



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

December 10, 2002

Ordinance 14531

Proposed No. 2002-0569.1

Sponsors Edmonds and Pelz

1 AN ORDINANCE authorizing the executive to enter into
2 an interlocal agreement between King County and the city
3 of Tukwila for transfer to the city of South Central pool.
4
5

6 **STATEMENT OF FACTS:**

- 7 1. King County and the city of Tukwila (city) have agreed to terms for an
8 interlocal agreement for the transfer of South Central pool.
9 2. The recitals in the agreement set forth relevant facts supporting and
10 explaining the terms of the transfer.
11 3. The equipment and supplies being conveyed along with the pool are
12 integral to the continued operation and maintenance of the pool and are
13 surplus to the county's needs.
14 4. King County and the city have agreed that the transfer will take place
15 within thirty days of execution of the proposed interlocal agreement.
16 5. Transfer of South Central pool under the terms and conditions of the
17 attached agreement, including the county's limited funding for post-

18 transfer capital improvements, will serve an important county purpose by
19 ensuring that the pool will remain open and available to all county
20 residents.

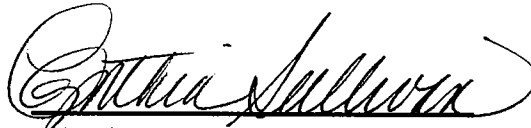
21 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

22 SECTION 1. The King County executive is hereby authorized to enter into an
23 interlocal agreement, substantially in the form of the attached agreement, with the city of
24 Tukwila relating to the transfer of South Central pool.
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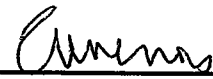
Ordinance 14531 was introduced on 11/25/2002 and passed by the Metropolitan King County Council on 12/9/2002, by the following vote:

Yes: 13 - Ms. Sullivan, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr. Phillips, Mr. Pelz, Mr. McKenna, Mr. Constantine, Mr. Pullen, Mr. Gossett, Ms. Hague, Mr. Irons and Ms. Patterson
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Cynthia Sullivan, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 12 day of December 2002.



Ron Sims, County Executive

RECEIVED
2002 DEC 12 AM
KING COUNTY CLERK
KING COUNTY COUNCIL
56

Attachments A. Intergovernmental Transfer Agreement Between King County and the City of Tukwila

**Intergovernmental Transfer Agreement Between
King County and the City of Tukwila**

Relating to the Ownership, Operation and Maintenance of South Central Pool

This Agreement is made and entered into this day by and between the City of Tukwila, hereinafter called "City", and King County, hereinafter called "County".

WHEREAS the City desires to own, operate, and maintain parks, open space, recreation facilities and programs and other municipal programs, facilities and property inside its boundaries; and

WHEREAS the County, under the authority of RCW 36.89.050, King County Resolution 34571 and other federal, state and county laws, has acquired and developed a substantial park, recreation and open space system that depends on the continued operation of its many individual properties and facilities in order to fully serve the needs of the residents of King County and the cities within it; and

WHEREAS the County desires to divest itself of ownership, management, and financial responsibility for parks, open space, recreational facilities and programs inside and near the City boundaries; and

WHEREAS the County does not have a sufficient, stable source of revenue to continue to manage and maintain its parks, open space, recreational facilities and programs at current levels; and

WHEREAS the County is legally restricted from converting many of these parks, open space, and recreational facilities from their current uses without expending funds to replace the converted facilities; and

WHEREAS, given the legal restriction regarding conversion of the properties, the marketability of the properties is limited and, as a result, the cost of operating the facility is approximately equal to the value of the property to the County; and

WHEREAS, to the extent the City provides scholarships, reduced fees or other means of assuring access to parks and recreational programming for City residents, the City has a goal of ensuring that such scholarships or other needs-based rates and programs are available to all persons desiring to use the park and recreational programs regardless of residency, and

WHEREAS it is in the best interest of the public that the City and the County take those actions necessary to meet those desires and to cooperate in any transition to insure a smooth transition and avoid service disruption;

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the County agree as follows:

1. Conveyance of Title

- 1.1. Within thirty (30) days of execution of this Agreement, King County shall convey to the City by deed all its ownership interest and/or, when possible, by assignment, any leasehold interest or shared use responsibility, in the following listed park/recreation site(s), which are described more fully in Exhibits A and B (the "Property"):

SOUTH CENTRAL POOL

- 1.2 All deeds shall also contain the following specific covenants pertaining to use, which covenants shall run with the land for the benefit of the County and the County land that makes up its public park, recreation and open space system. The County and the City agree that the County shall have standing to enforce these covenants, which shall be set forth as follows:

"The City, as required by RCW 36.89.050, covenants that the Property shall be continued to be used for open space, park, or recreation purposes or that other equivalent facilities within the County shall be conveyed to the county in exchange therefore."

