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August 24, 1996
GM:lh
svjs

Introduced by:

LOUISE MILLER
JANE HAGUE
BRIAN DERDOWSKI

Proposed no.:

96-838

MOTION NO. 10040

A MOTION authorizing the King County Executive to enter into a long-term concession contract with the Snoqualmie Valley Junior Soccer Association for the purpose of developing and operating a soccer facility on a portion of Tolt River-MacDonald Park.

WHEREAS, King County has an interest in establishing concession contracts with private, non-profit organizations or community organizations for the development, maintenance, upkeep, and operation of certain public, recreation facilities, and

WHEREAS, the County acknowledges the interest of community groups and the private sector in providing recreational programs and facilities of all levels to the public, and

WHEREAS, King County recognizes the scarcity of public funds available to maintain and operate public park facilities beyond a basic level of service;

NOW, THEREFORE, BE IT MOVED by the Council of King County:
The King County Executive is hereby granted the authority to sign the attached contract with the Snoqualmie Valley Junior Soccer Association for the purpose of developing, maintaining, and operating a public soccer facility on a portion of Tolt River-MacDonald park for public benefit, provided however, that recital 16 on page 5 of the contract be amended to read as follows:

1 16. Public use of Facility In the event King County, or other public entity, desires to
2 use the Premises for a public-sponsored event, it may do so, provided that such event is
3 compatible with the use of the Premises as a soccer facility, and does not interfere with
4 programs or events which are on-going, or have been established or scheduled by SVJSA
5 and which have been advertised or made known to the intended user members of the
6 public, provided that King County or other public entity provides reasonable advance
7 notice of its intent to use the Premises for public-sponsored events.

8 PASSED by a vote of 12 to 0 this 6th day of January of 1997

9 KING COUNTY COUNCIL
10 KING COUNTY, WASHINGTON

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13 Jane Hague
14 Chair

15 ATTEST:

16 Gerald G. Peterson
17 Clerk of the Council

18 Attachment: Concession Contract
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100404

CONCESSION CONTRACT FOR RECREATIONAL FACILITY
BETWEEN
KING COUNTY AND SNOQUALMIE VALLEY JUNIOR SOCCER ASSOCIATION
FOR
SOCCER FACILITY ON A PORTION OF TOLT RIVER-MACDONALD PARK

9463

This Concession Contract is made and entered into this day of 1996 by and between King County and Snoqualmie Valley Junior Soccer Association, a private non-profit organization.

RECITALS

1. King County owns certain real property commonly known as Tolt River-MacDonald Park (the Premises) as depicted on Exhibit A hereto and legally described as follows:

That portion of the NW 1/4 of Section 21 North, Range 7 East, W.M., King County, Washington, hereto and legally described as follows:

The North 478.28 feet of the East 618.98 feet of the West 1/2 of the Northeast 1/4 of the Northwest 1/4 of Section 21, Township 25 North, Range 7 East, W.M.; EXCEPT the South 90 feet of the North 120 feet of the West 202 feet; AND EXCEPT the East 43.98 feet; AND EXCEPT the North 30.00 feet for road; Situated in the County of King, State of Washington.

(contains 5.5 acres excluding parking lot)

2. King County has an interest in ensuring that public recreational facilities be appropriately developed maintained and managed, with the least expenditure of scarce public funds and that these facilities be utilized by the public to the maximum extent possible.
3. In some cases, it is in the public's interest for private non-profit organizations to be allowed to develop, operate, manage, and maintain public recreational facilities and programs on county park property so long as the activity is consistent with the purposes for which the property was acquired and with the county's comprehensive parks, recreation and open space plan.

