

## CITY COUNCIL STUDY SESSION ITEM

### SUBJECT

Bellevue-King County Interlocal Agreement on Bel-Red Regional TDRs.

### STAFF CONTACT

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*Department of Planning & Community Development*

### POLICY ISSUES

What are the appropriate terms for the Interlocal Agreement with King County on the Regional Transfer of Development Rights (TDR) program for Bel-Red? What are the desired rural areas that should be designated as "sending sites" for Bel-Red development credits?

In prior actions the Council approved the inclusion of Regional TDRs in the Bel-Red Amenity Incentive system. The next step and focus of this Study Session is agreement on the terms of the Interlocal that implements this program.

### DIRECTION NEEDED FROM COUNCIL

Action  
 Discussion  
 Information

Staff is seeking direction on the draft Interlocal with King County. No action is requested tonight. Following Council direction, the Interlocal will return for Council action at a future meeting.

### BACKGROUND/ANALYSIS

Participation in a Regional Transfer of Development Rights program was addressed favorably in the Bel-Red Steering Committee recommendations, and subsequently adopted by Council into the new Bel-Red Subarea Plan and Code amendments. The City Council also has incorporated the financial assumptions of the TDR program into the Mobility and Infrastructure Financing plan.

The Bel-Red Land Use Code amendments, adopted May 18, 2009, establish Regional TDRs as an eligible Tier 1 bonus in the Bel-Red Amenity Incentive System, subject to the following provisions of LUC 20.25D.090.C.7:

1. *TDR credits are defined in accordance with the King County TDR Program as approved or subsequently amended by the City pursuant to the Bellevue-King County TDR Interlocal Agreement.*
2. *TDR credits for use in the entire Bel-Red Subarea is limited to 75.*

The purpose of tonight's Study Session is to review the terms of the draft King County Interlocal referred to above, and to identify the desired rural sending areas. This follows up on the principle that the Council has the opportunity to designate the sending areas to be protected through the Bel-Red TDR program.

### **Terms of the Draft Interlocal**

The draft Bellevue-King County TDR Interlocal is provided as Attachment A. Selected key terms include the following:

*Section II.B. TDR Sending Site Areas:* This section will identify the priority sending areas as identified by the City Council from the array of areas eligible under the County TDR program. The current draft is a placeholder, and will be completed following Council direction on specific area priorities (also slated for Council discussion tonight).

*Section II.C. Rural TDR Credit Limit, and II. D. TDR Credit Bonus Building Area:* Earlier discussions with the County limit the total number of TDR credits to 75. Per the calibration of value conducted by the City's economic consultant, each TDR will generate 1,333 square feet bonus area for a total of 100,000 square feet bonus building area in Bel-Red. Section C of the draft Agreement limits Bel-Red TDRs to either 75, or their square foot equivalency, whichever is arrived at first.

Section D calibrates the developer's cost of regional TDRs at \$14/SF of bonus building area. This is slightly below the \$15/SF used across the board for the Bel-Red bonus system, to make regional TDRs competitive with other Tier 1 bonuses.

The equivalency approach would benefit the City in the event that the Council selects sending areas where TDRs are worth more than the City consultant's assumed \$20,000. It would maintain the overall limit on bonus area available through regional TDRs, while ensuring that the numbers are economically feasible for the developer.

### **Example**

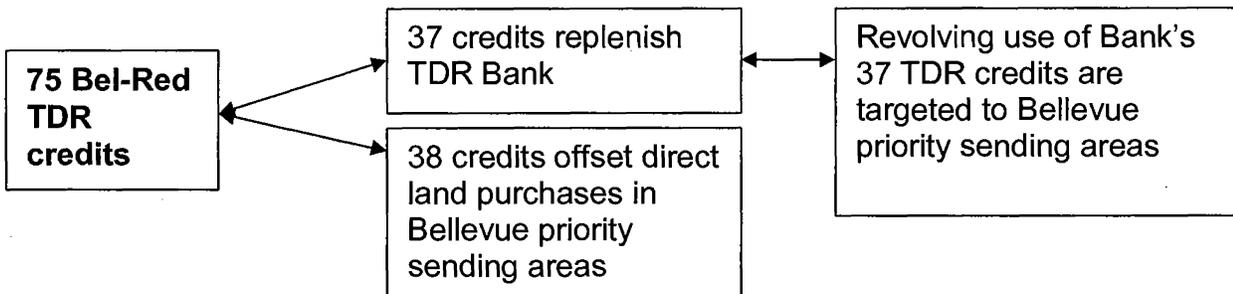
Assume the City selects an area where TDRs are worth \$60,000 each rather than \$20,000 each. Then:

- Each TDR generates 4,286 square feet ( $\$60,000/\$14$ ) rather than 1,333 square feet.
- Total Bel-Red TDRs would be limited to 23.33 ( $100,000 \text{ SF}/4,286 \text{ SF}$ ) rather than 75.
- Total available Bel-Red bonus square feet: still limited to 100,000 square feet—same as if each TDR valued at \$20,000.

*Section II. E. King County TDR Bank.* This section stipulates that half of the TDR transactions from Bel-Red be funneled through the County TDR Bank. The TDR Bank is an existing mechanism where the County buys and sells development rights where timing is of the essence. Directing those Bel-Red credits through the TDR Bank helps to maintain the bank's ability to respond to future opportunities. This section has two implications for this agreement:

- Half of the Bel-Red TDR transactions would help replenish the TDR Bank from earlier transactions. As the Bel-Red TDR Bank proceeds revolve over and over, these Bank credits would be marked to purchase lands identified as priority areas by Bellevue, supporting long term acquisition in these areas.
- The other half of the Bel-Red TDR transactions would offset direct purchases of development rights in Bellevue’s priority sending areas and could bypass the TDR Bank.

In this manner half of the TDR credits used in Bel-Red would directly offset near-term purchases of rights from Bellevue’s priority sending area. The other half of the TDR credits would replenish the TDR Bank, which would use those credits to target Bellevue priority sending areas for future purchases.



*Section IV. Public Amenities Investment:* The County is to provide \$750,000 to the City for creation and acquisition of public open space, parks or stream amenities in the Bel-Red Subarea. This is consistent with earlier Council discussion, and will replace half the funds that would otherwise be generated for these same amenities via 75 TDRs/100,000 square feet of Bel-Red “Tier 1” bonus building area. Funds shall be provided following the County’s receipt of a signed purchase and sale agreement for a specific open space property, or a final invoice for stream restoration work.

