



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**February 24, 2004**

**Ordinance 14841**

**Proposed No.** 2004-0064.2

**Sponsors** McKenna

1 AN ORDINANCE authorizing the surplus, exchange and  
2 dedication of two parcels of county-owned property to  
3 expand the Eastgate park and ride; and declaring an  
4 emergency.

5  
6  
7 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

8 SECTION 1. Findings:

9 A. King County metro transit division is in the process of expanding the Eastgate  
10 park and ride from seven hundred stalls to one thousand six hundred forty-six stalls by  
11 constructing a five-story parking garage.

12 B. As part of the design process for the parking garage, a traffic analysis was  
13 completed. The results of this analysis showed the necessity of a dedicated right turn  
14 lane to the parking facility. This turn lane will be developed by King County on  
15 Westbound Southeast Eastgate Way and dedicated to the city of Bellevue.

16 C. Construction of the turn lane will require the acquisition of four thousand one  
17 hundred sixty three square feet of additional right-of-way from the adjacent private

18 landowners, Dr. and Mrs. Milton Walter ("Parcel A"). The additional right-of-way for  
19 this project is currently used as parking for an office building owned by Dr. and Mrs.  
20 Walter.

21 D. The acquisition of this property eliminates necessary parking for the office  
22 building.

23 E. King County public health owns the parcel adjacent to the Walters' property to  
24 the north and operates a neighborhood clinic at the site. When the clinic was developed,  
25 a secondary emergency access was provided to the clinic through the Washington state  
26 Department of Transportation park and ride to the west. In return for this access, King  
27 County public health entered into a three-way agreement with the Washington state  
28 Department of Transportation and the King County metro transit division to dedicate a  
29 portion of its property for twenty nine park and ride stalls. This dedication was stipulated  
30 by the conditional use permit which allowed the construction of the clinic, via agreement  
31 and city of Bellevue zoning restrictions.

32 F. By obtaining a release of zoning restrictions from the city of Bellevue over this  
33 dedicated park and ride area, King County public health can surplus and transfer to the  
34 Walters approximately four thousand nine hundred forty-three square feet of its property  
35 ("Parcel B") as compensation for the loss of parking on the Walters' property.

36 G. The city of Bellevue has agreed to remove the restrictions stipulating park and  
37 ride use only.

38 H. King County public health will gain the use of approximately seven thousand  
39 seven hundred sixty-seven square feet of land, which had previously been restricted to

40 park and ride use only. This will increase the value of the public health property by  
41 approximately one hundred ninety thousand dollars.

42 I. This solution is agreeable to the Walters, as it maintains the number of parking  
43 stalls available to their tenants.

44 J. The negotiated value of this property exchange between King County and the  
45 Walters is zero dollars for the value of the land, and King County will pay the Walters a  
46 total of thirty three thousand seven hundred thirty four dollars for landscaping and  
47 construction easements.

48 K. King County public health will obtain a net increase of eight parking stalls  
49 after the transaction.

50 L. Public access to the newly constructed transit parking facility will be improved  
51 by this transaction.

52 M. Under K.C.C. 4.56.070, the property known as Parcel B has been declared  
53 surplus to the needs of the King County public health department for the purpose of  
54 exchange with the adjacent property owner to facilitate expanded parking for the King  
55 County metro transit division.

56 N. Upon acquisition and pursuant to K.C.C. 4.56.070, the property known as  
57 Parcel A has been declared surplus for the purpose of dedication to the city of Bellevue  
58 for right-of-way.

59 O. The real estate services section of the facilities maintenance division property  
60 services division finds the properties surplus to the county's present and foreseeable  
61 needs.

62 P.1. Swift approval of this agreement is needed to ensure that the project can  
63 meet its construction timetable, open on schedule to coincide with Metro Transit's June 5  
64 service change and avoid delays that could result in higher costs and limit the benefits in  
65 congestion relief and compliance with transit development and growth management  
66 goals.

67 2. Swift approval of this agreement will also allow timely closing on the property  
68 transaction between King County and Dr. and Mrs. Walter. For these reasons, the county  
69 desires this ordinance to take effect by February 26.

70 SECTION 2. The King County executive is hereby authorized to execute the  
71 necessary documents to exchange surplus King County public health property with the  
72 Walters' property, and dedicate the exchanged property to the city of Bellevue for the  
73 development of a dedicated right turn lane to the new park and ride facility in accordance  
74 with K.C.C. 4.56.070.

75	PROPERTY NAME AND	APPRAISED
76	<u>PARCEL</u> <u>TAX ACCT. NO.</u>	<u>VALUE</u>
77	A <u>Walter Parcel</u>	\$175,005
78	102405-9125	
79	B <u>Public Health Parcel</u>	\$191,675
80	102405-9050	

81            SECTION 3. For the reasons set forth in section 1 of this ordinance, the metropolitan King  
82 County council finds as a fact and declares that an emergency exists and that this ordinance is  
83 necessary for the immediate preservation of public peace, health or safety or for the support of  
84 county government and its existing public institutions.  
85

Ordinance 14841 was introduced on 2/2/2004 and passed by the Metropolitan King  
County Council on 2/23/2004, by the following vote:

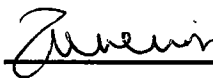
Yes: 13 - Mr. Phillips, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr.  
Pelz, Mr. McKenna, Mr. Ferguson, Mr. Hammond, Mr. Gossett, Ms. Hague,  
Mr. Irons, Ms. Patterson and Mr. Constantine  
No: 0  
Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
Larry Phillips, Chair

RECEIVED  
2004 MAR -4 AM 9:59  
KING COUNTY COUNCIL  
CLERK

ATTEST:

  
\_\_\_\_\_  
Anne Noris, Clerk of the Council

APPROVED this 4 day of MARCH, 2004.

  
\_\_\_\_\_  
Ron Sims, County Executive

**Attachments**      A. Real Estate Purchase Agreement, B. Map, Parcel A - Walter Property, dated 2-11-  
2004, C. Map, Parcel B - King County Property

14841

2004-064 Attachment A

**REAL ESTATE PURCHASE AGREEMENT**

THIS REAL ESTATE PURCHASE AGREEMENT ("Agreement") is made and entered into as of December 9, 2003 by and between **DR. MILTON R. WALTER AND SUE M. WALTER**, husband and wife, (the "Walters") and **KING COUNTY**, a municipal corporation and political subdivision of the State of Washington (the "County").

**RECITALS**

A. The Walters own that certain real property located in the City of Bellevue, County of King, State of Washington, which consists of approximately 4163 square feet, the legal description of which is attached hereto as **EXHIBIT A (the "Walters' Property")**.

B. The County has indicated that it needs the Walters' Property to provide street improvements related to the reconstruction and expansion of the Eastgate Park and Ride Facility (the "Project") adjacent to the Walters' Property.

C. The Walters' Property ultimately will be conveyed to the City of Bellevue to satisfy a permit requirement imposed on the County by the City of Bellevue as part of the Project.

D. The County owns that certain real property located in the City of Bellevue, County of King, State of Washington, which consists of approximately 4943 square feet, the legal description of which is attached hereto as **EXHIBIT B (the "County Property")**.

E. The Walters have indicated that they are willing to accept the County Property in exchange for the Walters' Property, under the conditions set forth in this Agreement.

F. The Walters acknowledge that the exchange referenced in Recital E will encompass a legal boundary line adjustment. The County will facilitate the procurement of the legal boundary line adjustment through the City of Bellevue.

