



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

April 1, 2002

Ordinance 14316

Proposed No. 2002-0112.1

Sponsors Constantine

1 AN ORDINANCE authorizing the executive to enter into
2 an interlocal cooperation agreement for open space
3 acquisition projects with the Vashon Park District for the
4 Shinglemill creek acquisition project.

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STATEMENT OF FACTS:

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1. Conservation futures tax levy funds are collected through King County
9 as a dedicated portion of the property tax and are, by statute, available
10 only for the acquisition of open space and resource lands.

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2. Ordinance 13717 established a process for the annual distribution of
12 conservation futures tax levy funds, which includes an allocation of
13 conservation futures funds by the council through the annual budget
14 adoption process.

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3. On November 19, 2001, the King County council adopted the 2002
16 budget by Ordinance 14265 and allocated three hundred fifty thousand

17 dollars in conservation futures funds to the Shinglemill creek acquisition
18 project.

19 4. The county desires to disburse conservation futures funds to the
20 Vashon Park District and must do so by executing an interlocal
21 cooperation agreement with the park district.

22 5. King County is authorized to enter into an interlocal agreement with
23 the city pursuant to chapter 39.34 RCW, the Interlocal Cooperation Act.

24 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

25 SECTION 1. The King County executive is hereby authorized to enter into an
26 interlocal cooperation agreement for open space acquisition projects with the Vashon

Ordinance 14316

27 Park District, in substantially the form attached, for the Shinglemill creek acquisition
28 project authorized under Ordinance 14265.

29


Ordinance 14316 was introduced on 3/4/2002 and passed by the Metropolitan King
County Council on 4/1/2002, by the following vote:

Yes: 12 - Ms. Sullivan, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr.
Phillips, Mr. Pelz, Mr. McKenna, Mr. Constantine, Mr. Gossett, Ms. Hague,
Mr. Irons and Ms. Patterson
No: 0
Excused: 1 - Mr. Pullen

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

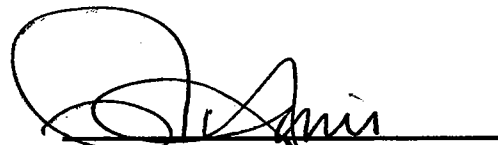

Cynthia Sullivan, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 12 day of April, 2002.



Ron Sims, County Executive

Attachments A. Interlocal Cooperation Agreement between King County and the Vashon Park
District for Open Space Acquisition Projects

**INTERLOCAL COOPERATION AGREEMENT BETWEEN
KING COUNTY AND THE VASHON PARK DISTRICT FOR
OPEN SPACE ACQUISITION PROJECTS**

THIS INTERLOCAL COOPERATION AGREEMENT is entered into between the VASHON PARK DISTRICT ("Park District") and KING COUNTY ("County").

Article I. Recitals

On February 27, 1989, the King County Council passed Ordinance 8867, which established a process to allocate the proceeds of the Conservation Futures Fund, including matching contribution requirements for jurisdiction receiving funds.

On September 21, 1989, the King County Council passed Ordinance 9128, which established a Conservation Futures Levy Fund to provide for the receipt and disbursement of Conservation Future tax levy proceeds and established conditions for use of the Fund, including conditions covering allowable cost and expenses.

On May 12, 2000, the King County Council passed Ordinance 13717, authorizing funding allocation procedures for King County Conservation Futures tax levy collections and amending Ordinance 8867, Section 2, as amended, and K.C.C. 26.12.020, adding new sections to K.C.C. chapter 26.12 and recodifying K.C.C. 26.12.020.

The Open Space Citizens Advisory Committee has recommended an allocation of Conservation Futures funds to specific projects from the Conservation Futures Levy fund following notification to the suburban cities that funds were available, provision of an

opportunity for the suburban cities to respond and receipt by the committee of requests for funding, all pursuant to Ordinance 8867, as amended by Ordinance 13717.

The King County Council, by Ordinance 14265, has approved the allocation of Conservation Future Levy funds to specific projects. By Ordinance 14316 the King Council authorized the King County Executive to enter into interlocal cooperation agreement with the Vashon Park District in order to initiate the approved Shinglemill Creek project.

Pursuant to King County Ordinances 8867, 9128, 13717, Washington Statute Chapter 84.34 RCW and Washington Statute Chapter 39.34, the parties agree to follows:

Article II. Definitions

1. Open Space

The term "open space" or "open space land" means: (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly; or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply; or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife reserves, natural reservations or sanctuaries or other open space, or (v) enhance recreational activities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land of not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any

land meeting the definition of farms and agricultural conservation under subsection (8) of RCW 84.34.020. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b) (iii) of this subsection for the purpose of promoting conservation of wetlands.

2. Project

The term "Project" means specific projects which meet open space criteria as described in King County Ordinance 8867, as amended by Ordinance 13717, and RCW 84.34.020 and which are attached to and incorporated by reference in King County Ordinance 14265 or added to the list of approved projects by the County.