*Section V. Duration, Termination, and Extension of the Agreement:* A new factor in this section allows for extension of the Agreement beyond the 75 TDR/100,000 square foot limit, if both parties voluntarily agree to do so. This is contingent upon the availability of additional amenity funding for the City from County, state or federal sources, plus the commitment of other cities agreeing to participate in a regional TDR program. This latter point is critical to the County’s interest in seeing the program reach a critical mass. Any extension is of course discretionary and requires the agreement of both parties.

**Potential Rural Sending Areas**

A second key part of tonight’s discussion is the Council’s identification of priority areas for purchase of development rights; i.e. the eligible sending areas for Bel-Red TDRs. Consistent with earlier Council discussions, the draft Agreement allows the City to identify the Bel-Red priority areas from among those eligible for the County’s TDR Program.

Earlier Council discussions have identified three types of sending areas that Bel-Red could help preserve:

- Parts of the Mountains to Sound Greenway
- Portions of agricultural lands serving Bellevue’s farmers markets
- Parts of the White River watershed

The attached maps (Attachment 2) present potential areas of these three types. Staff will be available to answer questions as needed to work with the Council to narrow this list down to the preferred sending areas.

### **DIRECTION REQUESTED**

Staff is requesting direction tonight on two related items:

1. The Council's review and concurrence with the terms of the Draft Interlocal
2. The identification of priority TDR sending areas

Following tonight's direction, if the Council is ready to move forward, staff will return with the refined Interlocal Agreement for Council action in two weeks.

### **ATTACHMENTS**

- A. Draft Interlocal Agreement for Bel-Red Regional TDRs
- B. Potential Priority Sending Areas for Bel-Red TDRs

**DRAFT**  
**6-22-09 City Council Review Draft**

**AN INTERLOCAL AGREEMENT FOR THE IMPLEMENTATION OF A  
REGIONAL PROGRAM TO TRANSFER DEVELOPMENT RIGHTS FROM  
RURAL UNINCORPORATED KING COUNTY TO THE BEL-RED SUBAREA  
IN THE CITY OF BELLEVUE**

This Agreement is hereby entered into by King County, a home rule charter county of the State of Washington, herein after referred as the "County," and The City of Bellevue, a municipal corporation of the State of Washington, herein referred to as the "City."

**RECITALS**

WHEREAS, the Washington State Growth Management Act (GMA), RCW 36.70A, directs development into urban areas and discourages inappropriate conversion of undeveloped rural land into sprawling, low-density development; and

WHEREAS, the GMA encourages the conservation of productive forest and agricultural lands and the retention of open space to conserve fish and wildlife habitat and enhance recreational opportunities; and

WHEREAS, the GMA requires counties to adopt county-wide planning policies in cooperation with cities within the County; and

WHEREAS, by Interlocal Agreement, the County, Suburban Cities and the City, adopted and ratified the Countywide Planning Policies for King County; and

WHEREAS, the Countywide Planning Policies direct jurisdictions in the County to implement programs and regulations to protect and maintain the rural character of rural, farm and forest lands, and to direct growth to cities and urban centers; and

WHEREAS, the County's rural and resource areas are recognized by both the City and the County as containing important countywide public benefits such as forestry, agricultural, wildlife habitat and scenic resources and recreational opportunities; and

WHEREAS, the City has identified rural and resource lands in King County as preservation priorities; and

WHEREAS, the County has in King County Code 21A.37 adopted a Transfer of Development Rights Program which authorizes incorporated areas to receive development rights transferred from rural and resource unincorporated areas; and

WHEREAS, by Bellevue Ordinance 5858 the City adopted the Bel-Red Subarea Plan to actively consider the Bel-Red Subarea as a potential receiving site for regional Transfer of Development Rights, as a means to achieve conservation of rural resource lands outside the Countywide Urban Growth Boundary; and

WHEREAS, the Bel-Red Subarea Plan calls for density incentives for residential and commercial development, and to increase public amenities to improve the pedestrian, park, and transit oriented development pattern in the Bel-Red Corridor; and

WHEREAS, by Bellevue Ordinance 5874 the City amended its Land Use Code by adopting a new Part 20.25D which established regulations, standards, and design guidelines to implement the Bel-Red Subarea Plan and permitted the use of Regional Transfer of Development Rights from rural King County to increase the development capacity of properties in the Bel-Red Corridor under certain conditions; and

WHEREAS, the County in its 2007 Budget, Ordinance 15652, appropriated funding to provide cities with amenity payments which enter into an interlocal TDR agreement with the County; and

WHEREAS, the City and the County share an interest in creating an effective, cooperative development right transfer system to achieve: the City's goals for the Bel-Red Subarea Plan, the County's goals in the King County Comprehensive Plan, and goals inherent to the Countywide Planning Policies and the GMA; and

WHEREAS, this shared interest is manifested through this ongoing Regional Transfer of Development Rights (TDR) Agreement in which the City agrees to take additional development to preserve rural and resource land and the County invests in receiving area amenities; and

WHEREAS, an extension of this Agreement may be considered based on the availability of future County, State, or federal infrastructure funding incentives for the City, a commitment of a minimum number of cities in the Region agreeing to take additional development to preserve rural and resource lands, and the interests of the parties; and

WHEREAS, this Agreement will act to encourage other cities in the Region to enter into similar TDR agreements with the County; and

WHEREAS, the County and the City are authorized, pursuant to RCW 39.34 and Article 11 of the Washington State Constitution, to enter into an interlocal governmental cooperation agreement to accomplish these shared goals.

## AGREEMENT

NOW THEREFORE, in consideration of the foregoing circumstances, the County and the City herein agree:

### **I. PURPOSE**

The County and the City agree to implement a program (hereafter the "Program") to transfer development rights (hereafter referred to as "rural TDR credits") from unincorporated rural and resource sending areas of the County, as depicted in Exhibit A, into the Bel-Red Subarea in the City, as depicted in Exhibit B, according to the provisions described below. Furthermore, the Program seeks to establish a marketplace for rural TDR credits that will generate on-going preservation of lands deemed important to the City of Bellevue through the creation of a revolving fund using the King County TDR Bank.

### **II. RESPONSIBILITIES AND POWERS OF THE CITY OF BELLEVUE**

#### **A. City Ordinances**

The City has adopted Ordinance 5874 to implement the Program, which Ordinance has, among other provisions:

1. Amended the Bellevue Land Use Code to include Part 20.25D, which establishes regulations, standards, and design guidelines for development within the Bel-Red Subarea;
2. Allowed for the Bel-Red Subarea and Land Use Districts, identified and described in Exhibit B, to act as receiving areas for rural TDR credits that originate from sending sites located in King County's unincorporated rural and resource areas under the terms of this Program;
3. Established the Bel-Red Floor Area Ratio (FAR) Amenity Incentive System, attached as Exhibit C, which allows Bel-Red development projects to exceed base FAR and base building height through the use of rural TDR credits;
4. Limited the amount of rural TDR credits that could be used within the Bel-Red Subarea to a total of 75 credits;
5. Set the level of additional development capacity ("Bonus Building Area") that may be permitted on receiving sites in the Bel-Red Subarea for each rural TDR credit at 1,333 square feet per TDR credit or at a rate otherwise established through this Agreement;

6. Established this Agreement as a source for determining the Bonus Building Area, maximum amount of TDR credits to be used, and other details of the City's participation in the Program;
7. Established and modified development standards and provisions for public amenities.

