

June 2, 1994
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Introduced By: Hague

Proposed No.: 94-318

MOTION NO. 9296

A MOTION authorizing the executive to enter into a long term agreement with the city of Bellevue for joint development and management of the area known as "Bellevue Sprayfield."

WHEREAS, the State of Washington, city of Bellevue and King County wish to jointly develop the area known as "Bellevue Sprayfield," and

WHEREAS, the proposed project will provide needed ballfields for public use, and

WHEREAS, the proposed project is a cooperative effort between King County and the city of Bellevue to manage the site, and

WHEREAS, the project is immediately adjacent to Marymoor Regional Park;

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

The King County executive, on behalf of the citizens of King County, is hereby authorized to enter into a long term agreement to jointly develop and cooperatively manage and use the project known as "Bellevue Sprayfields" adjacent to Marymoor Regional Park.

PASSED this 6th day of June, 1994.

Passed by a vote of 12-0.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Kent Pullen
Chair

ATTEST:

Gerald A. Peter
Clerk of the Council

Attachment: Interlocal Agreement



DRAFT 9296

**KING COUNTY/CITY OF BELLEVUE INTERLOCAL AGREEMENT
FOR THE JOINT DEVELOPMENT AND COOPERATIVE USE OF
BALLFIELDS AT MARYMOOR PARK**

04/29/94

This Agreement, made and entered into this ____ day of _____ 1993, by and between the City of Bellevue, Parks and Recreation Department, a municipal corporation, hereinafter called "City" and the King County of the State of Washington, hereinafter called "County".

RECITALS

1. The governing bodies of the City and County are mutually interested in an adequate program of public athletics and recreation under the auspices of their respective parks and recreation organization.
2. Said governing bodies are authorized to enter into interlocal joint development and cooperative use agreements with each other, and to do any and all things necessary to cultivate good citizenship by cooperatively providing community and regional athletic facilities and recreation programs.
3. The City owns certain real property known as Bellevue Sprayfield site and the City has determined that property is available to serve as the site of ballfields development.
4. The County owns certain real property known as Marymoor Park which is located adjacent to the Bellevue Sprayfield site, a portion of which the County wishes to develop into additional ballfields and related facilities.
5. These publicly held lands should service residents as a whole to meet public needs for recreation and open space.
6. The ballfields and park amenities to be jointly developed and cooperatively used shall be known as Bellevue/King County Marymoor Ballfield Complex, hereafter called the "Ballfields" as depicted in Exhibit "A", on the site map.
7. The City and the County have determined the public interest would be best served with the least expenditure of public funds by a two party agreement permitting the City and the County to jointly design, construct, operate, maintain and cooperatively use the aforesaid ballfields on the property as shown on the site map.
8. The City and the County therefore enter into this three part agreement; Part I General Terms, Part II Execution of Improvements and Part III Use of Improvements. This agreement will provide for the development, scheduling, maintenance, and operation of all ballfields and park amenities described in and attached hereto as Exhibit A. C, Phase I construction.
9. It is the hope and intent of the parties to the agreement to renegotiate and extend the term of this agreement upon the conclusion of the initial 30 year term.

PART I
GENERAL TERMS

- 10. **AUTHORITY.** This Agreement is entered pursuant to Washington statute Chapter 39.34 RCW (Interlocal Cooperation Act).
- 11. **TIME PERIOD.** The term of this Agreement is thirty (30) years. The agreement shall be renewed automatically for succeeding periods of five (5) years each. Either Party may dispense with renewal or further renewal by so notifying the other Party in writing. Such notices shall be delivered to the other Party not less than one hundred eighty (180) days before the date of the expiration of the Agreement.
- 12. **OWNERSHIP.** The real property and fixtures shall remain the property of County and City according to their current ownership interests in the real property and improvements. Any personal property stored at the Ballfields (e.g., lawn mowers) will remain the property of the Party which supplied it.
- 13. **PARK POLICY AND ORDINANCE.** The County and the City shall jointly promulgate facility operating rules consistent with adopted County and City policy, ordinances and resolutions to insure the safety and welfare of all users. The King County Parks and Recreation Ordinance shall be the primary ordinance with respect to law enforcement.
- 14. **REPRESENTATIVES.** Each Party will designate one person to be its representative for this Agreement. The original designations shall be submitted by each signatory, in writing, to the other signatory within 20 days of execution of this Agreement. Each Party shall revise the designation to indicate any change as needed, including the replacement of the originally named representatives. Revisions shall be delivered to the other Party's representative. All designations shall state the name of the representative, his/her title, mailing address and phone number(s).
- 15. **DISPUTE RESOLUTION.** If either Party claims that the other Party has breached any term of this Agreement, the following procedures shall be followed if and when informal communications, such as telephone conversations, fail to satisfy the claiming Party:
 - 15.1 The claiming Party's representative shall provide a written notice to the other Party's representative of the alleged breach. The notice shall identify the act or omission at issue and the specific terms(s) of the Agreement which the complaining Party alleges was violated.
 - 15.2 The responding Party representative shall respond to the notice in writing within seven (7) working days. The response shall state that Party's position as well as what, if any, corrective action the responding Party agrees to take.