G. The Walters and the County have come to an agreement on the terms for the exchange of the real property referenced above in Recital E.

**AGREEMENT**

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

**ARTICLE 1.  
EXCHANGE AND TRANSFER OF ASSETS**

**1.1. WALTERS' PROPERTY TO BE SOLD.** Subject to and upon the terms and conditions set forth in this Agreement, the Walters shall sell, convey, assign, transfer and deliver to the County, on the Closing Date (identified in Section 9.1) and the County, shall buy, assume and accept from the Walters on the Closing Date the following assets and properties:

- (a) all of the Walters' right, title and interest in the Walters' Property;
- (b) all of the Walters' right, title and interest in improvements and structures located on the Walters' Property, if any; and
- (c) all of the Walters' tenements, hereditaments, easements and rights appurtenant to the Walters' Property including but not limited to, all of the Walters' right, title, and interest in and to streets, alleys or other public ways adjacent to the Walters' Property, easements for public utilities, all sewers and service drainage easements, all rights of connection to the sewers, and all rights of ingress and egress, and all leases, licenses, government approvals and permits affecting the Walters' Property.

Hereinafter, the items listed in Section 1.1, are collectively referred to as the "**Walters' Purchased Assets**".

**1.2 COUNTY PROPERTY TO BE SOLD.** Subject to and upon the terms and conditions set forth in this Agreement, the County shall sell, convey, assign, transfer and deliver to the Walters on the Closing Date and the Walters shall buy, assume and accept from the County on the Closing Date the following assets and properties:

- (a) all of the County's right, title and interest in the County Property;
- (b) all of the County's right, title and interest in improvements and structures located on the County Property, if any; and
- (c) all of the County's tenements, hereditaments, easements and rights appurtenant to the County Property including but not limited to, all of the County's right, title, and interest in and to streets, alleys or other public ways adjacent to the County Property, easements for public utilities, all sewers and service drainage easements, all rights of connection to the sewers, and all rights of ingress and egress, and all leases, licenses, government approvals and permits affecting the County's Property.

Hereinafter, the items listed in Section 1.2 are collectively referred to as the "**County's Purchased Assets**".

**ARTICLE 2.  
EXCHANGE OF DEEDS AND CONSIDERATION**

**2.1. EXCHANGE OF DEEDS.** In consideration of the payments, covenants and agreements contained herein and the performance of said covenants and agreements by each of the parties, on the Closing Date the Walters will convey to the County the Walters' Purchased Assets by Statutory Warranty Deed in the form attached hereto as **EXHIBIT C**, and the County will convey to the Walters the County's Purchased Assets by Statutory Warranty Deed in the form attached hereto as **EXHIBIT D**.

**2.2. TEMPORARY CONSTRUCTION EASEMENT.** In consideration of the County conveyance by exchange of deeds as referenced in 2.1, the Walters will at Closing grant to the County a Temporary Construction Easement, in the form attached hereto as **EXHIBIT E**.

**2.3 ATTORNEYS' FEES AND CLOSING COSTS.** In consideration of the Walters' conveyance by exchange of deeds as referenced in 2.1, the County will at Closing pay for all closing costs and any of the Walters' actual and reasonable attorneys' and consultant fees, not to exceed \$20,000.

**2.4 RECONFIGURATION OF THE PROPERTY OWNED BY THE WALTERS AFTER THE CLOSING DATE.** In consideration of the Walters conveyance by exchange of deeds as referenced in Section 2.1, the County will reconfigure the property owned by the Walters after the Closing Date by reconstructing the affected parking stalls, overlaying the affected area with asphalt, replacing any landscape removed on the new property with identical plantings as reasonably possible and relocating the light standards and bringing them up to current code standards if required by the City of Bellevue; as such additional work is shown on or provided for in attached **EXHIBIT F**. The County will perform this reconfiguration complying with all applicable City of Bellevue codes. The County will provide the Walters two weeks advance notice of the commencement of said reconfiguration.

**2.4.1 Fence Extension.** The existing fence on the west property line between the park and ride and the Walters' Property shall be extended to the north to meet the revised north limits of the property. The extension will be of like materials, design and height as the existing fence.

**ARTICLE 3.**  
**REPRESENTATIONS AND WARRANTIES OF THE PARTIES**

**3.1. WARRANTIES AND REPRESENTATIONS OF THE PARTIES.** Since each party is acting herein both as purchaser and seller, the following warranties and representations are combined and each party's warranties and representations apply to its property only (the "Property"), as described in **EXHIBIT A** and **EXHIBIT B**, unless otherwise specified. The parties represent and warrant as follows:

**3.1.1. Definition of the Walters.** The Walters are a married couple and the Walters' Property is community property under the laws of the State of Washington. All references to the Walters in this Agreement and all covenants, warranties, representations and agreements contained in this Agreement and any of its attachments are entered into by each of the Walters individually and on behalf of their marital community.



**3.1.2. Organization.** The County is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Washington. The County has all requisite corporate power and authority to carry on its business as it is now being conducted in the place where such businesses are now conducted.

**3.1.3. Execution, Delivery and Performance of Agreement.** The execution, delivery and performance of this Agreement by either party does not and will not violate any provision of any law, rule, regulation, order, writ, judgment, decree or award to which either party is a party to or which is presently in effect and applicable to either party. This Agreement constitutes the legal, valid and binding obligation of the Walters individually and their marital community.

**3.1.4. Execution, Delivery and Performance of Agreement, Authority.** The execution, delivery and performance of this Agreement by the County (i) is within the powers of the County as a municipal corporation, (ii) has been or will be on or before the Closing Date duly authorized by all necessary action of the County's legislative authority, and (iii) does not and will not violate any provision of any law, rule, regulation, order, writ, judgment, decree or award to which the County is a party or which is presently in effect and applicable to the County.

**3.1.5. Litigation.** There is no pending, or to the best of either party's knowledge, threatened lawsuit or material claim against or relating to either party with respect to its Property, which shall impede or materially affect either party's ability to perform the terms of this Agreement. There is no pending or, to the best of either party's knowledge, contemplated condemnation or similar proceeding with respect to its Property or any part thereof.

**3.1.6. Assessments.** There is no pending, or to the best of either party's knowledge, contemplated local improvement district or other special assessment or charge with respect to its Property, except as may be disclosed in the Title Commitment described in Section 4.1.1.

**3.1.7. Full Disclosure.** No representation or warranty by either party in this Agreement or in any instrument, certificate or statement furnished to the other party pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact or fails to state a material fact which is necessary to make the statements set forth therein not false or misleading.

**3.1.8. No Broker.** No broker, finder, agent or similar intermediary has acted for or on behalf of either party in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement or understanding with either party or any action taken by either party.

**3.1.9. Contracts.** There are no contracts or other obligations outstanding for the sale, exchange, transfer, lease, rental or use of either of the Properties described herein or any portion thereof.

**3.1.10. Future Agreements.** With respect to the period prior to Closing, from and after the date hereof unless this Agreement is terminated in accordance with its terms, neither party shall, without the prior written consent of the other party:

(i) enter into any agreement, contract, commitment, lease or other transaction that affects its Property in any way; or

(ii) sell, dispose of or encumber any portion of its Property.

