



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

December 10, 2002

Ordinance 14534

Proposed No. 2002-0570.3

Sponsors Edmonds, Hague and McKenna

1 AN ORDINANCE authorizing the executive to enter into
2 an interlocal agreement between King County and the city
3 of Bellevue for transfer to the city of Eastgate park and
4 Manor Hill park.

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6

7 **STATEMENT OF FACTS:**

- 8 1. King County and the city of Bellevue (city) have agreed to terms for an
9 interlocal agreement for the transfer of Eastgate park and Manor Hill park.
- 10 2. The recitals in the agreement set forth relevant facts supporting and
11 explaining the terms of the transfer.
- 12 3. King County and the city have agreed that the transfer will take place
13 within thirty days of the execution of the interlocal agreement.
- 14 4. Transfer of Eastgate park and Manor Hill park under the terms and
15 conditions of the attached agreement will serve an important county
16 purpose by ensuring that the parks will remain open and available to all
17 county residents.

18 5. Because the county does not have sufficient funds to continue to
19 operate and maintain Eastgate park and Manor Hill park, these parks are
20 surplus to the county's needs.

21 6. In conjunction with the attached agreement, the city mayor and council
22 have stated their commitment to pursue the future annexation of the
23 Eastgate potential annexation area.

24 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

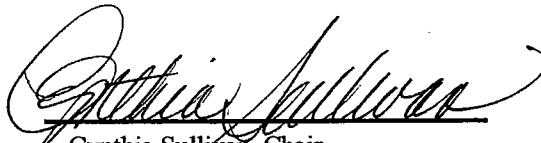
25 SECTION 1. The King County executive is hereby authorized to enter into an

26 interlocal agreement, substantially in the form of the attached agreement, with the city of
27 Bellevue relating to the transfer of Eastgate park and Manor Hill park.
28

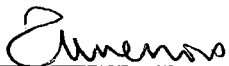
Ordinance 14534 was introduced on 11/25/2002 and passed as amended by the Metropolitan King County Council on 12/9/2002, by the following vote:

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

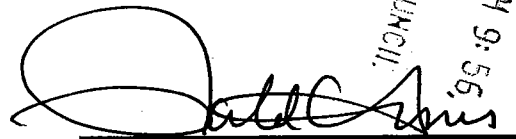
KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


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 9:56
KING COUNTY COUNCIL CLERK

Attachments A. Intergovernmental Land Transfer Agreement Between King County and the City of Bellevue, B. Letter from City of Bellevue Mayor Connie Marshall, dated Nov. 27, 2002, to Executive Ron Sims

**Intergovernmental Land Transfer Agreement Between
King County and the City of Bellevue**

Relating to the Ownership, Operation and Maintenance of Parks,
Open Space, Recreation Facilities and Programs

This Agreement is made and entered into this day by and between the City of Bellevue, 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, Eastgate Park lies in Unincorporated King County, adjacent to the City's corporate boundary and within the City's Potential Annexation Area, and

WHEREAS, Manor Hill Park / Traffic Circle lies within the corporate boundaries of the City, 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 of other needs-based rates and programs are available to all persons desiring to use the park and recreational programs regardless of residency.

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"):

**Eastgate Park
Manor Hill Park / Traffic Circle**

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 portion of the Property that is the Manor Hill Park/Traffic Circle shall be continued to be used for open space, park, or recreation facility purposes or that other equivalent facilities within the County shall be conveyed to the County in exchange therefore."

"The City covenants that the portion of the Property that is Eastgate Park shall continue to be used in perpetuity for park or recreation purposes unless other equivalent lands or facilities within the County or the City are received in exchange therefore and the replacement lands or facilities are used in perpetuity for park or recreation purposes.."

"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."

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.

2.2 The County and the City acknowledge that they previously entered into an agreement concerning the disposition of Eastgate Park, through the Interlocal Agreement between the County and the City that was fully executed on April 2, 1996, and that all terms in that Interlocal Agreement concerning Eastgate Park are hereby terminated and replaced by the terms of this Agreement.

3. Taxes and Utility Charges

3.1 The County shall pay any property taxes, if any are due or owing up until the time of conveyance or transfer. The County shall also pay any utility charges if any are due or owing, until the time of conveyance or transfer.

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

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.

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.

The City acknowledges and agrees that except as indicated in section 5, 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. This release in this paragraph applies only to the potential liability of the County to the City.

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. In making such a claim, however, the City is barred from seeking to recover any costs that arise from the City having exacerbated the cost of remediation upon which such a claim 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. The parties acknowledge that if hazardous materials on the Property pose an imminent threat to human health or the environment emergency response may be required before the parties can agree on the responsibility for 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 protect, 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, liabilities, losses, costs, expenses or 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 claims, actions, suits, liabilities, losses, costs, expenses or damages 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 protect, 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, liabilities, losses, costs, expenses or 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 its 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 claims, actions, losses, costs, expenses or damages 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.
- 6.6 The terms of these indemnity provisions, as well as the terms of the environmental liability section shall survive the closing of the property and the termination of this agreement.

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. Any amendment or modification of the terms of this Agreement must be made in writing, signed by both parties, and attached hereto.