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will pay to the County the depreciated amount of its percentage of contribution to the project.

In calculating the depreciated value, the useful life of the improvements shall be considered to be the initial 30 year term of this Agreement. The depreciated value of the said improvements shall be determined in the manner set forth in this section.

17. CLOSING. Closing shall be within three hundred sixtyfive (365) days of the establishment of the price. Unless agreed to otherwise, payment shall be cash in full.

18. TITLE. Conveyance shall be by statutory warranty deed transferring fee simple absolute with only such conditions as are accepted by a typical buyer.

19. INDEMNIFICATION. Both Parties to the Agreement agree in the case of all third party claims, actions or causes of actions of whatsoever kind or nature made or asserted against either or all of them and arising out of the joint development, use of operation of the property, each will be liable to the other only to the extent of each Party's fault or causation and shall indemnify the other for such amount. As to all such third party claims, actions or causes of action which are a consequence of the sole fault, negligence or causation of a party to this agreement, such Party shall have the duty to defend, save and hold harmless, and upon failure to do so shall pay reasonable fees, costs and expenses incurred by the other parties to this agreement in defense of any such third party claims or actions.

19.1 The City and County shall each either maintain commercial comprehensive general liability policies or shall maintain self-insured liability loss exposures. Commercial policies shall contain a provision requiring the carrier to provide at least thirty (30) days notice prior to cancellation or amendment of the policy. If commercial coverage is maintained, a certificate of insurance shall be issued naming the additional party as insured.

20. MINORITY/WOMEN'S BUSINESS ENTERPRISES. All development, improvements and construction performed under the terms and conditions of this agreement in excess of \$25,000 may be subject to the County's procurement procedures and minority/women's business requirements pursuant King County Code 4.16.040 and 4.18.070 Subsection A.1. the City will complete an analysis worksheet with the assistance of the Parks Division for review by the Office of Civil Rights and Compliance to determine such procedures and requirements, prior to initiating any such work.

21. HAZARDOUS SUBSTANCES. The City shall not, without first obtaining the County's prior written approval, generate, release, spill, store, deposit, transport, or dispose of (collectively "Release") any hazardous substances, sewage, petroleum products, radioactive substances, medicinal, bacteriological, or disease-producing substances, hazardous materials, toxic substances or any pollutants or substances defined as hazardous materials, toxic substances or any pollutants or substances defined as hazardous or toxic in accordance with applicable federal, state, and local laws and regulations in any reportable quantities ("Hazardous Substances") in, on or about the Ballfields. In the event, and only in the event,

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will pay to the County the depreciated amount of its percentage of contribution to the project.

In calculating the depreciated value, the useful life of the improvements shall be considered to be the initial 30 year term of this Agreement. The depreciated value of the said improvements shall be determined in the manner set forth in this section.

17. CLOSING. Closing shall be within ninety (90) days of the establishment of the price. Unless agreed to otherwise, payment shall be cash in full.

18. TITLE. Conveyance shall be by statutory warranty deed transferring fee simple absolute with only such conditions as are accepted by a typical buyer.

19. INDEMNIFICATION. Both Parties to the Agreement agree in the case of all third party claims, actions or causes of actions of whatsoever kind or nature made or asserted against either or all of them and arising out of the joint development, use of operation of the property, each will be liable to the other only to the extent of each Party's fault or causation and shall indemnify the other for such amount. As to all such third party claims, actions or causes of action which are a consequence of the sole fault, negligence or causation of a party to this agreement, such Party shall have the duty to defend, save and hold harmless, and upon failure to do so shall pay reasonable fees, costs and expenses incurred by the other parties to this agreement in defense of any such third party claims or actions.