4. King County has an interest in entering into concession contracts with private non-profit groups to use county park property for the express purpose of developing, operating, managing, and maintaining public recreational facilities and programs,
5. In recognition of a private non-profit organization's commitment to develop, manage, operate and maintain recreational programs and facilities for the public and a commitment to fund specified capital improvement projects to the county park property, the county will enter into long term concession contracts, but not to exceed a term of 10 years.
6. There is a growing demand for high quality soccer facilities in King County. There also exists the opportunity to develop and maintain a portion of Park as a quality soccer facility, which will benefit the citizens of King County, and permit Tolt River-MacDonald Park to be utilized by the public to the maximum extent possible as a soccer facility.
7. In order to maximize the opportunity to maintain and develop a portion of Tolt River- MacDonald Park as a high quality soccer facility and recognition of the commitments of SVJSA, it is necessary that a long-term concession contract for a term of ten (10) years be entered into.

NOW THEREFORE, in consideration of the promises and commitments made herein, it is agreed as follows:

8. Term, King County hereby grants to SVJSA an exclusive concession to and on the Premises for a term of ten (10) years, commencing on the 1st day of October, 1996 and terminating on the 10th day of September, 2006, during which term SVJSA shall have the primary responsibility for operating, managing and maintaining the Premises as a soccer facility.
9. Termination for Cause: This Concession Contract is subject to termination by either party by reason of material breach thereof by the other party, provided, that written notice specifying the material breach, and 30 days to cure the material breach is given, and thereafter, in the absence of a substantial cure, the dispute resolution procedures set forth in paragraph 22 below are followed.
10. Concession Fees SVJSA shall pay to King county on each March 1 during the term of this contract, an annual fee-in an amount equal to twenty percent (20%) or such other percentage as may be set by annual fee ordinance, of the total of the revenue from user fees, fees from the sales of goods and services, and admission fees which SVJSA generates during the calendar year immediately preceding the due date for payment of the annual fee. Revenue from SVJSA's bingo operation and from membership fees of its members shall not be included in the total of the revenue on which the twenty (20%) annual fee is calculated. Further, the twenty percent (20%) annual fee due for a given year shall be reduced by an amount equal to the total of the cost of capital improvements to the Premises made by SVJSA at its expense, the value of recreational program scholarships provided to

qualified participants, and the value of the sponsorship of programs and events on the premises for developmentally disabled or challenged athletes, during that year and for capital improvements during preceding years to the extent that reduction in respect thereof in preceding years has not been made.

11. SVJSA Responsibilities.

- A. Shall be responsible for all ordinary and routine maintenance of the Premises in accordance with the attached maintenance schedule, which schedule shall be updated annually and submitted to King County for review and approval;
- B. With respect to capital improvements, which will be funded and implemented by SVJSA, agree with King County to a cost and timing schedule, and make no improvements or alterations not approved in advance in writing by King County;
- C. Charge user fees and admission prices at rates which do not exceed those for comparable activities and events contemporaneously being charged in King County; if any, with consideration given to the level of maintenance provided by the concessionaire to the site, the rates at which such user fees and admission prices are subject to King County's approval which approval shall not be unreasonably withheld.

12. Indemnity and Hold Harmless. The Concessionaire agrees to indemnify and hold King County harmless as provided herein to the maximum extent possible under law. Accordingly, the Concessionaire agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless King county, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Concessionaire's exercise of rights and privileges granted by this Concession Agreement, except to the extent of the County's sole negligence, The Concessionaire's obligations under this section shall include:

- A. The duty to promptly accept tender of defense and provide defense to the County at the Concessionaire's own expense;
- B. Indemnification of claims made by the Concessionaire's own employees or agents; and,
- C. Waiver of the Concessionaire's immunity under the industrial insurance provisions of Title 51 R.C.W., but only to the extent necessary to indemnify King County, which waiver has been mutually negotiated by the parties,

In the event it is necessary for the County to incur attorney's fees, legal expenses or other costs to enforce the provisions of this section, all such fees, expenses and costs shall be recoverable from the Concessionaire.

In the event it is determined that R.C.W. 4.24.115 applies to this Concession Agreement, the Concessionaire agrees to defend, hold harmless, ' and indemnify King County to the maximum extent permitted thereunder, and specifically for its negligence concurrent with that of King County to the full extent of Concessionaire's negligence, Concessionaire agrees to defend, indemnify, and hold harmless the County for claims by Concessionaire's employees and agrees to waiver of its immunity under Title 51 R.C.W., which waiver has been mutually negotiated by the parties.