**3.1.11. Maintenance of the Property.** Each party shall continue to maintain its Property in compliance with all applicable laws and pay all costs of such Property with respect to the period prior to Closing. Each party agrees to defend, indemnify and hold the other party harmless as provided herein to the maximum extent possible under law. Accordingly, the each party agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless the other party, (which includes, in case of the County, its appointed and elected officials and employees), from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof, for injury to persons, death, or property damage arising out of or in any way relating to its Property prior to the Closing Date, **except to the extent attributable to the acts or omissions of the other party.**

**3.1.12. Condition of the Property for which any statute or regulation requires a permit or special handling in its use, collection, or storage.** Neither party has intentionally withheld any material information concerning environmental matters with respect to its Property described herein. Based on the present, actual knowledge of each party, without investigation of any kind or nature: (i) there has been no generation, treatment, storage, transfer, disposal or release of Hazardous Substances on its Property at any time during the party's ownership or use thereof in violation of applicable law; (ii) there are no underground storage tanks on its Property, nor have underground storage tanks been removed from its Property; and (iii) neither party is aware of any facts which would lead it to believe that there are any Hazardous Substances on its Property in violation of applicable law. For purposes of this Agreement, the term Hazardous Substances shall mean: "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 ("RCRA") as amended; hazardous wastes, hazardous materials, hazardous substances, toxic waste, toxic materials, or toxic substances as defined in state or federal statutes or regulations; asbestos-containing materials, polychlorinated biphenyls; radioactive materials, chemicals known to cause cancer or reproductive toxicity; petroleum products, distillates or fractions; any substance the presence of which is prohibited by statute or regulation; and any substance, treatment or disposal.

**3.1.13. Physical Inspection.** Each party has performed, to its satisfaction all physical inspections deemed necessary in connection with the purchase of the Purchased Assets.

**3.1.14. Risk of Loss.** Until the Closing Date the risk of loss relating to each Property shall rest with the party owning said Property. Risk of Loss shall be deemed to include

any property damage occurring as a result of an "Act of God," including, but not limited to, earthquakes, tremors, wind, rain or other natural occurrence.

**3.1.15. Foreign Person.** Neither party is a foreign person and is a "United States Person" as such term is defined in Section 7701 (a) (30) of the Internal Revenue Code of 1986, as amended and each party shall deliver to the other party, prior to the Closing, an affidavit, as set forth in **EXHIBIT I**, evidencing such fact, and such other documents as may be required under the Code.

**3.1.16. Condition of Property.** Upon Waiver or satisfaction of Section 3.1.13 said party will be deemed to have approved the physical condition of the Property it is purchasing and agrees to accept and purchase the same "**AS IS, WHERE IS**" including, without limitation, the existence or non-existence of any pollutants, contaminants, hazardous waste, dangerous waste, toxic waste, underground storage tanks or contaminated soil, or the actual or threatened release, deposit seepage, migration or escape of such substances at, from or into the Property and the compliance or noncompliance of the Property with applicable federal, state, county and local laws and regulations including, without limitation, environmental laws and regulations. Each party acknowledges and agrees that, except to the extent of the other party's representations and warranties in Section 3.1 of this Agreement, and to the extent of any fraud or deliberate misrepresentation by the other party, the selling party shall have no liability for, and that the purchasing party shall have no recourse against the selling party for, any defect or deficiency of any kind whatsoever in the Property being purchased, including without limitation any of the foregoing items, without regard to whether such defect or deficiency was discovered or discoverable by either party.

**3.1.17. Changed Circumstances.** If a material change in representations or warranties made herein by a party is disclosed or discovered by a party prior to the Closing Date, then the party to which such representations or warranties are made shall have the option of either waiving the change, and all claims and causes of action related thereto, or terminating the Agreement; provided that such material change does not occur by reason of any act or omission of a party.

## ARTICLE 4. TITLE MATTERS

**4.1. TITLE.** Each party shall deliver to the other party good and marketable title, free and clear of all liens, defects and encumbrances except for the Permitted Exceptions (as defined in Section 4.1.3).

**4.1.1. Title Commitment.** The County shall cause to be obtained, at its expense, a current ALTA form of commitment for an owner's standard policy of title insurance (the "County's Title Commitment") issued by Lawyers Title Agency of Washington (the "County's Title Company"), describing the County Property, listing the Walters as the prospective named insured in the policy amount of One Hundred Ninety One Thousand Six Hundred Seventy Five Dollars (\$191,675). At such time as the County's Title Company causes the County's Title Commitment to be furnished to the Walters, the County's Title Company shall

further cause to be furnished to the Walters legible copies of all instruments referred to in the County's Title Commitment as restrictions or exceptions to the title to the County Property. The Walters shall cause to be obtained, at the County's expense, a current ALTA form of commitment for an owner's standard policy of title insurance (the "Walters' Title Commitment") issued by Chicago Title Insurance Company (the "Walters' Title Company"), describing the Walters' Property, listing the County as the prospective named insured in the policy amount of One Hundred and Seventy Three Thousand Dollars (\$173,000). At such time as the Walters' Title Company causes the Walters' Title Commitment to be furnished to the County, the Walters' Title Company shall further cause to be furnished to the County legible copies of all instruments referred to in the Walters' Title Commitment as restrictions or exceptions to title to the Walters' Property.

**4.1.2. Survey.** The County shall at its expense, have prepared certified surveys (the Walters' Survey and the County Survey) by a licensed public surveyor, of the Walters' Property and the County Property. Each Survey will be certified to the Walters' Title Company and the County Title Company so as to permit both Title Companies to issue owners' standard coverage title policies for both the County Property and the Walters' Property. The Walters' Survey and the County Survey will be done in accordance with the State of Washington's accepted survey standards identifying the Walters' Property and the County Property by legal descriptions and shall set forth the number of square feet contained within the County Property and the Walters' Property, show all natural monuments, existing fences, drainage ditches and/or courses, flood plain limits, any building or other site improvements and/or objects, any rights-of-way for streets, existing driveways, alleys or highways, easements and other restrictions existing and/or proposed which shall affect any portion of the County Property or the Walters' Property.

**4.1.3. Review of Title Commitment and Survey.** The Walters shall have until fourteen (14) days after receipt of the last dated County Title Commitment and County Survey (the "Review Period"), in which to notify the County of any objections the Walters have to any matters shown or referred to in the County Title Commitment or the County Survey and of any title insurance endorsements required by the Walters. Any exceptions or other items that are set forth in the County Title Commitment or the County Survey and to which the Walters do not object within the Review Period shall be deemed to be permitted exceptions ("Permitted Exceptions"). With regard to items to which the Walters do object within the Review Period, the County shall notify the Walters within ten (10) days after the County receives the Walters' notice of objections of any exceptions to the title or items on the County Survey which the County will not remove or otherwise resolve following the Walters' request within the Review Period. The Walters may, at the Walters option within ten (10) days thereafter, either waive the objections not cured or the Walters may terminate this Agreement by notice to the County. Notwithstanding the foregoing, all monetary liens or encumbrances shall be paid by the County at Closing. The County shall have until fourteen (14) days after receipt of the last dated Walters' Title Commitment and Walters' Survey (the "Review Period") in which to notify the Walters of any objections the County has to any matters shown or referred to in the Walters' Title Commitment or the Walters' Survey and of any title insurance endorsements required by the County. Any exceptions or other items that are set forth in the Walters' Title Commitment or the Walters' Survey to which the County does not object within the Review Period shall be deemed

to be permitted exceptions ("Permitted Exceptions"). With regard to items to which the County does object within the Review Period, the Walters shall notify the County within ten (10) days after the Walters receive the County's notice of objections of any exceptions to the title or items on the Walters' Survey which the Walters will not remove or otherwise resolve following the County's request within the Review Period. The County may, at the County's option within ten (10) days thereafter, either waive the objections not cured, or the County may terminate this Agreement by notice to the Walters. Notwithstanding the foregoing, all monetary liens or encumbrances shall be paid by the Walters at Closing.