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21. HAZARDOUS SUBSTANCES. The City shall not, without first obtaining the County's prior written approval, generate, release, spill, store, deposit, transport, or dispose of (collectively "Release") any hazardous substances, sewage, petroleum products, radioactive substances, medicinal, bacteriological, or disease-producing substances, hazardous materials, toxic substances or any pollutants or substances defined as hazardous materials, toxic substances or any pollutants or substances defined as hazardous or toxic in accordance with applicable federal, state, and local laws and regulations in any reportable quantities ("Hazardous Substances") in, on or about the Ballfields. In the event, and only in the event, the County approves such Release of Hazardous Substances on the Ballfields, the City

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agrees that such Release shall occur safely and in compliance with all applicable federal, state, and local laws and regulations. The City shall indemnify, hold harmless and defend the County from any and all claims, liabilities, losses, damages, cleanup costs, response costs, and expenses, including reasonable attorney's fees arising out of or in any way related to the Release by the City, or any of its agents, representatives, or employees or the presence of such Hazardous Substances in, on or about the Ballfields occurring at any time after the Commencement Date to the full extent of the City's liability therefore.

22. TOXICITY ASSESSMENT. As property owner, the City has taken precaution of retaining the services of a testing agency to ascertain the nature and extent of any health hazards present at the site. Based on the results of the testing the City has taken steps to address any health hazards prior to and during the development of the site. The City will continue to monitor the site for health hazards during the use of the site by the public.

23. ASSIGNMENT. Neither Party will assign or sublet its rights or responsibilities under this Agreement without the written authorization of the other Party. Written authorization shall not be withheld unreasonably.

24. SEVERABILITY. If any term of this Agreement is held invalid or unenforceable, the remainder of the Agreement will not be affected but continue in full force.

25. TERMINATION. Pursuant to the terms and conditions of this agreement, this agreement may be terminated upon written mutual agreement between the parties hereto. Either party may terminate the agreement unilaterally after giving one hundred eighty (180) days notice to the other party.

In the event of termination or default of this agreement by either party within the agreement term, then subject to statutory and constitutional limitations then in effect, the other party shall receive reimbursement for capital expenditures and improvements placed upon the defaulting or terminating party's land, in the amount equal to the depreciated value of the improvements paid for by the claimant less depreciation thereon as determined by Section 16, infra.

26. NON-WAIVER. Failure of either Party to insist upon the strict performance of any term of this Agreement will not constitute a waiver or relinquishment of any Party's right to thereafter enforce such term.

27. INTEGRATION. This writing contains all terms of this Agreement. It replaces all prior negotiations and agreements. Modifications must be in writing and be signed by each Party's representative.

28. FILING OF INTERLOCAL AGREEMENT. This Agreement will be filed pursuant to RCW 39.34.040.

29. RECORDATION. This Agreement shall be filed with the King County Records and Election Division.

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30. STATEMENT OF INTENT. It is agreed that the plans and specification for the placement of all equipment, facilities and permanent improvements upon said premises and the type, design and construction thereof, shall be mutually agreed upon and approved by the City and County prior to any installation thereof.

PART II
EXECUTION OF IMPROVEMENTS

31. PROJECT FINANCING. The County shall contribute approximately \$334,000 to the design and construction of ballfield complexes and additional parking.

32. CONTRACT DOCUMENTS AND BIDDING. The City shall be responsible for preparing and submitting all of the required information necessary for obtaining any and all required Ballfield permits. The City shall be identified as the lead agency/owner for the purpose of obtaining permits.

The City shall be primarily responsible for preparing the Ballfields Site Master Plan and Phase I Construction Documents. The Master Plan will be subject to the review and approval of the County before the City proceeds with Phase I Construction Documents. Upon its approval, the Master Plan (Attachment B) and the County approved Phase One Site Development Plan (Attachment C) will be attached to and become a part of this agreement. The boundaries of the property covered under this agreement are shown and attached hereto as the Site Map (Attachment A).

The City shall be primarily responsible for preparing the Ballfields Master Site Plan and Phase I the Ballfields drawings and specifications. The Master Site Plan is to be completed in the Ballfields design phase including estimated development costs, and will be subject to the review and approval of the County. Upon its approval, the Master Site Plan will be attached to and become a part of this agreement as Exhibit B. The boundaries of the property covered under this agreement are shown and attached hereto as on the Site Map (Exhibit A.)

The County shall have the right to review and approve the City's Ballfield proposal prior to submission of the proposal for competitive construction bids; which approval shall not be unreasonably withheld.