The City shall take any necessary steps to allow the City to receive and track the amenity payments described in this Agreement.

**B. TDR Sending Site Areas**

The City has identified the following "Sending Site Areas," described below and depicted in Exhibit A, from which rural TDR credits may be used for Bonus Building Area in the Bel-Red Subarea. Properties within these Sending Site Areas must first be "qualified" and then "certified" in accordance with the County's TDR Program (K.C.C. 21A.37).

1. [to be identified after Council input]
2. [to be identified after Council input]

**C. Rural TDR Credit Limit**

As an alternative to the limit of 75 rural TDR credits established in the Bel-Red Land Use Code 20.25D.090, the total Bonus Building Area in the Bel-Red Subarea and Land Use Districts allowed with the use of rural TDR credits under this Agreement shall be limited to either 75 rural TDR credits or 100,000 square feet of Bonus Building Area earned through the use of rural TDR credits, whichever is arrived at first.

**D. TDR Credit Bonus Building Area**

In order to create a viable rural TDR credit market and preserve land in the Sending Site Areas, the City shall allow an alternative method of calculating the amount of Bonus Building Area allowed for each TDR credit as follows and according to the examples shown below:

TDR credits that originate from properties in the Sending Site Areas, or TDR credits from the King County TDR Bank, shall earn Bonus Building Area equal to the appraised TDR credit value divided by \$14/sf. In the event the TDR credit was purchased directly from the Sending Site Area landowner, or purchased from the King County TDR Bank at price not equal to its appraised value, the purchase

price of the TDR credit may be used for this calculation in lieu of an appraisal of the TDR credit.

*Example #1: A Sending Site Area landowner sells a TDR credit to a Bel-Red Subarea developer for \$40,000 without aid of an appraisal. The TDR credit shall equal 2,857 square feet of Bonus Building Area in the Bel-Red Subarea (i.e. \$40,000 divided by \$14/sf).*

*Example #2: A Bel-Red Subarea developer buys and certifies a property in the Sending Site Area. The TDR credit(s) shall be valued using a certified Member of Appraisal Institute (MAI) appraisal. If the certified appraisal indicates TDR credit value to be \$30,000, the TDR credit shall equal 2,143 square feet of Bonus Building Area in the Bel-Red Subarea (i.e. \$30,000 divided by \$14/sf).*

*Example #3: The King County TDR Bank buys a TDR credit from a Sending Site Area landowner for \$60,000 based on a certified MAI appraisal (K.C.C. 21A.37 requires the Bank to pay appraised value for TDR credits). The Bank sells a TDR credit to a Bel-Red Subarea developer for \$60,000. The TDR credit shall equal 4,286 square feet of Bonus Building Area in the Bel-Red Subarea (i.e. \$60,000 divided by \$14/sf).*

#### **E. King County TDR Bank**

The City agrees that the King County TDR Bank (hereafter the "Bank") will be used as a revolving fund to sell rural TDR credits for Bel-Red development, and the County shall subsequently use proceeds from such TDR credit sales to buy development rights from the Sending Site Areas. The City understands the Bank will play an important role to facilitate the City-County TDR market by: (1) buying development rights up-front from willing private landowners, (2) holding the rural TDR credits, and (3) selling the rural TDR credits when a willing buyer of Bonus Building Area in the Bel-Red Subarea is available.

The City agrees that the first 37 of the 75 total rural TDR credits, or the first 50,000 square feet of the total 100,000 square feet Bonus Building Area, used in the Program (whichever occurs first) shall be with TDR credits held by the Bank. These Bank TDR credits shall have originated from forestlands and important viewshed lands such as the recently certified properties located in the Raging River Headwaters in the Mountains to Sound Greenway. Revenues the Bank receives from the sale of these TDR credits, and any other TDR credits purchased for use in the Program for Bel-Red development shall be used to create a revolving fund for land protection in accordance with Section III B.

**F. County Acknowledgment; Modifications**

The County acknowledges that the provisions of Ordinances 5858 and 5874 are consistent with the intent and purposes of the Program.

**G. Notification Process**

The City, in consultation with the County, shall develop a process to notify the County when it has approved the use of rural TDR credits in a specific project in the Bel-Red Subarea. For purposes of this Agreement, "approved" occurs at the earlier of (a) issuance by the City's Development Services Department of the first building permit for a project using rural TDR credits; or (b) a developer's irrevocable commitment to use the rural TDR credits for a specific project.

**H. Report**

The City shall report to the County within thirty (30) days after the end of each calendar quarter the number of rural TDR credits that have been approved by the City for projects in the Bel-Red Subarea, and shall identify the specific projects involved. In addition, the City shall cooperate the County in providing the information required for the annual report as described in Section VI.

**III. RESPONSIBILITIES AND POWERS OF KING COUNTY**

**A. Program Administration**

The County has adopted polices, regulations and administrative procedures to implement the Program, which shall promote and facilitate the purchase and sale of rural TDR credits. The County shall, at a minimum:

- 1) In accordance with K.C.C. 21A.37, facilitate and promote the TDR qualification and certification of properties located in Sending Site Areas;
- 2) Establish procedures to facilitate the sale of rural TDR credits from private landowners and the Bank;
- 3) Establish procedures to require, maintain and enforce deed restrictions on unincorporated rural and resource sending sites from which rural TDR credits are bought, in order to prohibit those sites from being developed in violation of the deed restrictions.

**B. Operation of the TDR Bank**

The County agrees to use revenues the Bank receives from the sale of TDR credits for Bel-Red development to create a revolving fund to acquire development rights in the future from the Sending Site Areas.

The County shall make its best efforts to identify and appraise properties in the Sending Site Areas for potential rural TDR credit purchase by the Bank and provide the City with representative price ranges of the value of such rural TDR credits that the County has appraised and/or purchased.

**C. Program Evaluation**

The County shall, jointly with the City, publish every year a report as described in Section VI.

**D. Public Amenity Payments**

The County shall provide funds as amenity payments to the City for the creation and acquisition of public open space, parks and stream amenities in the Bel-Red Subarea according to the provisions in Section IV, Public Amenities Investment.