13, Insurance.

- A. Concessionaire shall maintain in full force and effect on all of its fixtures and equipment in the premises a policy or policies of fire and extended coverage insurance with standard coverage endorsement to the extent of at least eighty percent (80%) of their insurable value. During the term of this Concession agreement the proceeds from any such policy or policies of insurance shall be used for the repair or replacement ' of the fixtures and equipment so insured, King County shall have no interest in the insurance upon Concessionaire's equipment and fixtures and will sign all documents necessary for loss by Concessionaire. King County will not carry insurance on Concessionaire's property. Concessionaire shall furnish King County with a certificate of such policy and whenever required shall satisfy King County that such policy is in full force and effect within thirty (30) days of the commencement of this Concession agreement.
- B. No use shall be made or permitted to be made of the premises, nor acts done, which will increase the existing rate of insurance upon the premises or cause the cancellation of any insurance policy covering the premises, or any part thereof, nor shall Concessionaire sell, or permit to be kept, used or sold, in or about the premises, any article which may be prohibited by the standard form of fire insurance policies, Concessionaire shall, at its sole cost and expense, comply with any and all requirements, pertaining to the premises, Concessionaire agrees to pay to King County as additional fee, any increase in premiums on policies which may be carried by King County on the premises covering damages and loss of revenue caused by fire and theft perils normally included in extended coverage above the rates for the least hazardous type of occupancy for industrial, warehousing, office and distribution operations,
- C. The Concessionaire will carry fire and extended coverage insurance, with loss of earnings endorsement, in an amount equal to the full insurable value of all improvements, structures and buildings located on the premises. The

policy shall include King County as an insured for its vested interest in the property. A copy of the policy will be filed with King County.

- D. In the event of the total or partial destruction by fire, regardless of origin, or otherwise of the building, structures or facilities currently on the premises or subsequently constructed by the Concessionaire, the Concessionaire shall have the obligation to reconstruct such facilities to their original condition within six (6) months after their destruction.

14. Liability Insurance's The Concessionaire shall procure and maintain in force throughout the duration of this Concession agreement, commercial general liability insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. Said policy or policies shall name King County as an additional insured. In the event of non-renewal, cancellation or material change in the coverage provided, forty-five (45) days written notice will be furnished King County prior to the date of nonrenewal, cancellation or change. This insurance is primary over any other valid and collectable insurance.

15. Mutual Release and Waiver. To the extent a loss is covered by insurance in force King County and Concessionaire hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies including any extended coverage endorsements hereto; provided, that this agreement shall be inapplicable if it would have the effect of invalidating any insurance coverage of King County or the Concessionaire.

16. King County Use of Facility. In the event King County desires to use the Premises for a county-sponsored event, it may do so, provided that such event is compatible with the use of the Premises as a soccer facility, and does not interfere with programs or events which are on-going, or have been established or scheduled by SVJSA and which have been advertised or made known to the intended user members of the public, and provided that King County provides reasonable advance notice of its intent to use the Premises for county-sponsored event.

GENERAL

17. Designation of Premises. The Premises shall be formally designated as a quality soccer facility.

18. Operating Rules. Operating rules for the Premises shall be consistent with King County ordinances and published policy relating to health and safety. The King County Parks and recreation rules shall apply with respect to law enforcement.

19. Liaison. SVJSA and King County shall each identify to the other a particular person as its respective designee regarding day-to-day communications relating to this contract.

