

Introduced By: Brian Derdowski

9/30/99

Proposed No.: 1999-0499

ORDINANCE NO. **13652**

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AN ORDINANCE authorizing the conveyance of certain funds in the King County capital improvement program to the city of Covington for the purpose of acquiring and developing land for parks and recreation.

PREAMBLE:

The city of Covington (the "city") desires to acquire, develop, operate, and maintain parks, open space, recreation facilities and programs that are to the benefit of its citizens and all citizens of King County.

Upon incorporation on August 31, 1997, there existed no local parks or recreation properties or facilities for the county to convey to the city.

The 1997 King County capital improvement program included capital improvement project No. 316999 – the Covington Ballfield Acquisition project. The purpose of this project is to partially fund the acquisition and/or development of property that can be used for a multi-purpose park with sports fields.

Pursuant to King County parks policy, cities are the appropriate provider of local parks.

In consideration of the mutual benefits to be derived, it is in the best interest of the citizens of King County to convey the remaining balance of funds contained in capital improvement project No. 316999 as described in this ordinance to the city.

1 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

2 SECTION 1. The King County executive is hereby authorized to execute an  
3 interlocal agreement, substantially in the form attached, with the city of Covington for the  
4 transfer and use of Covington Ballfield Acquisition funds.

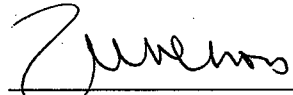
5 INTRODUCED AND READ for the first time this 13th day of September, 1999.

6 PASSED by a vote of 11 to 0 this 11th day of October, 1999.

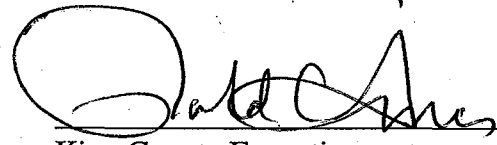
7 KING COUNTY COUNCIL  
8 KING COUNTY, WASHINGTON

9   
10 \_\_\_\_\_  
Chair

11 ATTEST:

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13 \_\_\_\_\_  
Clerk of the Council

14 APPROVED this 15 day of October, 1999

15   
16 \_\_\_\_\_  
King County Executive

17 Attachment: Interlocal Agreement Between King County and the City of Covington  
18 Relating to the funding of Park Acquisition and Development

**Interlocal Agreement**  
**Between King County and the City of Covington**  
Relating to the funding of Park Acquisition and Development

THIS IS AN AGREEMENT between King County, a home rule charter county, a political subdivision of the State of Washington, hereinafter referred to as the "County," and the City of Covington, a municipal corporation of the State of Washington, hereinafter referred to as the "City".

**I. PREAMBLE**

King County and the City of Covington are mutually desirous of allowing the recently incorporated City of Covington complete responsibility for future acquisition and development of active recreation sites for the City of Covington. The County has provided certain funds in its Capital Improvement Program budget for Covington Ballfield Acquisition hereinafter referred to as the "Project". This agreement is made pursuant to RCW 39.34, the Intergovernmental Cooperation Act.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, it is mutually agreed by and between the County and the City as follows:

**II. COUNTY RESPONSIBILITIES**

1. Within thirty (30) days of the execution of this agreement by the parties, King County agrees to transfer to the City of Covington the remaining balance of funds in King County Capital Improvement Project Number 316999.
2. The balance of funds available is expected to be approximately \$282,922.00. The parties acknowledge that the available funds will not be sufficient to complete the full scope of the projects envisioned for the City. No additional funds are committed to the Project, and the parties acknowledge that this one time transfer of funds constitutes the entire and complete amount which the County will provide for the Project.
3. For the purposes of this agreement, King County is merely a funding source for the City and as such, no tort liability whatsoever shall attach to King County arising from County funding within this agreement, nor from the City's purchase, construction, maintenance, operation, use, or design of the properties for which this funding is used.

**III. CITY RESPONSIBILITIES**

1. As consideration for the funds paid by the County, the City shall proceed with the acquisition and development of active recreational park facilities for the City of Covington. The City may only use these funds for the acquisition and development of active recreational park facilities in the City of Covington.