**E. Notification Process**

The County shall notify the City within thirty (30) days after the end of each calendar quarter the number of rural TDR credits it has qualified and certified in the Sending Site Areas identified in Subsection II B.

**IV. PUBLIC AMENITIES INVESTMENT**

**A. Initial Investment**

Consistent with adopted County appropriations and statutory restrictions, the County shall provide funds as an initial investment in the amount of \$750,000 to the City for the creation and acquisition of public open space, parks or stream amenities in the Bel-Red Subarea to mitigate a portion of the impacts associated with transferred density and to encourage increased density in the Bel-Red Subarea. The \$750,000 will be disbursed according to Subsection IV E. The initial \$750,000 payment shall be referred to as the "Initial Amenity Funds."

**B. County Fund Sources; Contracting**

The source of the Initial Amenity Funds is authorized in the 2007 Budget, Ordinance 15652. The Initial Amenity Funds shall only be spent on the creation and/or acquisition of public amenities in the Bel-Red Subarea consistent with Subsection IV C. Unless otherwise required by statutory restrictions on such funds and where applicable, City contracting procedures will be used for amenity projects utilizing the Initial Amenity Funds.

**C. Eligible Amenities.**

The City shall only spend Initial Amenity Funds for the creation and/or acquisition of amenities in the Bel-Red Subarea indicated in this Subsection IV C, and provided that City expenditures shall be consistent with statutory restrictions of the County Conservation Futures Tax (CFT) funding. The funds may only be used for the creation, improvement and/or acquisition of amenities with the following Open Space Resource Criteria as specified by one or more of the following Criteria described below:

1. Parks, open space, gardens, or gateways;
2. Stream restoration;
3. Wildlife habitat;
4. Salmon habitat and aquatic resources;
5. Scenic resources;
6. Historic or Cultural Resources;
7. Urban passive-use natural area/greenbelt
8. Park, open space or natural corridor addition
9. Passive Recreation opportunity in area with unmet needs

**D. Funding of Amenities**

1. Initial \$750,000. The County shall provide \$750,000 to the City within thirty (30) days following the later of: adoption of this Agreement; or the City providing the County with either a signed purchase and sale agreement for a particular open space property in the Bel-Red Subarea or a final approved CIP for stream restoration work within the Bel-Red Subarea.

The County shall not withhold or delay approval of a purchase or the concept plan and scope of work so long as such purchase or work meets the restrictions of Section IV.C above. Any disapproval by the County shall include a written statement of the grounds for disapproval and the changes deemed necessary by the County.

2. Priority for other Funding. In addition to the provisions for public amenities under this Subsection IV, the County shall, while this Program is in effect, consider granting priority to amenity projects within the Bel-Red Subarea to receive funding from other sources to increase amenities in the area.
3. Future Amenity Funding. Prior to the transfer of all 75 rural TDR credits for use in the Bel-Red Subarea, or all 100,000 square feet of bonus building area has been approved for use in the Bel-Red Subarea with rural TDR credits, the County and the City may consider future amenity fund payments to extend the Program according to Section V C, beyond the limits set forth in Section II C.

**F. Funding is Additional**

County funding under this Agreement is in addition to any funding to be provided to the City, or for amenities, under any other agreement, commitment, or program.

**V. DURATION**

**A. Duration**

This Regional TDR Agreement shall become effective on the date it is signed by all parties and shall continue until all 75 rural TDR credits have been used for development in the Bel-Red Subarea, or 100,000 square feet of bonus building area has been used for development in the Bel-Red Subarea with the use of rural TDR credits, unless earlier terminated as provided in Section V B.

**B. Termination**

Either party may terminate this Agreement upon 180 days' written notice to the other if: (1) the City's development regulations allowing the use of rural TDR credits, or the provisions of the County's development regulations allowing transfer of development rights to cities are held invalid by any court of competent jurisdiction in a final judgment no longer subject to appeal; or (2) the other party shall materially default in the performance of its obligations herein, and shall not cure such default within thirty (30) days' notice after such party's receipt of written notice thereof from the City or County, as the case may be. Any termination of this Agreement shall affect the use of rural TDR credits previously certified by the County for use in the Bel-Red Subarea only to the extent provided in City development regulations, as the same may be amended. Any termination of this Agreement shall not affect the City's or County's rights or duties with respect to the Initial Amenity Funds previously provided by the County under the terms hereof, nor the City's right to receive County funds for which the City shall

have satisfied all conditions to disbursement prior to termination. In the event this Agreement is terminated by the County pursuant to Section V(B)(2) because the City has modified its Land Use Code in a manner that prohibits or effectively prohibits the use of rural TDRs consistent with the Program, and the Initial Amenity Funds provided in Section VI(D)(1) have been disbursed to the City, the City shall refund to the County a percentage of the Initial Amenity Funds equal to the percentage of the 100,000 square feet of Bonus Building Area that has not been transferred into the Bel-Red Subarea pursuant to the Program.

### **C. Extension**

Pursuant to a mutual written agreement between the parties, this Agreement may be extended beyond the date at which all 75 rural TDR credits have been transferred for development in the Bel-Red Subarea, or beyond the date at which all 100,000 square feet of bonus building area has been used for development in the Bel-Red Subarea with the use of rural TDR credits.

Extension of this Agreement shall be considered contingent upon the availability of a combination of County, State, or Federal amenity funding incentives for the City, and a commitment of at least 5 cities in the Region agreeing to take additional development capacity to preserve rural and resource lands in concert with Regional TDR legislation passed by the 2009 WA State Legislature and codified in RCW Chapter 43.362.

To extend this Agreement, the City or the County shall make a written request to the other not less than sixty (60) days prior to the end of this Agreement. The request shall specify the proposed terms of the extension. The parties must agree to the extension in writing by the termination date or the agreement will lapse. Notwithstanding anything in this Agreement to the contrary, it is acknowledged by the parties that neither party has an obligation to renew or extend this Agreement.

1. Extension - Future Amenity Funding. Subject to available budget authority, the County through the King County Executive, and the City will negotiate in good faith to determine the amount of future amenity funds to be provided by the County to the City. The level of additional County amenity funding above the initial \$750,000 authorized, shall be determined by the County in cooperation with the City based on the number and cost of rural TDR credits accepted for use in permitted projects inside the Bel-Red Subarea during the initial term of this Agreement.

Future amenity funding from the County above the initial \$750,000 authorized in this Agreement shall be contingent on appropriations adopted by the Metropolitan King County Council.

2. Use of Future Amenity Funding. Additional funds provided by the County under Section V shall be expended by the City only for amenities mutually approved by the City and County. The County shall not unreasonably withhold approval of amenities consistent with County statutory restrictions and the City's Bel-Red Subarea Plan.