20. King County Representative. King County may identify a particular person as its representative to attend meetings of the SVJSA Facilities Committee relating to the Premises
21. Annual Report. SVJSA shall furnish King County with an annual report covering user activity, maintenance and development of the Premises, and including a summary of SVJSA income and expenses associated with Premises. The Annual Report shall be due on November 15th of 1995 and each year thereafter.
22. Dispute Resolution. In the event any dispute regarding this contract cannot be resolved by informal methods, the aggrieved party shall, prior to commencing litigation or taking any administrative action, notify the other in writing of the particulars of the grievance, and the other party shall reply in writing within ten (10) working days, setting forth its position and stating what, if any, action it will take with respect to the grievance. The aggrieved party shall respond in writing, indicating its satisfaction or dissatisfaction, as the case may be; in the event the aggrieved party is dissatisfied the parties shall then meet in person and confer in good faith to resolve their differences before litigation is commenced or any administrative action is taken.
23. Anti-Discrimination. In all services or activities, and all hiring or employment made possible by or resulting from this Concession agreement there shall be no discrimination against any employee or applicant for employment because of sex, color, creed, national origin, marital status, sexual orientation or the presence of any sensory, mental, or physical handicap, unless based upon a bonafide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Concessionaire shall not violate any of the terms of R.C.W. 49,60, Title VII of the Civil Rights Act of 1964, or any other applicable federal, state, or local law or regulations regarding nondiscrimination. Any violation of this provision shall be considered a violation of a material provision of this Concession agreement and shall be grounds for cancellation, termination, or suspension, in whole or in part, of the Concession agreement by the County and shall be grounds for cancellation, termination or suspension of this Concession agreement, in whole or in part, and may result in concessionaire's ineligibility for further County agreements. The Concessionaire will also comply with other anti-discrimination laws or requirements of any and all jurisdictions having authority.
24. Hazardous Substances. SVJSA shall not, without first obtaining King County's written approval, apply, store deposits transport, release or dispose of any hazardous substances petroleum products, sewage, medicinal, bacteriological, or toxic materials, or pollutants, on the Premises. All approved application, storage, deposit, transportation, release and disposal shall be done safely, and in compliance with applicable laws.

25. Assignability. SVJSA shall not assign any of its rights under this contract without the prior written consent of King County, which consent shall not be unreasonably withheld.
26. Non-waiver. No failure to insist upon strict performance of any term of this contract will constitute a waiver of any right hereunder.

OPERATIONS

27. Operations Defined. Operations for and over which SVJSA shall have primary responsibility and control include, but are not limited to, scheduling for all use of the Premises, including league games tournaments, practices and events, site preparation and management, including field layout, field lining, goal placement, signage, concession and tent setup and parking setup and control, concession agreements with vendors and security.
28. Scheduling Criteria. Highest priority use of the Premises shall be for the members and registered players of SVJSA, and for the members and SVJSA, shall, subject to and consistent with such priority, make reasonable and appropriate accommodation for other soccer user groups and members of the public for use of the Premises, Soccer field use will be maximized to the extent, in the sole judgment of SVJSA, that such use is consistent with proper maintenance and care of the soccer fields, SVJSA will make reasonable and appropriate efforts to minimize program conflicts and to coordinate service to user groups, and to equitably distribute playing time. SVJSA shall be the sole arbiter of all scheduling conflicts and shall determine in its sole judgment what constitutes reasonable and appropriate accommodation for use of the Premises and equitable distribution of playing time.
29. Scheduling Considerations. SVJSA may employ the following consideration in its scheduling of the use of the Premises:
- A. Define playing seasons as "Winter" - December 1 through February 28, "Spring" - March 1 through May 30, "Summer" - June 1 through August 30, and "Fall" - September 1 through November 30;
 - B. Prioritize use of the Premises as follows: (i) closure during the Winter season except for post season play; (ii) limited use during the Spring season, guided by turf conditions, weather, and turf maintenance programs; certain limited youth activities conducted by SVJSA may be scheduled; (iii) Summer season league and tournament use by adult and youth organizations, with those having an established use history receiving priority over new user applicants, through mid-August, with priority thereafter to SVJSA ; (iv) highest priority in Fall season to SVJSA league play and practices , with youth team activities of those not from SVJSA,

having second priority, and other youth team activities having lowest priority; and

- C. Schedule special events which do not displace a soccer activity and which are consistent with the use of the Premises as a soccer facility, and are not potentially harmful to the soccer fields.

