



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

October 1, 2002

Ordinance 14486

Proposed No. 2002-0394.2

Sponsors Phillips and Edmonds

1 AN ORDINANCE authorizing the executive to enter
2 into interlocal agreements with the cities of
3 Bellevue, Covington, Issaquah, Kent, Mercer Island,
4 Milton, Redmond, Renton, Seattle, Shoreline and
5 Tukwila, for the disbursement of conservation
6 futures funds.

7
8

9 **STATEMENT OF FACTS:**

- 10 1. Conservation futures tax levy funds are collected throughout King
11 County as a dedicated portion of the property tax and are, by statute,
12 available only for the acquisition of open space and resource lands.
- 13 2. Ordinance 13717 established a process for the annual allocation of
14 conservation futures tax levy funds which directs the conservation futures
15 citizens committee to make funding recommendations to the King County
16 executive and council.

17 3. The executive has transmitted an ordinance to the council appropriating
18 2002 conservation futures funds to the open space projects recommended
19 by the conservation futures citizens committee.

20 4. The county desires to disburse conservation futures funds to the city of
21 Seattle and suburban cities and must do so by amending existing or
22 executing new interlocal agreements with these jurisdictions.

23 5. The county and the cities are authorized to enter into an interlocal
24 agreement pursuant to chapter 39.34 RCW, the Interlocal Cooperation
25 Act.

26 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

27 SECTION 1. The King County executive is hereby authorized to enter into and
28 execute contracts and interlocal agreements, in substantially the form attached to this
29 ordinance, or make amendments to existing contracts or interlocal agreements, containing
30 language substantially similar to that attached, necessary for the disbursement of

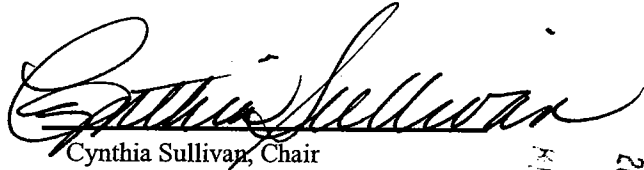
31 conservation futures tax levy funds appropriated in Ordinance ----- (Proposed Ordinance
32 2002-0393) as adopted by the King County council.

33

Ordinance 14486 was introduced on 8/26/2002 and passed by the Metropolitan King
County Council on 9/30/2002, by the following vote:

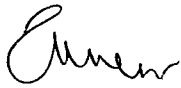
Yes: 10 - Ms. Sullivan, Ms. Edmonds, Mr. von Reichbauer, Mr. Phillips, Mr.
McKenna, Mr. Constantine, Mr. Pullen, Mr. Gossett, Ms. Hague and Mr.
Irons
No: 0
Excused: 3 - Ms. Lambert, Mr. Pelz and Ms. Patterson

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Cynthia Sullivan, Chair

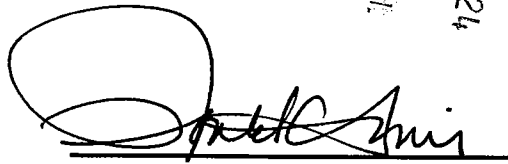
ATTEST:



Anne Noris, Clerk of the Council

RECEIVED
2002 OCT 11 AM 11:24
CLERK
KING COUNTY COUNCIL

APPROVED this 10 day of OCTOBER 2002.



Ron Sims, County Executive

Attachments

Attachments: A. Interlocal Cooperation Agreement between King County and the
City of _____ for Open Space Acquisition Projects, B. Amendment
_____ to the Conservation Futures Interlocal Cooperation Agreement between King
County and the City of _____ for Open Space Acquisition Projects

INTERLOCAL COOPERATION AGREEMENT BETWEEN KING COUNTY
AND THE CITY OF _____ FOR
OPEN SPACE ACQUISITION PROJECTS

THIS INTERLOCAL COOPERATION AGREEMENT is entered into between
the CITY OF _____ (“City”) 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 Future 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 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 _____, has approved the recommendation for the allocation of Conservation Future Levy funds to specific suburban city projects, and authorized the King County Executive to enter into interlocal cooperation agreements with the suburban cities in order to initiate the approved projects.

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 _____ 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 converse 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 City 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 City 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 City 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 City pursuant to this agreement as well as funds provided by the City 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 City does not proceed with the Projects described in Section 5.1 of this agreement, the City 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 City 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 City

Section 6.1 -- Matching Requirements. Any Project funded by Conservation Futures Levy proceeds shall be supported by the City 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 City match, other than cash, shall require County approval. County approval and County acceptance of the City's match will be transmitted in writing to the City by the County's Manager of Open Space & Resource Lands 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 City'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 City shall reimburse the County all funds provided to the City 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 City 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 City 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 City 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 City funds, accounts and moneys. Until the property described in the Project is acquired and all funds provided pursuant to this agreement expended, the City 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 City 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 City 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 City 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, Open Space & Resource Lands, or its successor.