Prior to distribution of any future amenity funding, the City must provide and the County must approve a concept plan and written scope of work describing the elements, estimated schedule, and estimated budget for the work to be accomplished with the funding. The City shall provide sufficient detailed scope and budget information consistent with standard engineering, public finance and auditing practices. The County shall not unreasonably withhold or delay approval of the concept plan and scope of work. Any disapproval by the County shall include a written statement of the grounds for disapproval and the changes deemed necessary by the County. The County shall approve or disapprove a concept plan and scope of work within sixty (60) days of its delivery to the County, or within twenty (20) working days of delivery to the County of revisions after any County disapproval.

## **VI. EVALUATION AND MONITORING**

### **A. Records**

The records and documents with respect to all matters covered by this Agreement shall be subject to inspection, review, or audit by the City or County as requested by each jurisdiction during the applicable records retention period specified by or pursuant to law.

### **B. Joint Report**

The City and County shall cooperate to allow the County to publish a yearly report evaluating the progress of the Program. The report shall include at minimum an analysis of the factors listed below.

- 1) the number of sites qualified or certified by the County in the sending site areas identified in Section II B;
- 2) the number and price of rural TDR credits bought and sold by the TDR Bank;
- 3) the number and price of rural TDR credits bought and sold through private transactions;
- 4) the County's marketing efforts, ease or difficulty in qualification or certification of sites and the purchasing or selling of rural TDR credits;

- 5) the effect of deed restrictions in preserving the rural character and conservation values of sending sites;
- 6) the square foot bonus building area, outside of this Program, earned by developers using the City's Bel-Red FAR Amenity Incentive System;
- 7) the value and types of amenities in the Bel-Red Subarea, outside of this Program, funded by developers using the City's Bel-Red FAR Amenity Incentive System;
- 8) the number of development projects in the Bel-Red Subarea using the Program, the number of rural TDR credits approved, the square foot bonus building area approved for development using the Program, and the ease or difficulty in permitting projects using the Program; and
- 9) the remaining balance of the Initial Amenity Fund and the City's use of the funds (i.e. types of amenity improvements).

The County shall provide information pertaining to numbers 1 through 5; the City shall provide the County information pertaining to numbers 6 through 9. The County shall develop and distribute the yearly report to the City and may use the yearly report to the County Council as part of this evaluation.

## **VII. INDEMNIFICATION**

### **A. County Negligence**

The County shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

### **B. City Negligence**

The City shall indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this

Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the County, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.

**C. Concurrent Negligence**

The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.

**VIII GENERAL TERMS**

**A. Administration**

This Agreement shall be administered for the City by the Director of the Development Services Department or his/her designee, and for the County by the Director of the Water and Lands Resources Division of the King County Department of Natural Resources and Parks, or his/her designee.

**B. Severability**

If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected.

**C. No Waiver**

Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any prior or subsequent breach, and shall not be construed to be a modification of this Agreement.

**D. No Third Party Beneficiary**

This Agreement is made and entered into for the sole protection and benefit of the parties hereto. No other person or entity shall have any right of action or interest in this Agreement based upon any provision set forth herein.

**E. Entire Agreement**

This Agreement is the complete expression of the terms hereof and any oral representation or understanding not incorporated herein is excluded. Any modifications to this Agreement shall be in writing and signed by both parties.

In witness whereof, the parties have executed this Agreement as of the \_\_\_ day of \_\_\_\_\_, 2009.

KING COUNTY

By: \_\_\_\_\_

THE CITY OF BELLEVUE

By: \_\_\_\_\_

Pursuant to Ordinance \_\_\_\_\_

Approved as to Form:  
Lori M. Riordan, City Attorney

By: \_\_\_\_\_

Mary Kate Berens  
Deputy City Attorney

EXHIBIT A:  
Regional TDR Sending Site Areas

Insert sending area maps

EXHIBIT B:  
Bel-Red Subarea and Land Use Districts

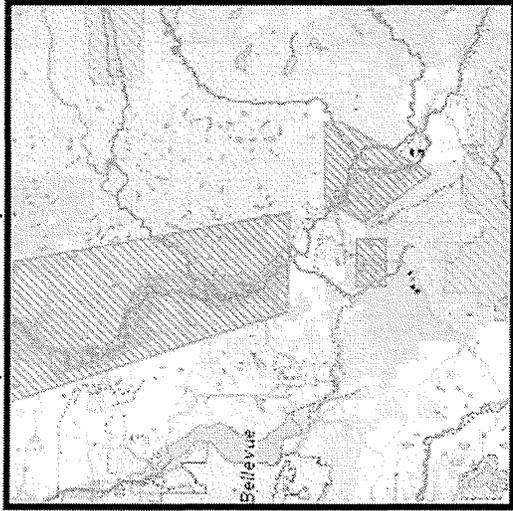
Insert Bellevue LUC 20.25D.010 B  
Insert Zoning Area Map

