

DRAFT

INTERLOCAL AGREEMENT BETWEEN THE CITY OF BURIEN AND KING COUNTY, RELATING TO THE ANNEXATION OF THE NORTH HIGHLINE AREA X POTENTIAL ANNEXATION AREA

THIS AGREEMENT is made and entered into this ___ day of _____, 2010. The parties (“Parties”) to this Agreement are the City of Burien, a State of Washington municipal corporation (“City”), and King County, a political subdivision of the State of Washington (“County”).

WHEREAS, the City has identified the North Highline Potential Annexation Area (“PAAs”) in its comprehensive plan consistent with the requirements of the state Growth Management Act (“GMA”) and the Countywide Planning Policies adopted consistent with GMA, which PAAs are generally known as the “North Highline Annexation Area X” which is further described in **Exhibit A** hereto (hereinafter collectively referred to as the Annexation Area”); and

WHEREAS, on an election date on August 18 2009, the citizens of the Annexation Area had an opportunity to vote on whether to annex to the City, and the voters approved annexation of the Annexation Area; and

WHEREAS, annexation of the Annexation Area to the City will become effective on April 1, 2010; and

WHEREAS, as of the date of legal annexation of the Annexation Area, pursuant to state law, the City will own, and have the responsibility for the operation, safety and maintenance of all former County roads, bridges and rights-of-way located within the City limits together with all appurtenances located within such rights-of-way, including but not limited to, drainage facilities, stormwater facilities, environmental mitigation sites and monitoring projects, street lights, traffic signals and traffic signs; and

WHEREAS, the City and the County desire to facilitate an orderly transition of services associated with the Annexation Area; and

WHEREAS, the City and the County desire to mutually determine the appropriate timing for the transfer of public records; and

WHEREAS, the City and the County want to ensure a smooth transfer of ownership and maintenance of existing County surface water facilities and related property interests in the Annexation Areas; and

WHEREAS, all local governmental land use authority and jurisdiction with respect to the Annexation Area transfers from the County to the City upon the effective date of annexation; and

WHEREAS, the County and City agree that having County staff continue to process various vested building and land use permit applications from the Annexation Area on behalf of the City for a transitional period following annexation will assist in an orderly transfer of authority and jurisdiction; and

WHEREAS, it is the parties' intent by virtue of this Agreement that any and all discretionary decisions with respect to land use and permitting from and after the date of annexation shall be made by the City; and

WHEREAS, the governing bodies of each of the parties hereto have determined to enter into this Agreement as authorized and provided for by the Interlocal Cooperation Act, codified at Chapter 39.34 RCW, and other Washington law, as amended;

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

1. TERM. This Agreement shall be deemed to take effect following the approval of the Agreement by the official action of the governing bodies of each of the Parties and the signing of the Agreement by the duly authorized representative of each of the Parties, and shall continue in force for a period of five (5) years from the effective date of annexation of the Annexation Areas.
2. RECORDS TRANSFER. Upon approval of the annexation by voters and acceptance thereof by the City, the County shall work with the City to transfer to the City public records including but not limited to record drawings or construction drawings that are requested by the City related to transferred facilities and properties within the areas so annexed. The City shall send a written request for records to the director of the County division holding such records. Alternately, the City may request in writing that such director schedule a records transfer meeting at which City representatives shall meet with County department representatives in order to review and identify records to be copied and/or transferred consistent with the terms of this Section 14. The request shall provide sufficient detail to allow the County to identify and locate the requested records. The County shall make its best effort to provide the documents within forty-five (45) days of the request. The County may elect to provide original records or copies of records. The County shall not be required to provide records that are not reasonably available or to create records or compilations that have not already been created. The County shall provide the City free of charge one set of records meeting the requirements of this section. This section is not applicative to the Sherriff's office records which will be referred to in a separate County/City of Burien contract.

