

January 4, 1995

Introduced By: Brian Derdowski

Proposed No.: 94-746

MOTION NO. **9459**

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A MOTION authorizing the county executive to enter into a joint development and cooperative use agreement with the Issaquah school district relating to the funding and operation of certain park and school properties.

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WHEREAS, King County (hereinafter county) and the Issaquah school district (hereinafter district) own adjacent properties, developed as Klahanie Park and Challenger Schools, respectively, and

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WHEREAS, the county and district have determined that the public interest would be best served with the least expenditure of public funds by jointly using parking facilities located on district sites and stormwater detention and athletic fields located on county sites, and

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WHEREAS, the county and the district wish to enter into a joint development and use agreement to set forth the conditions and agreements for shared use and operation;

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

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The County executive is authorized to execute an interlocal agreement for joint development and cooperative use of Klahanie Park Storm Facilities and Challenger Parking Lots, substantially in the form attached, with the Issaquah school district relating to the funding and operation of Klahanie Park storm drainage facilities and athletic fields and Challenger Schools parking facilities, provided however, that the intention of paragraphs 17.1, 17.2 and 17.3 on page 4 of the agreement is to refer to the joint use of parking facilities.

PASSED by a vote of 13 to 0 this 17th day of January 1995.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Kent Pullen
Chair

ATTEST:

Gerald A. Peterson
Clerk of the Council

INTERLOCAL AGREEMENT
FOR JOINT DEVELOPMENT AND COOPERATIVE USE OF
KLAHANIE PARK STORM FACILITIES
AND CHALLENGER PARKING LOTS

THIS AGREEMENT is made on this 1st day of September, 1994, by ISSAQUAH SCHOOL DISTRICT NO. 411 ("District") and KING COUNTY ("County"), collectively referred to in this Agreement as "Parties" or "Parties to the Agreement".

RECITALS

- A. The District owns certain real property known as Challenger Elementary School, which is adjacent to the King County Klahanie Park site. The elementary school site is developed and the District is in the process of developing the contiguous middle school site.
- B. The County will be accepting that certain real property known as Klahanie Park which is located adjacent to Challenger School. Lowe Enterprises is developing Klahanie Park as athletic fields and related facilities for the County under a separate agreement.
- C. The District and the County have determined that the public interest would be best served with the least expenditure of public funds by a two party agreement permitting the District and the County to jointly use parking facilities located on the District sites, and storm water detention facilities and athletic fields (2 soccer and 1 baseball), located on the Park site.
- D. It is the intent of this Agreement to state a policy of operation between the District and the County and to document procedures to attain maximum efficient use of their publicly owned facilities and open space by the residents of King County.
- E. The District 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.
- F. 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 twenty (20) year term.

GENERAL TERMS

- 1. **TIME PERIOD.** The term of this Agreement is twenty (20) 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 must be delivered to the other Party no less than one hundred eighty (180) days before the date of the expiration of the Agreement.
- 2. **OWNERSHIP.** The real property and fixtures shall remain the property of County and District according to their current ownership interests in the real property.

3. MAINTENANCE.

- 3.1 GENERAL MAINTENANCE. The District will perform special and regular parking lot maintenance and repair. The County will provide special and routine maintenance and repair of the facilities within the boundary of Park land.

Maintenance and repair shall be a topic of discussion at the meetings of the Parties' representatives. Section 18, infra. Disputes concerning maintenance and repair work shall be resolved through the Dispute Resolution process described Section 5, infra.

4. 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).

5. 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:

- 5.1 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 term(s) of the Agreement which the complaining Party alleges was violated.
- 5.2 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.
- 5.3 The complaining Party shall reply in writing, indicating either satisfaction or dissatisfaction with the response. If satisfied, any corrective action shall be taken within fourteen (14) days of receipt of the responding Party's reply. If dissatisfied, the complaining Party shall call an in-person meeting. The meeting shall occur within a reasonable period of time and shall be attended by the designated representatives of each Party, and such others as they individually invite.
- 5.4 If the complaining Party remains dissatisfied with the results of the meeting, it may sue to enforce the terms of this Agreement. The Parties also may agree to an alternate dispute resolution process.
- 5.5 Termination for cause may be one consequence of a finding by the court, or alternate dispute resolution authority, that one Party has materially breached the term of this Agreement.