"The City covenants that it shall abide by and enforce all terms, conditions and restrictions in King County Resolution 34571, including that the City covenants that the Property will continue to be used for the purposes contemplated by Ordinance 34571, that the Property shall not be transferred or conveyed except by agreement providing that such lands shall continue to be used for the purposes contemplated by Resolution 34571, and that the Property shall not be converted to a different use unless other equivalent lands and facilities within the County or City shall be received in exchange therefore."

"The City covenants that it shall not use the Property in a manner that would cause the interest on County bonds related to the Property to no longer be exempt from federal income taxation."

"The City covenants that it will not limit or restrict access to and use of the Property by non-City residents in any way that does not also apply to city residents. The City covenants that if differential fees for non-city residents are imposed, they will be reasonably related to the cost borne by city taxpayers to maintain, improve or operate the Property for parks and recreation purposes."

"The City covenants that it shall place the preceding covenants in any deed transferring the Property or a portion of the Property for public park, recreation or open space uses."

1.3 The City and County agree that the assignment of the County's lease for the underlying real property upon which the South Central Pool is built will convey all the rights and obligations of the County contained in the lease, and that the City shall assume all the rights and obligations of the County, including the covenants, contained in the lease.

1.4 The Property being conveyed includes the equipment and supplies that are necessary to operate and maintain the South Central Pool. The County will leave such equipment and supplies on site, which equipment and supplies will include all furniture, lifeguard equipment, first aid supplies, specialty tools, operator manuals, as-built pool and remodel plans, computer equipment used for pool operation, software and software license agreements, phone system, lighting fixtures, miscellaneous pool equipment, building maintenance supplies, spare parts, and materials such as chlorine and filtration supplies for pool maintenance. Any equipment and supplies stored at the South Central Pool for use at other King County facilities will not be transferred.

2. Existing Restrictions, Agreements, Contracts or Permits

2.1 The City shall abide by and enforce all terms, conditions, reservations, restrictions and covenants of title at the time of conveyance and/or in the deed of conveyance.

3. Financial Arrangement

3.1 The County agrees to transfer to the City \$50,000 for the purpose of making capital improvements to South Central Pool. The funds will be distributed to the City in two \$25,000 installments, with the first payable on or before December 31, 2003 and the second payable on or before December 31, 2004. These funds may be used only for the planning, construction, reconstruction, repair, rehabilitation or improvement of the South Central Pool.

3.2 The County will transfer additional capital funds to the City for the purposes described in section 3.1 in an amount to be determined by the County, which amount will depend on the number of agreements to transfer pools that are executed in 2002. Any additional capital dollars will be distributed to the City by December 31, 2003 and December 31, 2004 in approximately equal installments. Under no circumstance will the amount of additional capital funds transferred to the City exceed \$125,000.

4. Condition of Premises and Responsibility for Operations, Maintenance, Repairs, Improvements, and Recreation Services

4.1 The City has inspected and knows the condition of the Property and agrees to accept the Property in AS IS condition, and to assume full and complete responsibility for all operations, maintenance, repairs, improvements of, and provision of recreational services at, the Property.

- 4.2 King County does not make and specifically disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose, with respect to the Property, and no official, employee, representative or agent of King County is authorized otherwise.
- 4.3 The City acknowledges and agrees that except as indicated in paragraph 5.2, the County shall have no liability for, and that the City shall release and have no recourse against the County for, any defect or deficiency of any kind whatsoever in the Property without regard to whether such defect or deficiency was known or discoverable by the City or the County.