EXHIBIT C:  
Bel-Red FAR Amenity Incentive System

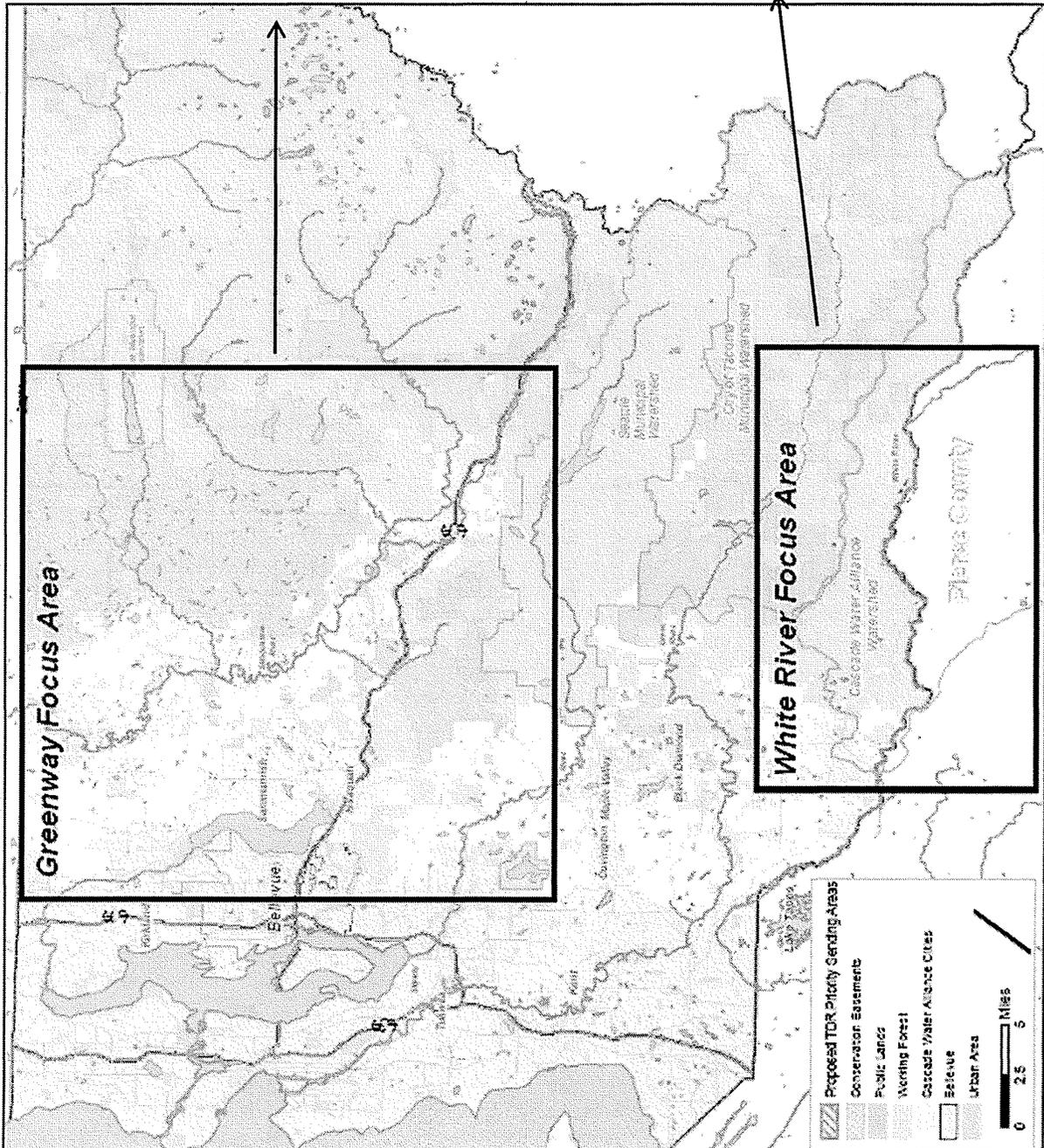
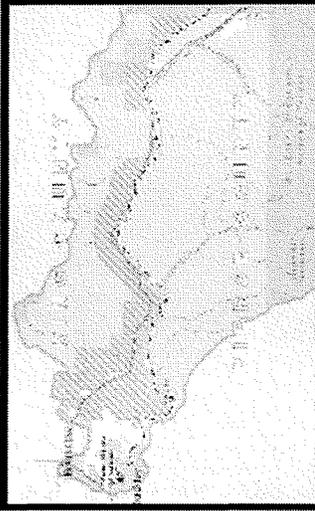
Insert Bellevue Land Use Code 20.25D.090



**Bellevue-King County Regional  
Transfer of Development Rights  
Potential Focus Areas**  
For blow-up of Greenway Focus Area See B-2



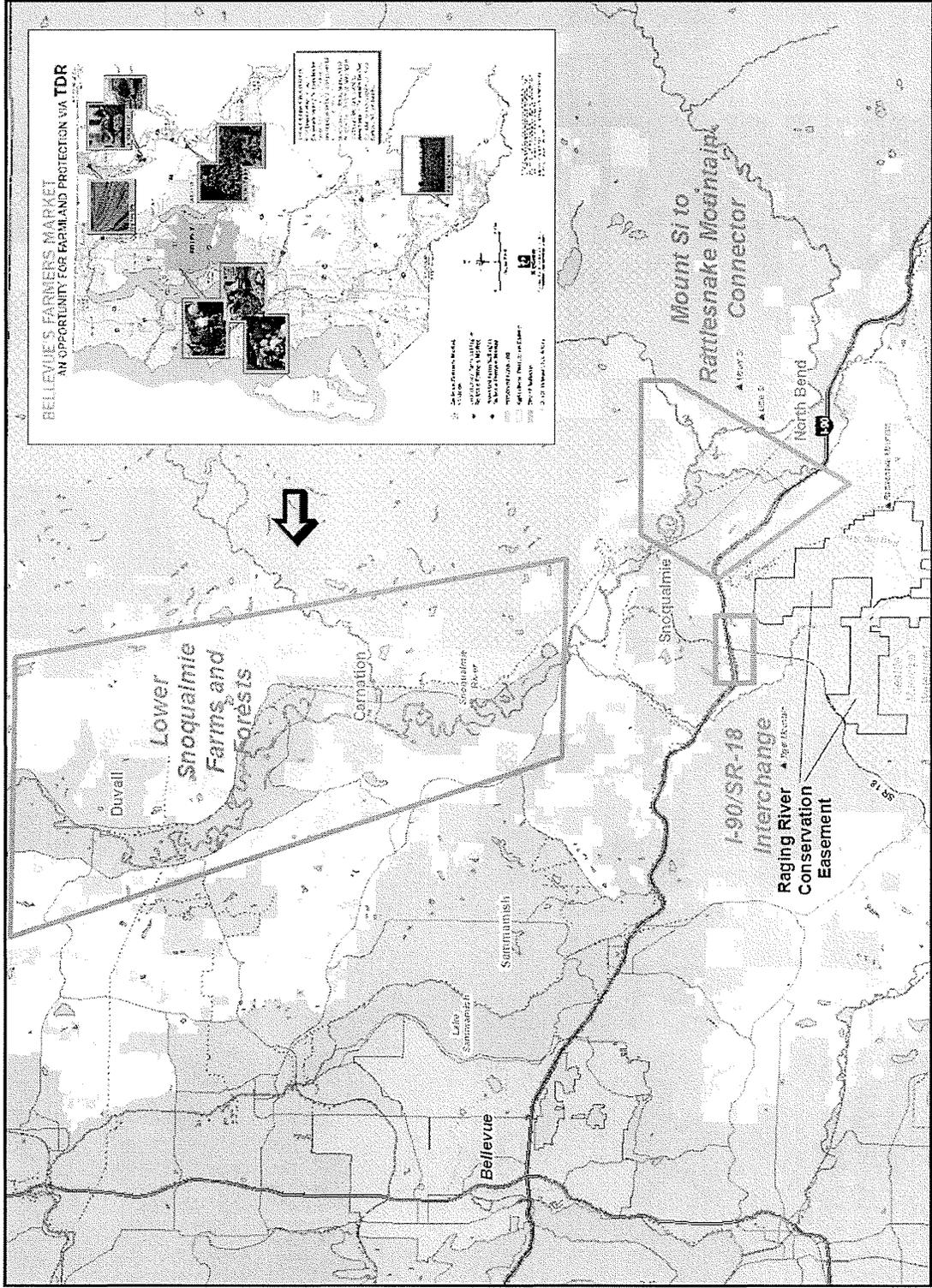
For blow-up of White River Focus Area See B-3



The information in this document is intended for informational purposes only. It is not intended to be used as a legal document. The information is provided as a service to the public and is not intended to be used as a legal document. The information is provided as a service to the public and is not intended to be used as a legal document.