30. Hours. Activities other than maintenance and development activities shall begin not earlier than 8:00 a.m. and cease not later thirty minutes past sunset.

31. Amplification. SVJSA shall ensure any amplification is employed in accordance with rules set forth for amplification in King County parks.

32. Concessions. Food, souvenir, and product concessions will be contracted for by SVJSA. Concession rights and revenue from concessions shall belong to SVJSA.

33. Cost of Operations. The cost of operations shall be borne by SVJSA.

35. Annual Meeting. SVJSA and King County shall meet annually to review operations.

MAINTENANCE

35. Maintenance Defined. Maintenance for which SVJSA shall have primary responsibility and over which it shall have control include, but are not limited to, aerification, thatching, verticutting, fertilizing, liming, overseeding, topdressing, herbiciding, insecticiding, mowing, and irrigation of the turf. parking area upkeep and organization, upkeep of fencing and gates, upkeep of restroom facilities, and policing of litter on the Premises.

36. Cost of Maintenance. The cost of maintenance shall be borne by SVJSA.

37. Cost of Utilities. The cost of utilities serving the Premises shall be borne by SVJSA.

38. Maintenance Considerations. SVJSA may employ the following considerations in its maintenance of the Premises:

- A. The Premises is intended to be a high quality soccer facility , with high quality grass soccer fields being essential thereto;
- B. A long-term maintenance plan which considers the scope and details of maintenance of the soccer fields, concessions, parking areas and other facilities should, in consultation with King County, be devised and adhered to.

39. Annual Meeting. SVJSA and King County shall meet annually to review maintenance.

DEVELOPMENT

40. Development Defined. Development means improvements to the Premises which are permanent in nature, including, but not limited to, parking facilities, fencing, gates, structures and shelters (not including trailers and portable shelters), grading and contouring of the earth (not including leveling of the earth for turf management or maintenance purposes), irrigation installations (not including portable irrigation apparatus and installation), drainage and surface water control construction, installation of utilities, picnic areas and landscaping.

41. Site Development Plan. SVJSA shall develop a site development plan for the development of the Premises as a high quality soccer facility with appropriate related recreational and park facilities. The site development plan will consist of sections, including a description of the planning process with a time line and milestones, identifying the principal features of the Premises, a narrative describing in reasonable detail the rationale, goals and objectives of the site development plan, identifying particular projects with a designation of the party primarily responsible for each, and a schedule showing the sources and timing of funding for each project, SVJSA shall take the initiative in beginning the process of developing a site development plan.

42. Funding. It is contemplated that funding for development will be derived from public sources and from SVJSA to the extent feasible and approved by SVJSA and King County. King County Parks Division will present as part of their annual budget request, the site development plans capital costs proposed to be borne by King County.

43. Contracting. It is contemplated that SVJSA will be given primary responsibility for the development of particular projects in the site development plans. In such event, and with respect to each such project, the party with primary responsibility will obtain the approval of the other party prior to accepting any bid. SVJSA and King County shall fully report to each other regarding progress of development activities and shall fully cooperate with each other in all respects, All applicable King County ordinances regarding contracting for a King County facility must be complied with.

NOTICE AND RECORDING

44. Notice. Any written notice which is required or permitted regarding this contract shall be give by U.S. first class mail or by personal delivery to the party which is the intended recipient of the notice at its address as follows:

SVJSA
Bud Raisio, President
P.O. Box 430
North Bend, WA. 98045

King County Parks
Clint Lank, Administrator, PDLM
506 Second Avenue
Seattle, WA. 98104

A change in address of a party for purposes of receiving notices may be changed by that party by giving notice of such change as provided herein.

45. Recording. These concession contracts and any memorandum thereof requested by either party, shall be made capable of being recorded with the King County Recorder.

IN WITNESS WHEREOF, the parties hereto have executed this concession contract as of the first day written above.

SNOQUALMIE VALLEY JUNIOR SOCCER ASSOCIATION

KING COUNTY WASHINGTON

By _____

By _____

Title _____

Title _____

Date _____

Date _____

Approval by King County Council on _____, 1996.

By _____