32.1 The City shall:

- A. Administer consultant contracts for the entire facility to produce the construction documents and provide project management services until design and construction contracts are completed; and
- B. Complete the construction of Phase I of the athletic complex: two lighted ballfields and one unlighted ballfield with irrigation, backstops and fencing, restrooms, 120 car parking lot, required landscaping, and miscellaneous site improvements.
- C. Obtain County approval of the successful bid prior to awarding contract; and

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D. Share facility construction observation responsibilities with the County.

32.2 The County shall:

A. Approve draft technical specification for the facility; and

B. Approve the site plan, schematic design, and construction plans and construction documents at fifty percent (50%), ninety percent (90%), and final completion stages to ensure development standards are complied with; and

C. Review and approve the construction contractor; and

D. Reimburse the City thirty (30) days after receipt of a billing invoice for construction work as completed and substantiated by the City.

E. Share facility construction observation responsibilities with the City,

F. Inspect construction and assist in providing final approval of contract prior to facility acceptance.

33. PROJECT CONSTRUCTION:

33.1. Supervision and Compliance: The City shall perform the duties of the "Owner" as defined in the contract documents and specifications approved by the County. In the construction of the Ballfields, the City shall comply with all applicable laws, statutes, rules, regulations and ordinances applicable to the parties to the agreement, including, without limitation, all necessary governmental permits and approvals.

33.2. Progress Reports. The City shall make periodic reports to the County on the progress of the construction of the Ballfields. The County shall be apprised of all meetings relating to facility construction and shall be entitled to attend all meetings, whether regularly scheduled or not. The County retains the right to make inspection of the progress of the Ballfields, including, without limitation, inspection of all Ballfield documents at reasonable times and upon reasonable notice to the City.

33.3. Default by Parties to the Agreement. If at any time, in the reasonable judgment of the parties, either party fails to competently perform the duties stated herein, the other party may demand remedy of such default. If the offending party shall have failed to commence any cure of such failure within twenty (20) calendar days following written demand, the other party may, at their option, cure any default. The offending party shall pay the other party the cost of such cure.

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33.4. Approval of Contract Documents. All contract documents, including but not limited to contract change orders, shall be approved by the authorized representatives of the parties to the agreement, as required by law. The City will allow review of all documents by the County upon request.

33.5. License to Enter Property. The County agrees to grant to the City such licenses to enter upon its real property as may be necessary for the exercise of the rights and obligations set forth herein and for the implementation of the Ballfields.

PART III
USE OF IMPROVEMENTS

34. ANNUAL MEETING. The Parties' representatives shall meet once per year (or more frequently as they agree) to exchange scheduling information relative to the time period discussed in Section 36.2, infra, to be updated on a quarterly basis. The representatives also shall discuss any issues either wishes to raise concerning maintenance and repair, including, but not limited to, allocation of responsibility and quality of past performance. In allocating maintenance and repair responsibility, the Parties shall take into consideration the most efficient use of labor and material resources of each. Special events requiring special considerations will be negotiated on a case-by-case basis.

35. RIGHT OF ENTRY FOR USE AND MAINTENANCE. The County agrees to grant to the City right of entry to enter and cross its real property as may be necessary to exercise the rights and obligations for the City's use and maintenance of the Ballfields as set forth herein.

36. USE AND SCHEDULING.

36.1 Intent. It is the intent of both parties that the Ballfields be scheduled and used so as to:

- A. Maximize total field use, eliminate program conflicts, and coordinate service to user groups,
- B. Equitably distribute available playing time with consideration given to each party's level of participation with respect to the development, maintenance and operation of the Ballfields.
- C. Identify annual scheduled County programs that would conflict with regular use of the Ballfields.

36.2 Playing Seasons.

A. For the purposes of the Agreement the Playing Season shall be the period March 1st through September 31st.

1. The period March 1st through March 31st shall be identified as the "Pre-Season".

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2. The period April 1st through July 31st shall be identified as the "First Season".

3. The period August 1st through September 31st shall be identified as the "Second Season".

4. The period October 1st through February 29th shall be identified as the "Off Season".

36.3 Distribution of Playing Time. For Phase I development (as described in 32.1.B.), based upon current contributions and substantive costs in the operation, maintenance and capital investments, weekday and weekend playing times will be distributed as follows: 60% to the City, 40% to the County. Future use allocations will be re-negotiated, based on the respective parties' participation in on-site development, maintenance and operations of any additional facilities and improvements described in Exhibit B A. The equitable distribution of seasonal block scheduled playing times, Section 36.1.B, infra, shall be negotiated each year at the annual meeting, Section 34, infra, by staff assigned by the respective Directors.