Section 6.4 -- Disposition of Remaining Funds.

If the City 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 City on such moneys.

Section 6.5 -- Maintenance in Perpetuity. The City, and any successor in interest, agree to maintain properties acquired with funds provided pursuant to this agreement as open space in perpetuity. If the City changes the status or use of properties acquired with

funds provided pursuant to this agreement to any purpose, the City 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 City 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 City 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 City may request additional funds; however, the County has no obligation to provide funds to the City 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 City, its employees, contractors or others

by reason of this agreement. The City 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 City's failure to pay any compensation, fees, wages, benefits or taxes; and 2) the supplying to the City of works services, materials or supplies by City employees or agents or other contractors or suppliers in connection with or in support of performance of this agreement.

B. The City 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 City, its officer, employees, agent or representatives.

C. The City 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 City, its officers, employees or agents. For purpose of this agreement only, the City 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 City and County Councils.

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

CITY OF _____

Ron Sims
King County Executive

Mayor (or City Manager)

Date: _____
Acting under the authority of
Ordinance _____

Date: _____

Approved as to form:

Approved as to form:

Norm Maleng
King County Prosecuting Attorney

City Attorney

ATTACHMENT A
CITY OF _____
CONSERVATION FUTURES ALLOCATION & PROJECT DESCRIPTION

PROJECT NAME

AMOUNT

(Project)

\$

PROJECT DESCRIPTION

**AMENDMENT ____ TO THE CONSERVATION FUTURES
INTERLOCAL COOPERATION AGREEMENT
BETWEEN KING COUNTY AND THE CITY OF _____
FOR OPEN SPACE ACQUISITION PROJECTS**

Preamble

The King County Council, through Ordinance 9128, has established a Conservation Futures Levy Fund and appropriated proceeds to King County, the City of _____ and certain suburban cities through the procedures set forth in Ordinance 8867, as amended by Ordinance 13717. This amendment is entered into to provide for the allocation of additional funds made available for open space acquisition.

THIS AMENDMENT is entered into between the CITY OF _____ and KING COUNTY, and amends and attaches to and is part thereof of the existing Interlocal Cooperation Agreement entered into between the parties on the ___th day of (Month), (Year) as previously amended.

The parties agree to the following amendments:

Amendment 1: Article 1. Recitals

A paragraph is hereby added to the Recitals Section to provide for a Conservation Futures Levy Fund allocation for the (Project name) Open Space acquisition, and hereafter reads:

- On _____ (date), the King County Council passed Ordinance _____, which appropriated (\$ amount) in Conservation Futures Levy proceeds to the City of _____ for the (Project name) Open Space Acquisition Project. On (date) _____, The King County Council passed Ordinance _____, authorizing the King County Executive to enter into an amendment to the Conservation Futures Interlocal Cooperation Agreement with the City of _____ for Open Space Acquisition Projects to the (Project name) Open Space acquisition project authorized under Ordinance _____.

Amendment 2: Article V. Conditions of Agreement

Section 5.1 is appended to include Attachment ____, which lists a (Year) Conservation Futures Levy Allocation for the _____ Open Space acquisition project.

Amendment 3: Article VII. Responsibilities of County

The first two sentences of this article are appended to include Attachment ____, which lists a (Year) Conservation Futures Levy proceeds allocation for the _____ Open Space acquisition project:

Subject to the terms of this agreement, the County will provide Conservation Futures Levy Funds in the amounts shown in Attachments A through ____ to be used for the Projects listed in Attachments A through ____ . The City may request additional funds; however, the County has no obligation to provide funds to the City for the Projects in excess of the total amounts shown in Attachments A through ____ . The County assumes no obligation for the future support of the Projects described herein except as expressly set forth in this agreement.

In all other respects, the terms, conditions, duties and obligations of both parties shall remain the same as agreed to in the Interlocal Cooperation Agreement as previously amended.

This document shall be attached to the existing Interlocal Cooperation Agreement.

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

KING COUNTY

CITY OF _____

Ron Sims
King County Executive

Mayor (or City Manager)

Date

Date

Acting under the authority of
Ordinance:
Dated:

Acting under the authority of
Ordinance:
Dated:

Approved as to form:

Approved as to form:

Norm Maleng
King County Prosecuting Attorney

City Attorney

ATTACHMENT ____

**(Year) CONSERVATION FUTURES LEVY
CITY OF _____ ALLOCATION**

Jurisdiction	Project	Allocation
(City Name)	(Project)	\$
TOTAL		\$

Project Description:

City of _____ - (Project Name) \$

(Description text):