5. Environmental Liability

- 5.1 "Hazardous Materials" as used herein shall mean any hazardous, dangerous or toxic wastes, materials, or substances as defined in state or federal statutes or regulations as currently adopted or hereafter amended.
- 5.2 Nothing in this agreement shall be deemed to waive any statutory claim for contribution that the City might have against the County under federal or state environmental statutes that arises from hazardous materials deposited or released on the Property by the County during the County's period of ownership. The City may not, however, assert such a claim to the extent that the City creates the need for or exacerbates the cost of remediation upon which a statutory claim for contribution is based as a result of the City performing construction activities on the Property, changing the configuration of the Property, or changing the use of the Property.
- 5.3 If the City discovers the presence of hazardous materials at levels that could give rise to a statutory claim for contribution against the County it shall immediately notify the County in writing. Such notice shall in no event be provided more than 30 days after discovery. The parties shall make their best efforts to reach agreement as to which party is responsible for remediation under the terms of this Agreement prior to undertaking any remediation.
- 5.4 In no event shall the County be responsible for any costs of remediation that exceed the minimum necessary to satisfy the state or federal agency with jurisdiction over the remediation.

6. Indemnification and Hold Harmless

- 6.1 King County shall indemnify and hold harmless the City and its elected officials, officers, agents or employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, (i) which are caused by or result from a negligent action or omission of King County, its officers, agents and employees in performing its obligations pursuant to this Agreement, and/or (ii) arising from those occurrences related to the Property that occurred prior to

the effective date of conveyance of the Property to the City, except to the extent that indemnifying or holding the City harmless would be limited by Section 5 of this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against the City or the City and King County, King County shall defend the same at its sole cost and expense and, if final judgment be rendered against the City and its elected officials, officers, agents and employees or jointly against the City and King County and their respective elected officials, officers, agents and employees, King County shall satisfy the same.

- 6.2 In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such City ordinance, rule or regulation is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County or both, the City shall satisfy the same, including all chargeable costs and attorney's fees.
- 6.3 The City shall indemnify and hold harmless King County and its elected officials, officers, agents and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, (i) which are caused by or result from a negligent act or omission of the City, its officers, agents and employees in performing obligations pursuant to this Agreement, and/or (ii) arising from those occurrences related to the Property that occurred on or after the effective date of conveyance of the Property to the City, except to the extent that indemnifying or holding the County harmless would be limited by Section 5 of this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against King County or King County and the City, the City shall defend the same at its sole cost and expense and, if final judgment be rendered against King County and its officers, agents and employees or jointly against King County and the City and their respective officers, agents and employees, the City shall satisfy the same.
- 6.4 Each Party to this Agreement shall immediately notify the other of any and all claims, actions, losses or damages that arise or are brought against that Party relating to or pertaining to the Property.
- 6.5 Each party agrees that its obligations under this paragraph extend to any claim, demand, and/or cause of action brought by or on behalf of any employees, or agents. For this purpose, each party, by mutual negotiation, hereby waives, with respect to the other party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify the other party.

7. Audits and Inspections

7.1 Until December 31, 2008, any of either party's records related to any matters covered by this Intergovernmental Agreement not otherwise privileged shall be subject to inspection, review, and/or audit by either party at the requesting party's sole expense. Such records shall be made available for inspection during regular business hours within a reasonable time of the request.

8. Waiver and Amendments

8.1 Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition shall be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

9. Entire Agreement and Modifications

9.1 This Intergovernmental Agreement and its Exhibits sets forth the entire agreement between the parties with respect to the subject matter hereof. It may be supplemented by addenda or amendments, which have been agreed upon by both parties in writing. Copies of such addenda and amendments shall be attached hereto and by this reference made part of this contract as though fully set forth herein.

10. Duration and Authority

10.1 This agreement shall be effective upon signature and authorization by both parties. The terms, covenants, representations and warranties contained herein shall not merge in the deed of conveyance, but shall survive the conveyance and shall continue in force unless both parties mutually consent in writing to termination.

11. Notice

11.1 Any notice provided for herein shall be sent to the respective parties at:

King County
Manager, Parks & Recreation

City
Director, Parks & Recreation

IN WITNESS WHEREOF, the parties have executed this Agreement.

King County

City of Tukwila

King County Executive

Mayor

Date

Date

Approved as to Form:

Approved as to Form:

King County
Deputy Prosecuting Attorney

City Attorney

Date

Date

[INSERT NOTARY SIGNATURE BLOCKS]

EXHIBIT A
King County Parks Transferring to the City of Tukwila

Name of facility

Amenities/facilities

South Central Pool

Aquatic Facility

EXHIBIT B
Legal Descriptions

SOUTH CENTRAL POOL. Those real property improvements, including fixtures and equipment, located in the west 190 feet of the southwest one-quarter of the southeast one-quarter of Section 15, Township 23, Range 4 East, W.M., in King County, Washington, EXCEPT the south 20 feet for South 144th Street.