36.4 Site Management. King County shall provide general oversight for all regularly scheduled events as part of its general management and oversight of the entire Marymoor Park. The level of oversight shall be equal to and consistent with that provided throughout Marymoor Park including, but not limited to scheduled practices, league games, weekend tournaments and other regularly scheduled events. Site supervision for other special events shall be the responsibility of the sponsoring party.

36.5 Special Events.

A. Special events include events which either:

1. Preclude the use of Ballfields for games or practice during the Playing Season, or
2. Use the Ballfields for a use other than baseball or softball games or practice.

B. The following special events preclude any scheduled use of the Ballfields by either party unless special arrangements are agreed to by the parties to this Agreement:

1. Heritage Festival, three day holiday weekend of July 4th plus two days before and after the event,
2. Evergreen Horse Show, weekend date to be specified at February scheduling meeting, plus two days before and two days after the event.

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Elimination of use of the Ballfields for the Heritage Festival and the Evergreen Horse Show shall not be included in either party's percentage distribution of field use.

C. Other jointly sponsored special events may be scheduled and shall not be included in either party's percentage distribution of field use.

D. Other individually sponsored special events shall be applied to each party's respective total use ratio. Special events, except as noted in this Section, must be approved by the other party.

36.6 Rainouts. County staff shall be responsible for calling field rainouts. The County shall notify the City at the earliest possible time of any impending and actual rainouts.

36.7 User Fees.

A. Each party shall establish and collect fees for their respective scheduled league fees.

B. The City shall rebate all fees collected for the use of Ballfield lights at the site to the County.

36.8 Field Use. Use of the Ballfields, whether scheduled or unscheduled, by either the City or the County, shall not be incompatible or inappropriate with respect to established policy or master planned use. Any use which may damage the Ballfields or require extra ordinary maintenance services requires the prior approval of both parties to this Agreement.

37. MAINTENANCE AND OPERATION.

37.1 Intent:

A. Provide for the long term maintenance and operation of the Ballfields, to save and protect this valuable capital resource and to maximize potential use of the facility,

B. Assign responsibility for maintenance and operation functions,

C. Establish minimum maintenance and operation service levels for the Ballfields. Any maintenance or work beyond the scope of this Agreement must be discussed and approved during the annual Management meeting 37.5, infra.

37.2 General Maintenance.

A. The City will perform annual turf renovation consisting of, but not limited to, the following methods: coring, fertilizing, aerating, thatching, vericutting, oversanding, over-seeding and topdressing.

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B. The County will provide all general and routine clean-up, maintenance, repairs and field preparation for all facilities and operational systems within the boundary of the land covered under this agreement except as shall be mutually agreed by the Parties. The County shall renovate the infields at least every other year.

37.3 Maintenance Levels and Repairs. Maintenance and repair shall be a topic of discussion at the meetings of the Parties' representatives at the annual meeting, Section 34, infra. Disputes concerning maintenance and repair work shall be resolved through the Dispute Resolution process described Section 15, infra.

37.4 Special Attention. Each Party shall be responsible for non-routine extra ordinary event set-up and maintenance.

37.5 Management. A management committee consisting of the King County Park Maintenance Chief, the King County Recreation and Facilities Use Management Chief, and Recreation Coordinator: the Bellevue Parks and Recreation, Enterprise Division Manager, and the Bellevue Parks and Recreation, Grounds Maintenance Manager will meet at least once per year prior to February 1st to set the coming year's athletic and event schedules and coordinate maintenance levels and activities. This management committee will also consider and resolve problems, conflicts, operations, scheduling or maintenance issues that may arise. Disputes will be referred to the Manager of the King County Parks Division and the Director of the Bellevue Parks and Recreation Department.

37.6 Utilities. The County shall pay for all utilities. The City shall rebate to the County all lighting fees collected from City field users.

37.7 Security. The County shall provide general site supervision and security, for regularly scheduled events to the same level and as part of its overall supervision of Marymoor Park. Site security and supervision for special events shall be the responsibility of the sponsoring party.

37.8 Service Levels. Maintenance and operation service levels for the Ballfields are intended to provide a high quality, safe ballfield complex.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on their behalf.

CITY OF BELLEVUE,

KING COUNTY

By:

By:

Phillip K. Kushlan
City Manager

Tim Hill
King County Executive