



Staff Report

Agenda Item:	7	Name:	Charlotte Archer
Proposed No.:	FCD2025-10	Date:	September 9, 2025

Proposed Resolution FCD2025-10: Authorizing King County to Execute Real Property Covenants on Certain Real Property Purchased Through the King County Flood Control District's Home Buyout and Elevation Program.

King County has submitted a request for the Board of Supervisors to authorize the execution of real property covenants that would encumber nine (9) parcels originally purchased utilizing District funding through the District's Home Buyout and Elevation Program. This request is made pursuant to King County Code Section 4.56.060.E.1.a, which requires the District's approval by resolution before King County can convey (including transmittal of an encumbrance of this nature) a real property interest acquired by King County utilizing District funding.

By this Resolution, the Board of Supervisors would authorize King County to execute the proposed Declarations of Land Use Restriction and Real Property Covenants for the identified nine (9) parcels, King County Tax Parcel Nos. 2323059142, 2323059205, 2323059063, 2323059062, 2323059043, 2323059141, 2323059098, 2223059155 and 2323059133 (the "Parcels").

Background for Request from King County:

- Original Acquisition of Impacted Parcels.

The District's **Home Buyout and Elevation Program** is a program designed to protect people and property in flood-prone areas of unincorporated King County and the City of Snoqualmie through the voluntary sale of structures or the voluntary elevation of structures. For a home buyout through the program (the relevant component of the program to this request), the District funds the purchase through a voluntary sale of flood-prone properties and structures, primarily of structures in areas where there is significant flood risk due to fast-moving waters, channel migration, or bank erosion.

The District, through its primary service provider King County, funded the acquisition by King County of seven parcels on the right bank of the Cedar River between 2007 and 2010, and two parcels on the left bank of the Cedar River in 2012 as part of the home buyout program. These Parcels are identified as King County Tax Parcel Nos. 2323059142, 2323059205, 2323059063, 2323059062, 2323059043, 2323059141, 2323059098, 2223059155 and 2323059133.

- King County's Use of the Impacted Parcels Following Acquisition.

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

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

33 CFR 332.2.

Through the KC MRP, King County completed construction of the **Elliott Bridge Mitigation Project** in 2016, which was a project to restore off-channel habitat and floodplain reconnection utilizing the purchased Parcels. The project restored approximately 11.5 acres on the right and left banks of the Cedar River, adding flood storage capacity and salmon habitat.

The federal mitigation rule (33 C.F.R. § 332.7) that governs the ILF requires permanent site protection to ensure mitigation sites established by KC MRP continue to provide ecological functions in perpetuity and permit the use of restrictive covenants to provide the necessary permanent site protection. The restrictive covenants ensure the Parcels remain as natural open space in perpetuity in order to meet the requirements of the KC MRP. As required by the Army Corps of Engineers and the federal regulations, the restrictive covenants must be recorded on the Parcels before the end of the KC MRP management of the Elliot Bridge Mitigation Project, which is scheduled to end in December 2025.

King County provided the Declarations of Land Use Restriction and Real Property Covenants to the Board that are attached to the Resolution as Exhibits A and B, which have been pre-approved by the Army Corps of Engineers and Washington State Department of Ecology.

- Request from King County to Board of Supervisors Under KCC 4.56.060.E.1.a.

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

KCC 4.56.060 Real Property – responsibilities

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

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

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

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

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

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

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

In summary, by adopting this Resolution, the Board would authorize—consistent with KCC 4.56.060.E.1.a—King County to “convey” the Parcels through the execution of the Declarations of Land Use Restriction and Real Property Covenants attached to the Resolution as Exhibit A (for the Parcels on the right bank of the Cedar River) and Exhibit B (for the Parcels on the left bank of the Cedar River).

The Executive Committee is requested to review the request and associated Resolution and move the item forward to the full Board for its next meeting.