**4.2. OWNER'S TITLE INSURANCE POLICY.** At the Closing, the County shall cause an owner's policy of title insurance to be issued by the County's Title Company in the amount of One Hundred Ninety One Thousand Six Hundred Seventy Five Dollars (\$191,675), effective as of the Closing Date, insuring the Walters that the fee simple title to the County Property is vested to the Walters, subject only to the usual printed exceptions contained in such title insurance policy, to the matters approved by the Walters as provided herein, and to any other matters approved in writing by the Walters. The obligation of the County to provide the title policy called for herein shall be satisfied if, at the Closing, the County's Title Company has given a binding commitment, in a form reasonably satisfactory to the Walters, and issues the policy in the form required by this section. The County shall pay any sum owing to the County's Title Company for the preparation of the preliminary and binding commitments generated by the County's Title Company for the County Property. At the Closing, the Walters shall cause an owner's policy of title insurance to be issued by the Walters' Title Company in the amount of One Hundred Seventy Three Thousand Dollars (\$173,000), effective as of the Closing Date, insuring the County that the fee simple title to the Walters' Property is vested to the County, subject only to the usual printed exceptions contained in such title insurance policy, to the matters approved by the County as provided herein and to any other matters approved in writing by the County. The obligation of the Walters to provide the title policy called for herein shall be satisfied if, at the Closing, the Walters' Title Company has given a binding commitment, in a form reasonably satisfactory to the County, and issues the policy in the form required by this section. The County shall pay any sum owing to the Walters' Title Company for the preparation of the preliminary and binding commitments generated by the Walters' Title Company for the Walters' Property.

**4.3. CONVEYANCE.** The County shall convey to the Walters, the title to the County Property by Statutory Warranty Deed in the form attached hereto as **EXHIBIT D**, subject only to the Permitted Exceptions. The Walters shall convey the title to the Walters' Property by Statutory Warranty Deed in the form attached hereto as **EXHIBIT C**, subject only to the Permitted Exceptions. Rights reserved in federal patents or state deeds, building or use restrictions general to the district, and building or zoning regulations or provisions shall be deemed Permitted Exceptions.

## ARTICLE 5 COVENANTS OF THE WALTERS PENDING CLOSING

**5.1. CONDUCT, NOTICE OF CHANGE.** The Walters covenant that between the date hereof and the Closing, the Walters shall take all such actions as may be necessary to assure that

the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing Date (except such representations, warranties and matters which relate solely to an earlier date), and all covenants of the Walters set forth in this Agreement which are required to be performed by the Walters at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. The Walters shall give the County prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement, which occurs prior to the Closing Date.

## ARTICLE 6 COVENANTS OF THE COUNTY PENDING CLOSING

**6.1. CONDUCT, NOTICE OF CHANGE.** The County covenants that between the date hereof and the Closing, the County shall take all such actions as may be necessary to assure that the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing Date (except such representations, warranties and matters which relate solely to an earlier date), and that all covenants of the County set forth in this Agreement which are required to be performed by the County at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. The County shall give the Walters prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement, which occurs prior to the Closing Date.

## ARTICLE 7 CONDITIONS PRECEDENT TO THE COUNTY'S OBLIGATIONS

All obligations of the County hereunder are subject to the fulfillment of each of the following conditions at or prior to the Closing, and the Walters shall diligently attempt to cause each such condition to be fulfilled:

**7.1. DELIVERY OF DOCUMENTS.** The Walters shall have delivered to the County at or prior to closing all documents required by the terms of this Agreement to be delivered to the County.

**7.2. REPRESENTATIONS, WARRANTIES AND COVENANTS.** All representations, warranties and covenants of the Walters contained herein or in any document delivered pursuant hereto shall be true and correct in all material respects when made and as of the Closing Date.

**7.3. OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by the Walters at or before the Closing shall have been properly performed in all material respects.

**7.4. TITLE.** Any and all matters shown or referred to in the Walters' Title Commitment to which the County has objected within the time specified in Section 4.1, and which the Walters have agreed to remove, shall have been cured by the Walters, unless such objections have been waived by the County. The Walters' Title Company is irrevocably

committed to issue an owner's standard policy of title insurance containing no exceptions other than the Permitted Exceptions.

**7.5 APPROVAL OF COUNSEL.** The Walters' counsel shall have approved this document as to form as evidenced by such counsel's signature on this Agreement.

**7.6 CONDEMNATION.** No portion of the Walters' Purchased Assets shall have been taken or damaged by any public or quasi-public body, and the Walters shall not have transferred any portion of the Walters' Purchased Assets to any such body in lieu of condemnation.

**ARTICLE 8  
CONDITIONS PRECEDENT TO THE WALTERS'S OBLIGATIONS**

All obligations of the Walters to close on the Closing Date are subject to the fulfillment of each of the following conditions at or prior to the Closing, and the County shall diligently attempt to cause each such condition to be so fulfilled:

**8.1 DELIVERY OF DOCUMENTS.** The County shall have delivered to the Walters at or prior to Closing all documents required by the terms of this Agreement to be delivered to the Walters.

**8.2 REPRESENTATIONS, WARRANTIES AND COVENANTS.** All representations, warranties and covenants of the County contained herein or in any document delivered pursuant hereto shall be true and correct in all material respects when made and as of the Closing Date.

**8.3 OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by the County at or before the Closing shall have been properly performed in all material respects.

**8.4 TITLE.** Any and all matters shown or referred to in the County's Title Commitment to which the Walters have objected within the time specified in Section 4.1, and which the County has agreed to remove, shall have been cured by the County, unless such objections have been waived by the Walters. The County's Title Company is irrevocably committed to issue an owner's standard policy of title insurance containing no exceptions other than the Permitted Exceptions.

**8.5 CONDEMNATION.** No portion of the County's Purchased Assets shall have been taken or damaged by any public or quasi-public body, and the County shall not have transferred any portion of the County's Purchased Assets to any such body in lieu of condemnation.

**8.6 Boundary Line Adjustment.** Boundary line adjustments creating separate parcels for the County Property and the Walters' Property, which shall have been approved by the City of Bellevue.

**ARTICLE 9  
CLOSING**

**9.1 CLOSING/CLOSING DATE.** The Closing shall take place on March 1, 2004, or such earlier date as may be mutually agreed upon by the parties, unless extended pursuant to a written agreement executed by the County and the Walters. Upon execution of this Agreement, the parties agree to set up an escrow account with Chicago Title Insurance Company (the "Escrow Agent"). The Escrow Agent shall serve as closing agent for the transaction contemplated herein and closing shall occur in the offices of the Escrow Agent in Seattle, Washington. The title, right of possession and interest to the Purchased Assets of both parties shall pass to the Walters and the County upon the Closing Date and thereafter the risk of loss thereof shall no longer be the responsibility of the transferring party.

**9.2. PRORATIONS.** All prorations, unless otherwise specifically provided for herein, shall be made as of the Closing Date.