3. Conservation Futures

The term "Conservation Futures" means developmental rights which may be acquired by purchase, gift, grant, bequest, devise, lease or otherwise, except by eminent domain, and may consist of fee simple or any lesser interest, development right, easement, covenant, or other contractual right necessary to protect, preserve, maintain, improve restore, limit future use of, or otherwise conserve open space land, all in accordance with the provisions of Washington Statute Chapter 84.34 RCW and King County Ordinance 8867.

Article III. Purpose of the Agreement

The purpose of this agreement is to create a cooperative arrangement between the Park District and the County relating to the Projects and to define the terms and conditions governing both parties' obligations created by this agreement.

Article IV. Term of Agreement

This agreement shall be continued in full force and effect and binding upon the parties hereto upon execution of the agreement by both parties. The terms of the agreement shall be indefinite. The agreement will be terminated if the Park District is unable or unwilling: 1) to expend the funds provided through this agreement; 2) to satisfy the matching requirements contained in this agreement; and 3) upon reimbursement by the Park District to the County of all unexpended funds provided by the County pursuant to this agreement in the manner and amounts described below.

Article V. Conditions of Agreement

Section 5.1 -- Project Descriptions. Funds available pursuant to this agreement may be used only for Projects listed in Attachment A, which is incorporated herein by reference, or such substituted Projects as may be approved by the County as set forth below. All County funded Projects must meet open space criteria as described in King County Ordinance 8867, as amended by Ordinance 13717, and Washington Statute Chapter 84.34.020 RCW.

Section 5.2 -- Use of Funds. Funds provided to the Park District pursuant to this agreement as well as funds provided by the Park District as match pursuant to this agreement may be used only for expenses related to property acquisition. Those expenses include appraisals, title searches, negotiations, administrative overhead, and the cost of actual acquisition or purchase options, all in accordance with the provisions of Section 3 of

Ordinance 9128. Funds utilized pursuant to this agreement may not be used to purchase land obtained through the exercise of eminent domain.

Section 5.3 -- Substitution/Deletion of Projects. If the Park District does not proceed with the Projects described in Section 5.1 of this agreement, the Park District may reimburse the County all funds provided in good faith to acquire the property for open space, plus accrued interest earnings on the unexpended balance. Alternatively, the Park District may submit specific requests for project reprogramming to the County for its approval. All projects proposed for reprogramming must meet open space criteria as described in King County Ordinance 8867, Section 1, as amended by Ordinance 13717, and Washington Statute Chapter 84.34.020 RCW, be submitted for recommendation by the County's Citizens Oversight Committee or its successor and be approved by action of the King County Council. All reprogramming requests shall be submitted to the County's Department of Natural Resources, Capital Projects and Open Space Acquisition Section, or its successor.

Section 5.4 -- Eminent Domain. If any Project requires the exercise of eminent domain to acquire the property all funds provided pursuant to this agreement plus accrued interest on such funds shall be reprogrammed as provided in this agreement or repaid to the County.

Article VI. Responsibilities of the Park District

Section 6.1 -- Matching Requirements. Any Project funded by Conservation Futures Levy proceeds shall be supported by the Park District in which the Project is located

with a matching contribution which is no less than the amount of Conservation Futures Levy funds allocated to the Project. This contribution may be in the form of cash, land trades with a valuation verified by an appraisal conducted by a MIA certified appraiser, or credits for other qualifying open space acquired on or after January 1, 1989. Any Park District match, other than cash, shall require County approval. County approval and County acceptance of the Park District's match will be transmitted in writing to the Park District by the County's Manager of the Capital Projects and Open Space Acquisition Section or their successor in functions.

If the Project involves two or more suburban cities, those cities shall determine the allocation of the contributions to the matching requirements of this agreement, so long as the total match is no less than the amount of Conservation Futures Levy funds provided by the County.

Such matching contribution must be available within two years of the Park District's application for County funds to support Projects identified herein or approved substitute Projects.

If such commitment is not timely made, the County shall be released from any obligation to fund the Project in question, and the Park District shall reimburse the County all funds provided to the Park District pursuant to this agreement plus accrued interest on such funds. All such moneys will be available to the County to reallocate to other approved Projects. By appropriate legislature action taken not more than 60 days following the effective date of this agreement, the Park District shall commit to contribute its required match.

Section 6.2 -- Project Description. As part of the application to receive Conservation Futures Levy funds from the County, the Park District shall submit the following information concerning each project: 1) a narrative description of the project; 2) a description of the specific uses for Conservation Futures Levy funds in the Project; and 3) a description of the means by which the will satisfy the matching requirements contained in this agreement.

Section 6.3 -- Reporting. All funds received pursuant to this agreement and accrued interest therefrom will be accounted for separately from all other Park District funds, accounts and moneys. Until the property described in the Project is acquired and all funds provided pursuant to this agreement expended, the Park District shall provide semi-annual written reports to the County within 30 days of the end of each relevant time period. The semi-annual report shall contain the following information: a) an accounting of all cash expenditures and encumbrances for support of the Project; b) the status of each Project and any changes to the approved time line; and c) other relevant information requested by the County for the purpose of determining compliance with this agreement.

