



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

July 29, 2003

Ordinance 14720

Proposed No. 2002-0568.2

Sponsors Edmonds and Patterson

1 AN ORDINANCE authorizing the executive to enter into
2 an interlocal agreement between King County and the city
3 of SeaTac for transfer to the city of Des Moines Creek
4 park.

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7 **STATEMENT OF FACTS:**

- 8 1. King County and the city of SeaTac (city) have agreed to terms for an
9 interlocal agreement for the transfer of Des Moines Creek park.
- 10 2. The recitals in the agreement set forth relevant facts supporting and
11 explaining the terms of the transfer.
- 12 3. The equipment and supplies being conveyed along with the parks are
13 integral to the continued operation and maintenance of the parks and are
14 surplus to the county's needs.
- 15 4. King County and the city have agreed that the transfer will take place
16 within thirty days of execution of the interlocal agreement.

17 5. Transfer of Des Moines Creek park under the terms and conditions of
18 the attached agreement will serve an important county purpose by
19 ensuring that the parks 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

Ordinance 14720

23 interlocal agreement, substantially in the form of the attached agreement, with the city of
24 SeaTac relating to the transfer of Des Moines Creek park.

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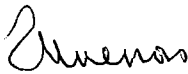
Ordinance 14720 was introduced on 11/25/2002 and passed by the Metropolitan King County Council on 7/28/2003, by the following vote:

Yes: 13 - Ms. Sullivan, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr. Phillips, Mr. Pelz, Mr. McKenna, Mr. Constantine, Mr. Hammond, 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 7 day of August, 2003.


Ron Sims, County Executive

RECEIVED
2003 AUG - 8 PM 4:01
KING COUNTY COUNCIL CLERK

Attachments A. Revised Intergovernmental land Transfer Agreement Between King County and the City of SeaTac, dated July 17, 2003

July 17, 2003

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

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 SeaTac, 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 certain properties located within the City boundaries were not transferred via previous interlocal agreements entered into by the County and the City as authorized by Ordinance 14086 and Ordinance 9746; 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"):

That portion of Des Moines Creek Park lying within City limits

- 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 facility 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 Resolution 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 further 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 Property being conveyed includes certain improvements that are integral to the operation and maintenance of the park. The County will leave such improvements on site. The City takes all equipment and supplies AS IS and WHERE IS and agrees that the County holds no future responsibility with regard to the equipment and supplies or any occurrence related to or resulting from use of the equipment and supplies.

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

3.1 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.

3.2 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.

3.3 The City acknowledges and agrees that except as indicated in paragraph 4.2, 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.

4. Environmental Liability

4.1 "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.

- 4.2 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.
- 4.3 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 10 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.
- 4.4 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.

5. Indemnification and Hold Harmless

- 5.1 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 4 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.
- 5.2 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.

- 5.3 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 4 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.
- 5.4 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.
- 5.5 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. Audits and Inspections

- 6.1 Until December 31, 2009, 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.

7. Waiver and Amendments

- 7.1 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.

8. Entire Agreement and Modifications

- 8.1 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.

9. Duration and Authority

9.1 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.

10. Notice

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

King County:

City:

Bob Burns
Acting Manager, Parks and Recreation
Division, DNRP
Rm 700, King Street Center
201 S. Jackson Street
Seattle, WA 98104

[INSERT INFORMATION]

IN WITNESS WHEREOF, the parties have executed this Agreement.

King County

City of Sea Tac

King County Executive

City Manager

Date

Date

Approved as to Form:

Approved as to Form:

King County
Senior Deputy Prosecuting Attorney

City Attorney

DRAFT

DRAFT

DRAFT

State of Washington, residing

at _____

City and State

My appointment expires _____

EXHIBIT A
King County Parks Transferring to the City of Sea Tac

Name of park

Amenities/facilities

Des Moines Creek Park (within the City of Sea Tac)

Open space, trails

EXHIBIT B
Legal Descriptions

DES MOINES CREEK PARK

PARCEL 1

West 3/4 of the NE 1/4 of the SW 1/4 of Section 4, Township 22 North, Range 4 East, W.M.; TOGETHER WITH East 1/2 of the West 1/2 of the SW 1/4 of said Section 4; EXCEPT North 1/4 thereof; LESS County Roads AND LESS State Highway. (Tax Account No. 042204-9031)

PARCEL 2

Lot 9, Mayvale Addition No. 2, as per plat recorded in Volume 77 of Plats, page 19, records of King County, Washington; EXCEPT the Easterly 70 feet thereof as measured at right angles to the Easterly line of said Lot 9. (Tax Account No. 525110-0095)

PARCEL 3

The following described portions of the SE 1/4 of the SW 1/4 of Section 4, Township 22 North, Range 4 East, W.M., in King County, Washington: North 1/2 of North 1/2 of NW 1/4 of said Section 4; LESS The East 20 feet (AKA Lot 16); TOGETHER WITH West 494.41 feet of the South 1/2 of the North 1/2 of NW 1/4 of said Section 4 (AKA West portion of Lot 15); TOGETHER WITH West 390 feet of the North 1/2 of the South 1/2 of NW 1/4 of said Section 4 (AKA West portion Lot 14); TOGETHER WITH West 395 feet of South 1/2 of South 1/2 of NW 1/4 of said Section 4 (AKA West portion of Lot 13); TOGETHER WITH West 220 feet of North 1/2 of North 1/2 of SW 1/4 of said Section 4 (AKA West portion of Lot 12); TOGETHER WITH South 1/2 of North 1/2 of SW 1/4 of said Section 4; LESS South 62 feet thereof; AND South 62 feet of portion of South 1/2 of North 1/2 of SW 1/4 of said Section 4, lying West of West line of East 545.01 feet thereof (AKA West portion of Lot 11); TOGETHER WITH West 220 feet of North 1/2 of South 1/2 of SW 1/4 of said Section 4. Portion of Lots 10 - 16, Parkhurst, an unrecorded plat. (Tax Account No. 666300-0101)