**9.2.1. Closing Costs.** The County shall pay the cost of the escrow fee charged by the Escrow Agent and any real estate excise or other transfer tax due, if any. The County shall also pay the cost of the preliminary and binding title commitments from the Walters' Title Company and the County's Title Company, the title policies and any endorsements, the recording fees for the deeds and its own attorneys' fees as well as the Walters' actual and reasonable attorney's fees not to exceed \$20,000. Any attorney's fees still outstanding by the Walters, after the allocation of the \$20,000, will be the sole responsibility of the Walters.

**9.2.2. Taxes.** The County is exempt by law from the payment of real property ad valorem taxes, LIDs and assessments ("Taxes") on the County Property. The Walters are and remain liable for the payment of such Taxes on the Walters' Property up to the Closing Date. Any unpaid Taxes then due and payable, associated with the Walters' Property existing on the Closing Date, will be paid for by the Walters at the Closing.

**9.3. MONETARY LIENS.** Except as otherwise expressly provided to the contrary in this Agreement, each party shall pay or cause to be satisfied at or before Closing all monetary liens on or with respect to all or any portion of its Property. If either party fails to satisfy said liens, the Escrow Agent shall use any deposited cash proceeds to satisfy and discharge the liens or, if such proceeds are unavailable or insufficient, the Escrow Agent shall not record the deed to the affected Property until all such liens have been satisfied and discharged.

**9.4. THE WALTERS'S DELIVERY OF DOCUMENTS AT CLOSING.** At the Closing, the Walters will deliver to the Escrow Agent the following properly executed documents:

- (a) A Statutory Warranty Deed conveying the Walters' Property in the form of **EXHIBIT C** attached hereto;
- (b) The Walters's Certificate of Non-Foreign Status substantially in the form of **EXHIBIT G**, attached hereto; and
- (c) An executed Temporary Construction Easement in the form of **EXHIBIT E** attached hereto.



9.5. THE COUNTY'S DELIVERY OF DOCUMENTS AND FUNDS AT CLOSING. At the Closing; the County will deliver to the Escrow Agent the following properly executed documents and funds:

(a) A Statutory Warranty Deed conveying the County Property in the form of EXHIBIT D, attached hereto;

(b) All consideration required in the Temporary Construction Easement in the form of EXHIBIT E., attached hereto;

(c) The County's Certificate of Non-Foreign Status substantially in the form of EXHIBIT H, attached hereto;and

(d) The boundary line adjustments creating separate parcels for the County Property and the Walters' Property.

ARTICLE 10  
TERMINATION

10.1 TERMINATION BY EITHER PARTY. Either party may terminate this Agreement if a condition to its obligation to consummate the transactions contemplated by this Agreement as set forth in Articles 7 and 8 has not been satisfied by the Closing Date. In that event, if neither party is in default under this Agreement, the parties shall have no further obligations or liabilities to one another, and all documents and funds delivered into escrow shall be returned to the appropriate party. In the event that, after all of the conditions precedent to a party's obligations as set forth herein have been satisfied, said party fails to consummate the transaction as provided herein, said party shall pay the other party a break-up fee of two and three-quarters percent (2.75%) of the appraised value of the non-defaulting party's Property within ten (10) days after the Closing Date, plus reasonable attorneys' fees.

ARTICLE 11  
MISCELLANEOUS PROVISIONS

11.1 NATURE AND SURVIVAL OF REPRESENTATIONS AND WARRANTIES. Each statement, representation, warranty, indemnity, covenant, and agreement made by the Walters and the County in this Agreement or in any document, certificate or other instrument delivered by or on behalf of the Walters or the County pursuant to this Agreement or in connection herewith shall be deemed the representation, warranty, indemnity, covenant and agreement of the Walters and the County and shall survive the Closing Date unless a different time period is expressly provided for in this Agreement and all such statements are made only to and for the benefit of the parties hereto, and shall not create any rights in other persons.

11.2 DEFAULT AND ATTORNEYS' FEES. In the event of default by either party to this Agreement, the non-defaulting party shall have the right to bring an action for specific performance, damages and any other remedies available to such party at law or in equity. In the event of any litigation hereunder, the Superior Court of King County, Washington shall have the

exclusive jurisdiction and venue. In any action to enforce a party's rights under this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney's fees and costs in addition to any other relief or remedy granted. Interest on any amount owed shall run at ten percent (10%) per annum from the date due.

**11.3 TIME IS OF THE ESSENCE.** Time is of the essence in the performance of this Agreement.

**11.4 NOTICES.** Any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier or two (2) days after deposit in the United States mail if by first class, certified or registered mail, return receipt requested. All notices shall be addressed to the parties at the addresses set forth below or at such other addresses as any parties may specify by notice to all other parties and given as provided herein:

**If to the County:** Metro Transit Division  
King County Department of Transportation  
Attn: Jim Murray  
201 South Jackson Street  
KSC-TR-0431  
Seattle, Washington, 98104-3856

*With a copy to:* King County Prosecuting Attorney  
Attn: Robert I. Stier  
900 King County Administration Bldg.  
500 Fourth Ave  
Seattle, WA 98104

**If to the Walters:** Dr. Milton R. Walter and Sue M. Walter  
PO Box 528  
Medina, WA 98039

*With a copy to:* Alston, Courtnage and Bassettii LLP  
Attn: Michael Courtnage  
1000 Second Avenue  
Suite 3900  
Seattle, WA 98104-1045

**11.5. ENTIRE AGREEMENT AND AMENDMENT.** This writing (including the Exhibits attached hereto) constitutes the entire agreement of the parties with respect to the subject matter hereof and may not be modified or amended except by a written agreement specifically referring to this Agreement and signed by all parties hereto.

**11.6. SEVERABILITY.** In the event any portion of this Agreement shall be found to be invalid by any court of competent jurisdiction, such holding shall not impact or affect the

remaining provisions of this Agreement unless that court of competent jurisdiction rules that the principal purpose and intent of this contract should and/or must be defeated, invalidated or voided.

**11.7. WAIVER.** No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any prior or subsequent breach or default.

**11.8. BINDING EFFECT.** Subject to Section 11.12 below, this Agreement shall be binding upon and inure to the benefit of each party hereto, its successors and assigns.

**11.9. LEGAL RELATIONSHIP.** The parties to this Agreement execute and implement this Agreement solely as the Walters and the County. No partnership, joint venture or joint undertaking shall be construed from this Agreement.

**11.10. CAPTIONS.** The captions of any articles, paragraphs or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs or sections.

**11.11. COOPERATION.** Prior to and after the Closing, the parties shall cooperate, shall take such further action and shall execute and deliver further documents as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Agreement.

**11.12. GOVERNING LAW.** This Agreement and all amendments thereof shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and to be performed therein, without giving effect to its conflicts of law provisions.

**11.13. NON-MERGER.** The terms and provisions of this Agreement will not merge in, but will survive, the Closing of the transaction contemplated under this Agreement.

**11.14. ASSIGNMENT.** Neither party shall assign this Agreement or any rights hereunder, except for any conveyance to the City of Bellevue referenced in the Recitals herein, without the other party's prior written consent, which shall not be unreasonably withheld.