6. **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.
7. **HAZARDOUS SUBSTANCES.** The District 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 or toxic in accordance with applicable federal, state, and local laws and regulations in any reportable quantities ("Hazardous Substance") in, on or about the Detention Facility. In the event, and only in the event, that either party approves such Release of Hazardous Substances by the other on the former's Detention Facility, the parties agree that such Release shall occur safely and in compliance with all applicable federal, state, and local laws and regulations. The District and the County shall indemnify, hold harmless and defend one another 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 either party, or any of its agents, representatives, or employees or the presence of such Hazardous Substances in, on or about the other's Facilities occurring at any time after the Commencement Date to the full extent of the parties' liability therefore.
8. **ASSIGNMENT.** Neither Party shall 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.
9. **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.
10. **TERMINATION.** The termination of the Agreement shall not include the storm drainage facilities located on the Park unless the District has identified an alternate method which is acceptable to District and permitting authorities for disposition of storm water. Notwithstanding, the Parties may renegotiate terms for continued use of the storm drainage facilities, should the Parties desire to terminate the Agreement shared use of the athletic fields and parking lots pursuant to Paragraph 1, Time Period.
11. **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.
12. **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.

13. **FILING OF INTERLOCAL AGREEMENT.** This Agreement will be filed pursuant to RCW 39.34.040.
14. **RECORDATION.** This Agreement shall be filed with the County Records and Elections Division.

EXECUTION OF IMPROVEMENTS

15. **APPROVAL OF CONTRACT DOCUMENTS.** King County Parks retains the right to review and approve the design of storm drainage facilities modified to accommodate the District's flows prior to construction of such facilities.
16. **PROJECT FINANCING.** King County will allow construction of the modified storm water facilities (per Exhibit A) on the Park property. King County will bear no financial responsibility for design, permitting or construction of the storm water facilities.

The existing parking lot is located on District property at Challenger Elementary and has been designed, permitted, constructed, and paid for by the District, to meet existing regulatory requirements for school development in King County.

Athletic fields on King County Park property will be constructed by Lowe Enterprises to King County approved standards at no cost to King County.

USE OF IMPROVEMENTS

17. **JOINT USE**
 - 17.1 During the regular school term, weekdays, except school holidays, from 7:00 A.M. to 5:00 P.M., and during school sponsored evening activities, the District shall have first priority. "Use of District" means use by the District's students, personnel and guests at school sponsored activities within the time reserved for the District.
 - 17.2 At all other times priorities shall be: the County, the District, other scheduled users and finally unscheduled users. "County Use" means public or private use scheduled or permitted by the County.
 - 17.3 The Parties agree that all uses scheduled or permitted by either of them shall be reasonably appropriate. Each Party agrees to submit to the other, schedules of proposed uses which will occur during the other Party's priority hours. The Parties will make reasonable efforts to accommodate each other's needs.
 - 17.4 The storm water facilities will continuously accommodate both County and District runoff.
 - 17.5 The District has first priority for use of the athletics fields during the regular school term, during actual school hours 7:00 A.M. to 3:00 P.M., except school holidays. At

all other times the County has first priority for use of the athletic fields, but the District may request use in advance and the County will not unreasonably deny approval.

- 18. 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 1 above, 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.
- 19. USER FEES. Neither Party shall charge the other Party for use, routine maintenance, scheduling and/or operation of the Facility located within the boundary of the land covered under this Agreement.

KING COUNTY

ISSAQUAH SCHOOL DISTRICT

By: Gary Locke
 Title: King County Executive
 Date: _____

By: William S. Stewart
 Title: Superintendent
 Date: 8/10/96

Approved as to form:
 By: Norm Maleng
 Norm Maleng
 King County Prosecuting Attorney

Approved as to form:
 By: David R. Saylor

Approved for Entry:
 By: Linda Dougherty
 Linda Dougherty, Manager
 King County Parks Division