Following acquisition of the property and expenditure of all funds provided pursuant to this agreement, the Park District shall provide the County with a final report, within 90 days of the end of the calendar year in which all funds were expended. Said report shall contain a summary of all project expenditures, a description of the project status and accomplishments and other relevant information requested by the County for the purpose of verifying compliance with this agreement.

The Park District shall also provide the County, within 90 days of the end of each calendar, annual reports which specify any change in the status of the Project during the prior year and any change in the status of the Project which the Park District reasonably anticipates during the ensuing year. Such reports shall be required only if a change has taken place or is anticipated, except as provided above for ongoing and final project reports. All such reports shall be submitted to the County's Department of Natural Resources, Capital Projects and Open Space Acquisition Section, or its successor.

Section 6.4 -- Disposition of Remaining Funds.

If the Park District does not expend all funds provided through this agreement and no substitute project is requested or approved as to the excess funds, such funds shall be refunded to the County. For purposes of this section, "funds" shall include all moneys provided by the county plus interest accrued by the Park District on such moneys.

Section 6.5 -- Maintenance in Perpetuity. The Park District, and any successor in interest, agree to maintain properties acquired with funds provided pursuant to this agreement as open space in perpetuity. If the Park District changes the status or use of properties acquired with funds provided pursuant to this agreement to any purpose, the Park District shall pay the County an amount in cash to be mutually determined or substitute other property acceptable to the County. In either case, the value of the property shall be established at the time of the change in status or use, based upon the changed status or use and not based on its value as open space.

Upon changes in status and/or use of the property acquired herein, at its own cost, the Park District will provide the County an independent MIA appraisal in accordance with

this section. The value established by the appraisal will not be binding on the County. The Park District shall provide the County with written notice prior to the change of use and shall reimburse the County within 90 days of such notification. Reimbursement not received within 90 days will accrue interest at the then legal rate.

Article VII. Responsibilities of the County

Subject to the terms of this agreement, the County will provide Conservation Futures Levy funds in the amount shown in Attachment A. The Park District may request additional funds; however, the County has no obligation to provide funds to the Park District in excess of the amount shown in Attachment A. The County assumes no obligation for future support of the Projects described herein except as expressly set forth in this agreement.

Article VIII Other Provisions

Section 8.1 -- Hold Harmless and Indemnification.

A. The County assumes no responsibility for the payment of any compensation, fees, wages, benefits or taxes to or on behalf of the Park District, its employees, contractors or others by reason of this agreement. The Park District shall protect, indemnify and save harmless the County, its officers, agents and employees from any and all claims, cost and whatsoever occurring or resulting from: 1) the Park District's failure to pay any compensation, fees, wages, benefits or taxes; and 2) the supplying to the Park District of works services, materials or supplies by Park District employees or agents or other contractors or suppliers in connection with or in support of performance of this agreement.

B. The Park District further agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception, which occurs due to the negligent or intentional acts of this agreement by the Park District, its officer, employees, agent or representatives.

C. The Park District shall protect, indemnify and save harmless the County from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the Park District, its officers, employees or agents. For purpose of this agreement only, the Park District agrees to waive the immunity granted it for industrial insurance claims pursuant to Washington Statute Chapter 51 to the extent necessary to extend its obligations under this paragraph to any claim, demand, or cause of action brought by or on behalf of any employee, including judgments, awards and costs arising therefrom including attorney's fees.

Section 8.2 -- Amendment. The parties reserve the right to amend or modify this agreement. Such amendments or modifications must be by written instrument signed by the parties and approved by the respective Park District Board and County Council.

Section 8.3 -- Contract Waiver. No waiver by either party of any term or condition of this agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provision of this agreement. No waiver shall be effective unless made in writing.

Section 8.4 -- Entirety. This agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated are excluded. This

agreement merges and supersedes all prior negotiations, representations and agreements between the parties relating to the projects and constitutes the entire agreement between the parties. The parties recognize that time is of the essence in the performance of the provisions of this agreement.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces put forth below:

KING COUNTY

VASHON PARK DISTRICT

Ron Sims
King County Executive

Bill Ameling
Vashon Park District Board Chair

Date: _____
Acting under the authority of
Ordinance _____

Date: _____

Approved as to form:

Approved as to form:

NORM MALENG
King County Prosecuting Attorney

Jim Haney
Vashon Park District Legal Counsel

ATTACHMENT A
VASHON PARK DISTRICT
CONSERVATION FUTURES ALLOCATIONS & PROJECT DESCRIPTION

<u>PROJECT NAME</u>	<u>AMOUNT</u>
Shinglemill Creek	\$350,000

PROJECT DESCRIPTION

The Shinglemill Creek acquisition project consists of multiple parcels adjacent to Shinglemill Creek and its headwater tributaries, located between Fern Cove and South Bank Road on Vashon Island. This project will have as a first priority the acquisition of the 28.75 acre "Scarsella" parcel, located on the southern side of Southwest Cove Road, east of 115th Avenue Southwest.