2. As further consideration, all facilities acquired and/or developed by the City with the funds provided under this agreement shall not differentiate the use fees between King County residents and City of Covington residents.
3. As further consideration, any and all properties purchased or developed with funds provided under this agreement shall be used in perpetuity for recreational purposes only, unless the City makes an exchange of like properties of equal or greater value.
4. As further consideration, the City covenants that any and all user fees for properties purchased or developed with funds provided under this agreement shall be the same for non-residents and residents of the City. This provision shall apply to all use fees, including, but not limited to charges imposed upon leases, concessionaires, groups, individuals, and any assignees.

**IV. USE OF FUNDS**

1. The City agrees to use the funds transferred by the County for those purposes as identified in KCC 4.32 and RCW 82.46.
2. The City agrees to refund King County in full for any funds transferred under this Agreement, plus interest at the legal rate, which are not used, or are used for purposes not authorized by this section.

**V. DURATION**

This Agreement shall be effective upon execution and authorization by both parties, and shall continue in force unless both parties mutually consent in writing to its termination.

**VI. INDEMNIFICATION**

1. The City shall indemnify and hold harmless the County and its officers, elected and appointed officials, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, judgments, and damages of any nature whatsoever, including but not limited to injury to person, death, or property damage, by reason of, incidental to, arising out of, or related in any way to the purchase, acquisition, development, construction, use, or maintenance of ballpark or recreational property pursuant to this agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against the County, or the County and City, the City shall defend the same at its sole cost and expense; provided that the County retains the rights to participate in said suit if any principle of governmental or public laws is involved; and if final judgment be rendered against the county, and its officers, elected and appointed officials, agents, and employees, or any

of them, or jointly against the County and City and their respective officers, elected officials, agents and employees, or any of them, the City shall satisfy the same.

2. The City also agrees to waive its immunity under the industrial insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify King County, which waiver has been mutually negotiated by the parties.

3. 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 City.

4. In the event it is determined that RCW 4.24.115 applies to this Agreement, the City agrees to protect, defend, indemnify and save as entirely harmless the County, its officers, elected and appointed officials, employees and agents from any and all claims, demands, suits, penalties, losses, damages, judgments, or costs of any kind whatsoever arising out of or in any way resulting from the City's officers, elected and appointed officials, employees, agents and/or subcontractors of all tiers, acts or omissions, performance or failure to perform the rights and privileges granted under this Agreement, to the maximum extent permitted by law.

## **VII. AUDITS AND INSPECTIONS**

All non-privileged records related to the matters covered by this Agreement are subject to inspection, review or audit by the County or the City at the requesting party's sole expense until three (3) years after the City makes final expenditure of all County provided funds. Such records shall be made available for inspection during regular business hours within a reasonable time of the request. This provision does not require release or inspection of privileged documents, including documents covered by the attorney-client, or attorney work product privileges.

## **VIII. WAIVER AND AMENDMENTS**

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 in advance by the parties hereto.

## **IX. DEFAULT**

1. In the event that the City violates any of the conditions of this Agreement, the County shall be entitled to a full and complete refund of all funds paid to the City under this agreement. Further, the City shall be fully responsible and must indemnify and reimburse the County for any and all costs and expenses related to the City's

default, including but not limited to attorney and other legal fees. Time is of the essence in this agreement.

2. In the event the County violates any of the conditions of the Agreement, the County shall be fully responsible and must indemnify and reimburse the City for any and all costs and expenses related to the County's default, including but not limited to attorney and other legal fees. Time is of the essence in this agreement.

**X. ENTIRE AGREEMENT AND MODIFICATIONS**

This agreement 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.

**XI. RELATIONSHIP OF THE PARTIES**

1. The intent of the parties is that the City shall serve as the capital project manager and administrator of the acquisition and development of active recreation facilities described above. The County will provide limited funds, as detailed above, to assist in the acquisition and development of active recreation facilities. The City shall also assume responsibility for all operations and maintenance of any future acquisitions or development as described in Section III above.
2. The City shall be responsible for following all applicable Federal, State and local laws in administration of this project, and assure that their procedures are consistent with laws relating to public contract bidding procedures, nondiscrimination and fair employment rules and regulations. The County neither incurs nor assumes any responsibility for the City's bid, award or construction process.

**XII. ASSIGNABILITY**

The City shall not assign any of its rights under this contract without the prior written consent of King County.

IN WITNESS WHEREOF, the parties have executed this Agreement.

King County

City of Covington

\_\_\_\_\_  
King County Executive

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Approved as to Form

\_\_\_\_\_  
Approved as to Form

\_\_\_\_\_  
King County  
Deputy Prosecuting Attorney

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date