**11.15. NEGOTIATION AND CONSTRUCTION.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party. All parties acknowledge and represent, as an express term of this Agreement, that they have had the opportunity to obtain and utilize legal review of the terms and conditions outlined in this Agreement. Except as otherwise stated in Section 9.2.1, each party shall be and is separately responsible for payment of any legal services rendered on his/her/its behalf regarding legal review of the terms found in this Agreement

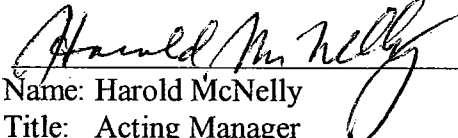
11.16. EXHIBITS. The following Exhibits described herein and attached hereto are fully incorporated into this Agreement by this reference:

- EXHIBIT A Legal Description of Walters' Property
- EXHIBIT B Legal Description of County Property
- EXHIBIT C Statutory Warranty Deed to the Walter's Property
- EXHIBIT D Statutory Warranty Deed to the County Property
- EXHIBIT E Temporary Construction Easement
- EXHIBIT F Reconfiguration of the Property Owned by the Walters after the Closing Date
- EXHIBIT G Walters' Certificate of Non-Foreign Status
- EXHIBIT H King County's Certificate of Non-Foreign Status


11.17. COUNTERPARTS. This Agreement may be executed in multiple originals or counterparts, each of which will be an original and, when all of the parties to this Agreement have signed at least one (1) copy, such copies together will constitute a fully executed and binding Agreement.

EXECUTED as of the date and year first above written:

**KING COUNTY**  
**Asset Development and Management Section**

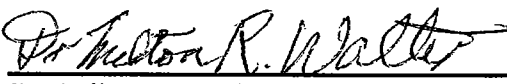
  
Name: Harold McNelly  
Title: Acting Manager


APPROVED AS TO FORM:

By   
Robert I. Stier  
Sr. Deputy Prosecuting Attorney

Date 12/8/03

**THE WALTERS**

  
Dr. Milton R. Walter  
Husband

  
Sue M. Walter  
Wife

APPROVED AS TO FORM: (The Walters's Counsel)

By [Signature]

Date 11/10/03

STATE OF WASHINGTON } ss.  
COUNTY OF KING }

On this day personally appeared before me Harold McNelly, to me known to be THE Acting Manager of KING COUNTY, the municipal corporation and political subdivision of the State of Washington that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such municipal corporation and political subdivision, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 9<sup>th</sup> day of December, 2003.

[Signature]  
Printed Name Marc A. Davies  
NOTARY PUBLIC in and for the State of Washington,  
residing at Kirkland, WA 98033  
My Commission Expires 3/3/06

STATE OF WASHINGTON } ss.  
COUNTY OF KING }

On this day personally appeared before me and known to me to be Dr. Milton R. Walter and Sue M. Walter that executed the foregoing instrument, and acknowledged such instrument to be their free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_ day of \_\_\_\_\_, 2003.

Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF WASHINGTON)

) ss.

COUNTY OF KING )

I certify that \_\_\_\_\_ signed this instrument on oath stated that she was authorized by the King County Executive to execute the instrument, and acknowledged it as the \_\_\_\_\_ of King County to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

NOTARY PUBLIC in and for the State of Washington

Residing at: \_\_\_\_\_

My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON)

) ss.

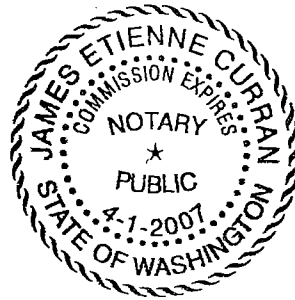
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **Dr. Milton R. Walter and Sue M. Walter** are the persons who appeared before me, and that said persons acknowledged that they signed this instrument as a free and voluntary act and deed for the purposes therein mentioned and on oath stated that they were duly authorized to execute such instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Printed Name: James E. Curran

NOTARY PUBLIC in and for the State of Washington, residing at: Belleme, WA My commission expires: 4-1-07



[END OF ACKNOWLEDGEMENTS]

**EXHIBIT A.****Legal Description of Walters' Property**

That portion of Lot 1, City of Bellevue short plat number 80-12R, recorded under recording number 8106239009, as amended by affidavit of correction of survey recorded under recording number 8207260433, in King County, Washington.

Fee Take Area being further described as follows:

Beginning at the Southwesterly corner of Lot 1, City of Bellevue short plat number 80-12R, recorded under recording number 8106239009, as amended by affidavit of correction of survey recorded under recording number 8207260433, in King County, Washington;

Thence North  $01^{\circ}24'06''$  East along the Westerly line of said Lot 1, a distance of 18.38 feet;

Thence South  $85^{\circ}46'58''$  East, a distance of 188.33 feet;

Thence South  $73^{\circ}09'54''$  East, a distance of 65.12 feet;

Thence South  $04^{\circ}13'02''$  West, a distance of 4.13 feet to a point on the Southerly line of said Lot 1;

Thence North  $85^{\circ}46'58''$  West along said Southerly line, a distance of 250.97 feet to the Southwesterly corner of said Lot 1 and the **POINT OF BEGINNING** of the herein described Fee Take Area;

Fee Take Area containing 4163 square feet more-or-less.

**EXHIBIT B.****Legal Description of County Property**

That portion of Lot 2 of City of Bellevue Short Plat No. 80-12R, recorded under Recording No. 8106239009 and amended under Recording No. 8207260433, records of King County, Washington;

Fee Take Area being further described as follows:

Beginning at the Southwesterly corner of Lot 2 of City of Bellevue Short Plat No. 80-12R, recorded under Recording No. 8106239009 and amended under Recording No. 8207260433, records of King County, Washington, said point also being on the Northwesterly corner of Lot 1 of said City of Bellevue Short Plat;

Thence North 01°24'06" East along the Westerly line of said Lot 2 a distance of 19.50 feet;

Thence South 88°35'54" East a distance of 253.50 feet to the Easterly line of said Lot 2;

Thence South 01°24'06" West along the Easterly line of said Lot 2 a distance of 19.50 feet to a point on the Southeasterly corner of said Lot 2;

Thence North 88°35'54" West along the Southerly line of said lot 2 a distance of 253.50 feet to a point on the Southwesterly corner of said Lot 2 and the **POINT OF**

**BEGINNING** of the herein described Fee Take Area;

Fee Take Area containing 4943 square feet more-or-less.



**EXHIBIT C.**

**Warranty Deed to the Walters' Property**

**AFTER RECORDING RETURN TO:**

King County  
Asset Management Section  
ADM-ES-0500  
Room 500 King County Admin. Bldg.  
500 Fourth Avenue  
Seattle, WA 98104

**STATUTORY WARRANTY DEED**

**Grantor - -Dr. Milton R. Walter and Sue M. Walter**

**Grantee - - King County**

*Legal - - - -*

*Tax Acct. -*

The Grantor, **DR. MILTON R. WALTER AND SUE M. WALTER**, Husband and Wife, for and in consideration of One Dollar (\$1.00), the receipt of which is hereby acknowledged, does hereby convey and warrant unto **KING COUNTY**, a political subdivision of the State of Washington, the following described real property, situate in King County, Washington:

(insert Legal Description)

Subject to the matters set forth on Exhibit B hereto.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

**GRANTOR:**

BY \_\_\_\_\_

TITLE \_\_\_\_\_

BY \_\_\_\_\_

TITLE \_\_\_\_\_

14841

STATE OF WASHINGTON

ss.