# BELLEVUE - KING COUNTY REGIONAL TRANSFER OF DEVELOPMENT RIGHTS MOUNTAINS TO SOUND GREENWAY PROPOSED PRIORITY SENDING AREAS



-  Priority Sending Areas (302 potential development rights from target parcels)
-  Conservation Easements
-  Regional Trails
-  Public Lands
-  Working Forest
-  Agricultural Production District
-  Urban Areas



Attachment B-2  
Blow-up of Greenway Focus Area



**King County**



## Bellevue – King County Regional TDR Program Greenway Focus Area Proposed Priority Sending Areas

### Greenway Landscape

- **Mountains to Sound:** Over 1.4 million acres between Seattle/Bellevue and Ellensburg.
- **Public Land** – Over 750,000 acres of connected natural lands in public ownership, ranging from Mercer Slough, to Mount Si and the Alpine Lakes Wilderness Area.
- **Quality of Life** – Provides a permanent balance between built and natural environments, a key to quality of life in our region. Protects wildlife habitat, recreational opportunities, working farms and forests and supports a strong regional economy.
- **Remaining Pieces:** In King County there are several thousand acres, in small parcels, that should be protected from development to preserve farmlands, protect wildlife corridors and to provide recreational access to hundreds of thousands of acres of public land.

### Threats of Development

- **Subdivision** - Lands in the Greenway focus area are zoned Forestry, Agriculture, and Rural Residential. These zones allow development on lots ranging in size from 5 acre lots to 80 acre. The private lands could be subdivided into hundreds of lots without any change in zoning.
- **Road & Power Access** – The Interstate and state highways provide easy road and power access to the properties.
- **River** – The Snoqualmie River is an amenity which enhances development value, especially with large estate sized lots.
- **Vistas** – many of these parcels have broad views of the Cascade foothills and other natural areas such as Mount Si and Rattlesnake Mountain, enhancing their development value.
- **Timber and Agricultural economics** - Private timber and farm companies have been selling lands with development potential to optimize revenue from their investments.

### Three Priority Sending Areas

The three areas highlighted on the map include lands with great forest, farm, recreational and viewshed values and significant near term potential for development. In total, priority sending site lands in these three areas hold a potential for 302 development rights or TDRs.

#### 1. I-90 / SR 18 Interchange

*(Target parcels total 237 acres - 45 potential development rights)*

- **National Scenic Byway:** Conserving the forested status of this interchange will maintain the integrity of the Greenway National Scenic Byway, ensuring forested vistas from Bellevue to Cle Elum.
- **Final Pieces:** Work over the past 15 years has conserved the majority of the forests highly visible from this interchange, where millions of cars pass annually. Conservation of the last few hundred acres will preserve this forested viewshed, a major priority for the Mountains to Sound Greenway Trust.
- **Wildlife Habitat:** Conservation of these properties will protect productive Chinook Salmon habitat in the Raging River as well as protecting habitat for deer, bear and elk.



## **2. Lower Snoqualmie Farms and Forests**

*(Target parcels total 626 acres - 125 development rights)*

- **Local Agriculture:** Nine active farms located in the lower Snoqualmie Agricultural Area supply Bellevue's weekly Farmers' Market. Six of these farms (274 acres) are unprotected and face potential conversion to residential development. Preservation of these farmlands will ensure a reliable and sustainable food source for the City's residents and weekly markets for years to come.
- **Forested Foothills:** Conservation of remaining forested parcels located between the Snoqualmie Agricultural District and the conserved Snoqualmie Forest to the east will: 1) maintain the rural character of the Snoqualmie Valley, 2) decrease pressure of development on the Agricultural District, 3) conserve wildlife corridors between the Snoqualmie Forest and River, 4) preserve water retention benefits of the forests, preventing worse flooding in the valley.

## **3. Mount Si to Rattlesnake Connector**

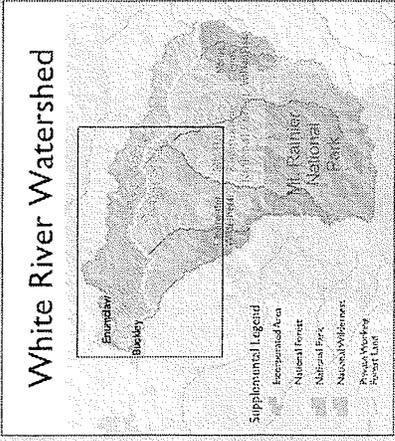
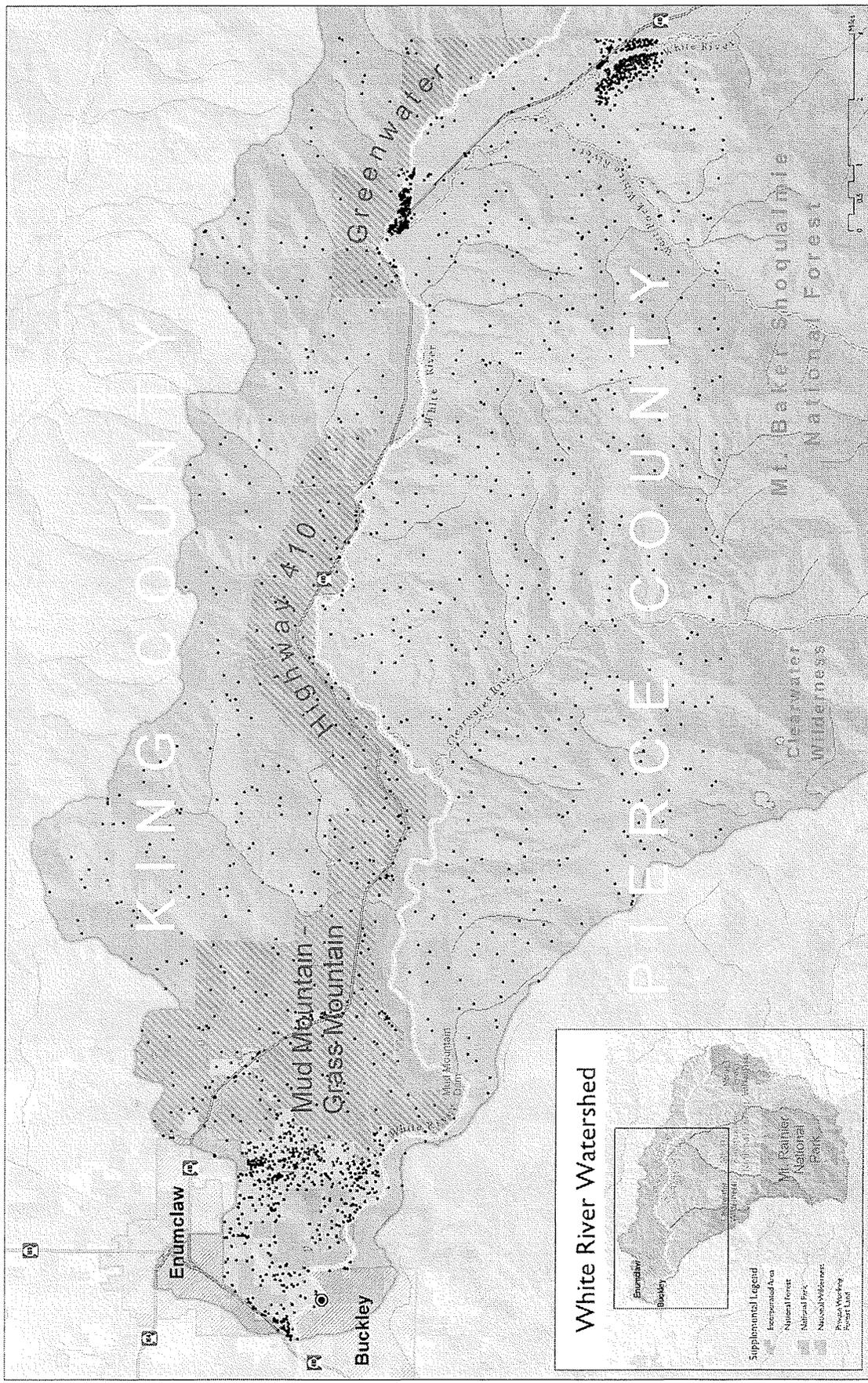
*(Target parcels total 830 acres - 132 development rights)*