10. Duration and Authority

10.1 This agreement shall be effective upon signature by the authorized signatories of, and authorization by the legislative bodies of 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
Ron Sims

City of Bellevue
Steve Sarkozy

IN WITNESS WHEREOF, the parties have executed this Agreement.

King County

City of Bellevue

King County Executive

City Manager

Date

Date

Approved as to Form:

Approved as to Form:

King County
Deputy Prosecuting Attorney

City Attorney

Date

Date

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

On this _____ day of _____, 2002, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared, to me known to be the individual described in and who executed the forgoing instrument, and acknowledged to me that _____ signed and sealed the said instrument as _____ free and voluntary act and deed for the uses and purposed therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the State of Washington, residing

at _____
City and State

My appointment expires _____

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

On this _____ day of _____, 2002, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared, to me known to be the individual described in and who executed the forgoing instrument, and acknowledged to me that _____ signed and sealed the said instrument as _____ free and voluntary act and deed for the uses and purposed therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the State of Washington, residing

at _____
City and State

My appointment expires _____

EXHIBIT A
King County Parks Transferring to the City of Bellevue

Name of park:

Eastgate Park

Traffic Circle / Manor Hill Park

EXHIBIT B
Legal Descriptions

1. EASTGATE PARK

That portion of the SE 1/4 of the NE 1/4 of Section 15, Township 24 North, Range 5 East, W.M., in King County, Washington, lying South of Newport-Issaquah Road; EXCEPT that portion contained in the plat of Eastgate Addition, Division "F", according to the plat recorded in Volume 58 of Plats, page 83, records of King County, Washington; EXCEPT that portion of the NE 1/4 of Section 15, Township 24 North, Range 5 East, W.M., described as follows: Beginning at the SE corner of said subdivision; thence N.89-20-48 W. a distance of 627.88 feet along the Southerly limits of said subdivision to the true point of beginning; thence continuing N.89-20-48 W. a distance of 187.00 feet; thence N.00-39-12 E. a distance of 150.00 feet; thence N.45-39-12 E. a distance of 178.19 feet; thence S.89-20-48 E. a distance of 61.00 feet; thence S.00-39-12 W. a distance of 276.00 feet to the true point of beginning.

SUBJECT TO: 1) Notice of Charges for Connection to Water and Sewer Systems, as recorded under Recording No. 7711090948; 2) Notice of Charges for Connection to Water, Sewer, Storm and Surface Water Utilities, as recorded under Recording No. 9612200938; and 3) Easement for Underground Water Pump Station and Pipeline, as recorded under Recording No. 8608041237.

2. Traffic Circle / Manor Hill Park:

Portion described as park in the plat of Manor Hill Addition, as recorded in Volume 44 of Plats, pages 21 & 22, records of King County, Washington.

14534

City of Bellevue



Office of City Manager • (425) 452-6810
Post Office Box 90012 • Bellevue, Washington • 98009 9012

November 27, 2002

1202-012

The Honorable Ron Sims
King County Executive
King County Courthouse, Room 400
516 - Third Avenue
Seattle, WA 98104-2312

Dear Executive Sims:

On behalf of the Bellevue Council I would like to thank you for working with the City to bring about the transfer of Eastgate Park from the County to the City. The City is anxious to complete the transfer process and appreciates your assistance and the work of your staff over the past few months towards achieving this goal.

This letter sets forth the understanding and responsibilities of the City and the County for pre-annexation activities of the area known as "Eastgate" in which the park is located.

Eastgate is by far the largest remaining portion of unincorporated land within the City's Potential Annexation Area. Future annexation of this area will benefit citizens by consolidating service boundaries and improving the ability to address land use, transportation, and other issues in a large island surrounded by Bellevue. Annexation of this area also follows through on the City's commitment to provide urban services within our portion of the Urban Growth Area, and to complete the City's boundaries as adopted in the Annexation Element of Bellevue's Comprehensive Plan.

Consistent with the issues outlined above, the Council is hopeful that the Eastgate area will be part of Bellevue in the near future. However, the City estimates that the area's annual operating costs exceed revenues by between \$150,000 and \$400,000, plus general CIP costs estimated at over \$5 million. Given the budget impacts of taking on urban service responsibilities for Eastgate, the City cannot pursue annexation of the area at this time without causing tax increases or service reductions elsewhere in Bellevue. We expect this situation will change and that the prospects for annexation will improve when the economy improves.

To further the annexation discussion, the City is willing to participate with the County in paving the way for a future annexation vote or other mechanism of annexation if approved by the Legislature. Bellevue will join the County in hosting one to two informational meetings in 2004 and two meetings in 2005, to

RECEIVED DEC - 4 2002
KING COUNTY EXECUTIVE OFFICE
TO: DNRP
DUE DATE: 12-18-2002
AUTHOR: MARSHALL, C
SUBJECT: PARKS
ACTION
X RESPONSE FOR EXEC. SIG.
RESPOND FOR EXECUTIVE
REVIEWED BY

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November 22, 2002
Page 2

14534

describe the benefits of annexation and answer residents' questions. The City is willing to share equally with the County the cost for any such meetings or other joint preliminary pre-annexation activities.

Again, thank you for working cooperatively with the City on this issue.

Sincerely,



Connie B. Marshall
Mayor

cc: Bellevue Council