

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In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.



NOTARY SIGNATURE

PRINTED NAME LILLIAN ALLRED

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON,

RESIDING AT TACOMA, WA

MY COMMISSION EXPIRES 7-7-2025

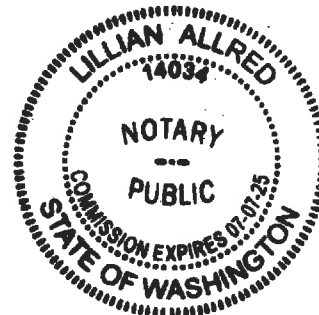


EXHIBIT A to Stewardship Agreement and Declaration of Restrictive Covenants
Legal Description of Protected Property

The West half of the West half of the West half of the Southeast quarter of the Southwest quarter of Section 23, Township 22 North, Range 1 West, W.M., in Pierce County, Washington;

TOGETHER WITH a non-exclusive easement over the North 30 feet of the Southeast quarter of the Southwest quarter, and the Southwest quarter of the Southeast quarter in Section 23, Township 22 North, Range 1 West, W.M., in Pierce County, Washington;

EXCEPT any portion lying within the main tract above.

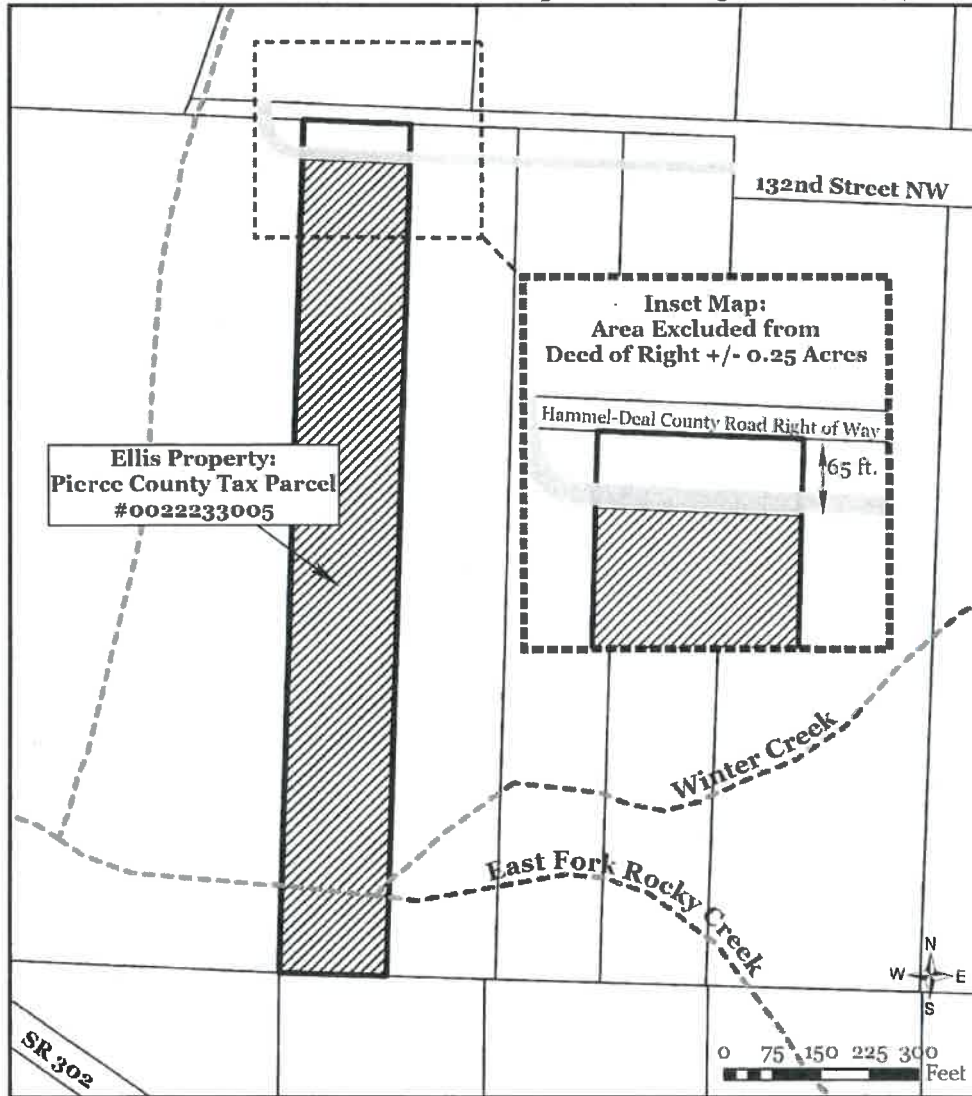
Situate in the County of Pierce, State of Washington.

Tax Parcel Account No.: 002223-3005

Exhibit B

Property Map

Rocky Creek Estuary and Riparian Protection Project
Ellis Property, Project Number 20-1007
Project Sponsor: Great Peninsula Conservancy
Pierce County Tax Parcel: #0022233005
Map Created: September 20th, 2021



■ Ellis Property ▨ Deed of Right - - - Streams
□ Pierce County Tax Parcels - - - Existing Driveway

Exhibit B

Property Map