COUNTY OF KING



On this day personally appeared before me and known to me to be Dr. Milton R. Walter and Sue M. Walter that executed the foregoing instrument, and acknowledged such instrument to be their free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that they were duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**EXHIBIT D.**  
**Warranty Deed to the County Property**

**AFTER RECORDING RETURN TO:**  
King County  
Asset Management Section  
ADM-ES-0500  
Room 500 King County Admin. Bldg.  
500 Fourth Avenue  
Seattle, WA 98104

**STATUTORY WARRANTY DEED**

**Grantor - - KING COUNTY**  
**Grantee - - Dr. Milton R. Walter and Sue M. Walter**  
**Legal - - - -**  
**Tax Acct. - -**

The Grantor, **KING COUNTY**, a political subdivision of the State of Washington, for and in consideration of One dollar (\$1.00), the receipt of which is hereby acknowledged, pursuant to King County Ordinance No. \_\_\_\_\_, does hereby convey and warrant unto **DR. MILTON R. WALTER AND SUE M. WALTER** the following described real property, situate in King County, Washington:

(insert Legal Description)

Subject to the matters set forth on Exhibit B hereto.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**KING COUNTY**

BY \_\_\_\_\_

TITLE \_\_\_\_\_

14841

STATE OF WASHINGTON

ss.

COUNTY OF KING

}

On this day personally appeared before me \_\_\_\_\_, to me known to be THE \_\_\_\_\_ of KING COUNTY, the municipal corporation and political subdivision of the State of Washington that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such municipal corporation and political subdivision, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

EXHIBIT E**Temporary Construction Easement**

This Temporary Construction Easement ("Easement") is made and entered into, by and between **DR. MILTON R. WALTER AND SUE M. WALTER**, husband and wife ("**Grantor**") and **KING COUNTY**, a political subdivision of the State of Washington ("**Grantee**").

**RECITALS**

- A. Grantor is the owner of that certain real property commonly identified as 14360 SE Eastgate Way, City of Bellevue, State of Washington, the legal description of which is attached hereto as **Exhibit A** (the "**Grantor's Property**").
- B. Grantor and Grantee will simultaneously execute a property exchange ("Property Exchange") and this Easement to allow the Grantee to fulfill a permit requirement from the City of Bellevue for the expansion of the Grantee's Eastgate Park and Ride Facility. Following the Property Exchange the Grantee will complete, with the Grantor's cooperation, a boundary line adjustment, also necessary to fulfill the City of Bellevue's permit requirement.
- C. This Easement is a required element of the property exchange referenced in Recital B.
- D. As required by the Property Exchange the Grantee will reconfigure a portion of the Grantor's parking lot, landscaping and light standards (the "**Project**") which are shown in **Exhibit B**, attached hereto.
- E. As required by the City of Bellevue's permit, the Grantee will construct a new right turn lane, abutting the Grantor's Property, on SE Eastgate Way. In so constructing the right turn lane, the Grantee will reestablish landscaping along the perimeter of the right turn lane and the Grantor's Property. This reestablishing of the perimeter (the "**Project**") is shown in **Exhibit B**, attached hereto.
- F. To assist in the Project, Grantee has requested and the Grantor has agreed to grant to Grantee this Easement over and across a portion of Grantor's Property, ("**Construction Easement Area**") the area which is identified as **Exhibit C**, attached hereto, for the purpose of allowing Grantee to construct the Project, upon the terms and conditions hereinafter set forth.

## AGREEMENT

THEREFORE, in consideration of the sum of Thirty Three Thousand Seven Hundred and Thirty Four Dollars, (\$33,734) the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated herein by this reference.

2. **Grant and Purpose.** Grantor hereby grants to Grantee this Easement over and across a portion of Grantor's Property as identified on **Exhibit C**, for the purposes of allowing the Grantee to perform the necessary construction required to complete the Project.

3. **Term.** This Easement shall commence no later than June 1, 2004 and shall terminate within ninety (90) days from the start date of the Project.

4. **Compliance with Laws and Rules.** Grantee shall at all times exercise its rights herein in accordance with the requirements (as from time to time amended) and all applicable statutes, orders, rules and regulations of any public authority having jurisdiction.

5. **Hours of Construction.** Grantee shall perform all construction activities between the hours of 5 PM and 6AM. Seven (7) days a week without restrictions, or other hours as agreed to by both parties.

6. **Restoration.** Immediately after the completion of all work performed by Grantee consistent with the purposes set forth in Section 2, Grantee shall remove all debris and restore the Grantor's Property to the condition in which it was prior to the commencement of such work except for the reconfigured parking stalls, lighting standards and landscaping.

7. **Work Standards.** All activities authorized by this Easement shall be completed in a careful and workmanlike manner, free of claims or liens.

8. **Release and Indemnity.** Grantee shall indemnify and hold Grantor harmless from and against all common law or statutory liabilities, damages, obligations, losses, claims, civil actions, costs or expenses, including attorneys fees, arising from any negligent act or omission of Grantee or its contractors, licensees, agents, servants and employees arising pursuant to this Easement.

9. **Insurance.** Grantee, a charter county government under the constitution of the State of Washington, maintains, in the regular course of providing general purpose government services, a Risk Management Program as authorized by King County Code 4.12. The Grantor and Grantee acknowledge, agree and understand that the Grantee is self-funded for all of its liability exposures and that its self-funded

program satisfies the insurance requirements of Grantor. The Grantee agrees, at its own expense, to maintain, through its self-funded program, coverage for its liability exposures for the duration of this Easement. The Grantee agrees to provide Grantor with at least thirty (30) days prior written notice of any material change in the Grantee's self-funded program and will provide Grantor with a certificate of self-insurance as adequate proof of coverage.

10. **Notices.** All notices, demands, consents, approvals and other communications which are required or desired to be given by either party to the other hereunder shall be in writing and shall be hand delivered or sent by United States registered or certified mail, postage prepaid, return receipt requested, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when received; provided, however, that if any such notice or other communication shall also be sent by telecopy or fax machine, such notice shall be deemed given at the time and on the date of machine transmittal if the sending party receives a written send verification on its machine and forwards a copy thereof with its mailed or courier delivered notice or communication.

GRANTOR: Milton R. Walter and Sue M. Walter  
PO Box 528  
Medina, WA 98039

GRANTEE: Metro Transit Division  
King County Department of Transportation  
MS: KSC-TR-0433  
201 South Jackson Street  
Seattle, WA 98104  
Attn: James I Murray

11. **Entire Agreement.** This Easement constitutes the entire agreement between the parties with respect to the subject matter covered hereby, and cannot be changed or modified other than by a written agreement executed by both parties.

12. **Governing Law.** This Easement shall be governed by and construed in accordance with the laws of the State of Washington.

13. **Waiver.** No waiver of any of the provisions of this Easement shall be effective unless it is in writing, signed by the party against whom it is asserted and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

14. **Captions.** The captions and paragraph headings contained in this Easement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Easement, nor the intent of any provision

hereof.

15. **Litigation.** If any lawsuit or other proceeding arises in connection with this Easement, the prevailing party therein shall recover from the other party the prevailing party's costs and expenses, including attorneys' fees.

Dated as of the day and year first set forth above.