- **Landscape Connectivity:** Conserving this area will provide a permanent connection between hundreds of thousands of acres of existing public lands including the 94,000-acre City of Seattle Cedar River Watershed, 13,000-acre Mt Si Natural Resource Conservation Area, 110,000 acre Middle Fork Valley and the 90,000-acre Snoqualmie Forest.
- **Riparian Corridor:** Conservation of these lands will connect existing public properties which include over six miles of biologically diverse riparian corridors that provide food, water and cover for wildlife at the confluence of the Middle, North and South Forks of the Snoqualmie River.
- **Wildlife Habitat:** Conserving strategic properties in this area will provide a wildlife migration route between hundreds of thousands of acres of existing public and private conserved forested lands providing habitat for salmon, river otters, osprey, bald eagles, migrating deer, black bear and elk.
- **Public Recreation:** Conservation will ensure public access for hiking, fishing, river use, birding and other recreation.
- **Viewscape:** Conservation of properties in this area preserves forested lands that are highly visible from I-90.



# Priority TDR Sending Areas

## White River Watershed



Map produced by  
Cascade Land Conservancy in partnership  
with King County TDR Program  
and Mountainto Sound Greenway

June 10, 2009

**Priority Sending Areas**  
Approximate area of highest  
development potential within  
the White River watershed

**Existing Dwelling Unit**  
Potential Dwelling Unit  
Based on county zoning and parcel size

**White River Watershed**  
Approximate Location of  
Water Supply Diversion

**County Boundary**  
Incorporated Area

**Public or Protected Land**  
Private Working Forest Land  
Other Private Land

**Supplemental Legend**  
Incorporated Area  
National Forest  
National Park  
National Wilderness  
Private Working Forest Land

Scale: 1 inch = 1 mile  
North arrow



# King County



## Bellevue – King County Regional TDR Program White River Watershed Focus Area Proposed Priority Sending Areas

### White River Landscape

- **White River Watershed:** 273,000 acres upstream of the Hwy 410 bridge (Enumclaw/Buckley).
- **Public Land** – About 2/3 of the watershed is in state or national forests and parks.
- **Private Land** - About 78,000 acres are owned by large timber companies, mostly in lower elevations. Of that, about 34,000 acres are in King County.

### Values Common to All the Areas

- **Municipal Watershed** - The White River is the source of water for Bellevue & the Cascade Water Alliance. Retention of forests will help keep high quality water supply.
- **Flood Attenuation** – The forested nature of the watershed retains water. Additional development would result more impervious surface and higher peak flows during storms.
- **Landscape Connectivity / Wildlife Habitat** – Conservation of the White River would assure unbroken habitat for a wide range of species from the conserved lands in the Cedar and Green River watersheds to Mt Rainier National Park.
- **Fisheries** – Salmon spawn in the White River and tributaries such as Boise Creek.
- **Timber** – Valley contains large areas of productive timber land that provides wood products and jobs.
- **National Scenic Byway** – This nationally recognized scenic corridor is the route to Crystal Mtn. Ski Area and Mt. Rainier National Park with vistas of forests and mountains.
- **Recreation** – Camping, horseback riding, fishing, and hunting are available.

### Threats of Development

- **Subdivision** - The lands are zoned Forestry, which allows 80 acre lots. The private lands in King County could be subdivided into about 300 lots without any change in zoning.
- **Highway** – The state highway provides excellent access to the properties.
- **Power** – electrical power is available from Enumclaw and along the highway.
- **River** – The White River is an amenity which enhances development value, especially with large estate sized lots.
- **Vistas** – most of the lands have views of Mt. Rainier, enhancing their development value.
- **Timber economics** - Private timber companies have been selling lands with development potential to optimize revenue from their investments.

### 3 Priority Sending Areas

The three areas highlighted on the map are those high value forest lands with significant near term potential for development. The map shows the current dwellings units (black dots) and a conceptual display of currently unused development rights with existing zoning (red dots), approximately 200 development rights from priority sending area lands.

#### A. Mud Mtn./Grass Mtn. (*Approximately 7,900 acres – 98 development rights*)

- Proximity to the expanding development around Enumclaw.
- Easy access from Hwy 410 and from county roads south and east of Enumclaw.

#### B. Hwy 410 (*Approximately 4,400 acres – 55 development rights*)

- Considerable developable land adjacent to the highway;
- Over six miles of White River with access from private lands.

#### C. Greenwater (*Approximately 2,400 acres – 30 development rights*)

- Lands with river access (over five miles of White and Greenwater Rivers)
- Proximity to community of Greenwater with stores, gas station, fire station, and utilities.