**MILTON R. WALTER AND SUE M. WALTER  
GRANTOR**

*Milton R. Walter*

Milton R. Walter

Husband

*Sue M. Walter*

Sue M. Walter

Wife

*12/5/03*

Date

*12/5/03*

Date

**KING COUNTY DEPARTMENT OF TRANSPORTATION  
GRANTEE**

Judy Riley, Manager  
Transit Design & Construction

Date

APPROVED AS TO FORM

Robert I Stier,  
Senior Deputy Prosecuting Attorney

Date

[ACKNOWLEDGEMENTS FOLLOW]



14841

STATE OF WASHINGTON)
) ss.
COUNTY OF KING )

I certify that \_\_\_\_\_ signed this instrument on oath stated that she was authorized by the King County Executive to execute the instrument, and acknowledged it as the \_\_\_\_\_ of King County to be the free and voluntary act of said County for the uses and purposes mentioned in the instrument.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

NOTARY PUBLIC in and for the State of Washington
Residing at: \_\_\_\_\_
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON)
) ss.
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Dr. Milton R. Walter and Sue M. Walter are the persons who appeared before me, and that said persons acknowledged that they signed this instrument as a free and voluntary act and deed for the purposes therein mentioned and on oath stated that they were duly authorized to execute such instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Printed \_\_\_\_\_
Name: \_\_\_\_\_

NOTARY PUBLIC in and for the State of Washington,
residing at: \_\_\_\_\_
My commission expires: \_\_\_\_\_

[END OF ACKNOWLEDGEMENTS]

14841

**EXHIBIT A**

**LEGAL DESCRIPTION GRANTOR'S PROPERTY**

Lot 1, City of Bellevue short plat number 80-12R, recorded under recording number 8106239009, as amended by affidavit of correction of survey recorded under recording number 8207260433, in King County, Washington.

**EXHIBIT F**  
**RECONFIGURATION OF THE PROPERTY OWNED BY THE WALTERS AFTER**  
**THE CLOSING DATE**

The County will reconfigure the County Property and the Walkers' existing parking area in accordance with Article 2.4 of the Agreement and the following requirements:

1. All work, including specifically sprinkling and the work described in parts 2-4 below, will be performed in accordance with the specifications for the Eastgate Park & Ride provided under cover of a letter from Johnnie A. Butler to the Walters, dated September 12, 2003.
2. Memorandum dated 9/12/03 from Hough, Beck & Baird, Inc., landscape architect, concerning buffer replacement. The replacement of trees, size and type, referenced in this memo will be implemented.
3. Memorandum dated 9/12/03 from Sparling, lighting electrical engineer, detailing the lighting plans, lighting calculations and site lighting plan.
4. KPFF, civil engineering site plan, dated 9/12/03, with parking dimensions and grading/drainage concepts, including, but not by way of limitation, restriping and resurfacing of the County Property and the Walters' existing parking area, replacing fire lane markings, seal coating the lot and installing new curbing.

EXHIBIT G.

14841

**Certificate of Non-Foreign Status.**

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a United States real property interest (‘‘Transferor’’), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations); and
2. Transferor’s United States employer identification number is \_\_\_\_\_; and
3. Transferor’s address is \_\_\_\_\_

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

**TRANSFEROR:**

By \_\_\_\_\_

14841

**EXHIBIT H.**

**Certificate of Non-Foreign Status.**

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a United States real property interest by **KING COUNTY** ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

4. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations); and
5. Transferor's United States employer identification number is 91-6001327; and
6. Transferor's office address is King County Facilities Management Division, Asset Development and Management Section, Room 500 King County Administration Building, 500 Fourth Avenue, Seattle, WA 98104

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

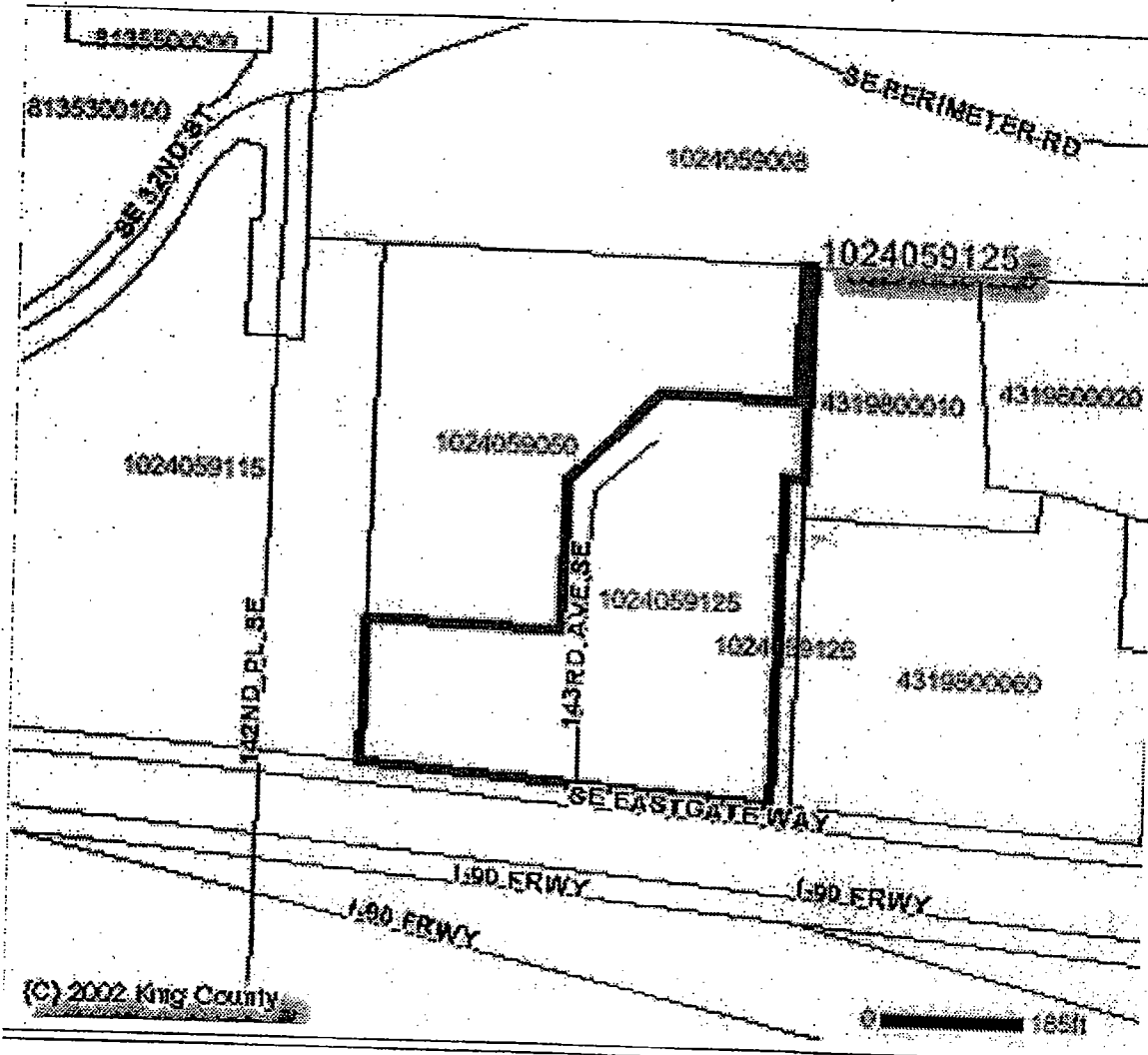
**TRANSFEROR:**

By \_\_\_\_\_  
Title \_\_\_\_\_

14841

WALTER PROPERTY  
ATTACHMENT B

2-11-2004



Parcel Number	1024059125
Address	14360 SE EASTGATE WY

14841

2004-064

King County Property

Attachment C  
King County Parcel

SEC 10, T 24 N., R 05 E., WM.