3. DEVELOPMENT PERMIT PROCESSING. Upon the effective date of the annexation of the Annexation Area, the terms of this Agreement attached hereto as **Exhibit C** shall go into effect with respect to development permit processing in the area annexed.
4. JAIL SERVICES. On and after the effective date of annexation, the Annexation Areas are subject to the existing Interlocal Agreement between King County and the City of Burien for Jail Services. All misdemeanor crimes that occur in the Annexation Area prior to the date of annexation will be considered crimes within the jurisdiction of King County for the purposes of determining financial responsibility under said Interlocal Agreement for Jail Services. All misdemeanor crimes that occur in the Annexation Area on or after the date of annexation will be considered crimes within the jurisdiction of the City for purposes of determining financial responsibility under the Interlocal Agreement for Jail Services.
5. POLICE SERVICES. On and after the effective date of the annexation, police service responsibility within the Annexation Areas will be transferred to the City. The county will be responsible for all criminal cases and investigations occurring before the effective annexation date, including but not limited to all costs associated with these cases and investigations. The city will be responsible for all criminal cases and investigations occurring on and after the date of the annexation, including but not limited to all costs associated with these cases and investigations. The Burien Chief of Police, Precinct-4 Commander and the KCSO Contracting Unit will work together to ensure a smooth transition plan and a continued partnership with the City of Burien to provide patrol services, communications, follow up investigations and maintaining records through the KCSO contracting model. In addition to the provisions of that transition plan, the parties further agree as follows:
 - a. Sharing of community information: The County agrees to provide community contact lists that the County may have regarding the Annexation Areas to the City upon request. These lists may include, but are not limited to: members of block watch programs, community groups, and/or homeowner's associations. The lists shall be provided to the City within 90 days of the effective date of the annexation.
 - b. Annexation of Emergency Response (911) Services: The City and County agree to coordinate the transfer of emergency response (911) services in the Annexation Areas.
6. DISTRICT COURT SERVICES TRANSITION. The County will be responsible for the prosecution and payment of any fees or assessments associated with, misdemeanor criminal cases filed by the County prior to the effective date of annexation. The City will be responsible for the prosecution of, and payment of court filing fees and other fees associated with misdemeanor criminal case filed by the City from and after the effective date of annexation, regardless of the time of the events from which the misdemeanor arose.
7. ROADS: The City of Burien and the King County Road Services Division entered into an interlocal agreement for the provision of road maintenance services May 23rd, 1993. The Road Services Division shall provide road related services at its discretion within the newly annexed area on a work order basis utilizing those standards used for projects within the existing City of

Burien corporate limits and as further described in the May 23rd, 1993 agreement or until a new agreement is fully executed.

8. TRANSFER OF ROADS-RELATED PROPERTIES TO CITY:

a. Transfer of Road-Related Properties.

The County shall, upon the effective date of annexation, convey by quitclaim deed the properties described in **Exhibit D** attached hereto and incorporated herein by reference, to the City, and the City shall accept the same, subject to all rights, conditions, covenants, obligations, limitations and reservations of record for said properties. The City agrees to abide by and enforce all rights, conditions, covenants, obligations, limitations and reservations for said properties. The City covenants that the properties described in Exhibit D shall continue to be used and maintained in perpetuity for road-related purposes unless other equivalent lands within the City are received in exchange therefore; or if such properties are sold, the City shall pay the County an amount equal to the net sale price of the property; or if the Property has been traded, pay the County the appraised value of the property at the time of the trade, as determined by an MAI appraiser selected by mutual agreement of King County and the City of Burien. The portion of Parcel # 07223049199 that is not currently subject to road-related purposes may be used by the City for park purposes subject to all development standards of the City.

a. Condition of and Responsibility for Operations, Maintenance, Repairs, and Improvements of Road-Related Properties.

- i. The City will have the opportunity to inspect the Road-Related Properties before accepting ownership, however regardless of such inspection the City has the duty to accept all facilities as specified in this agreement. The County will make its records concerning the Road-Related Properties available to the City and the County personnel most knowledgeable about the Road-Related Properties will be available to jointly inspect the property with City personnel and to provide the City the status of maintenance of such facilities, point out known conditions, including any defects or problems, if any, with the Road-Related Properties. The City agrees to accept the Road-Related Properties in AS IS condition, and to assume full and complete responsibility for all operations, maintenance, repairs, and improvements of the Related Properties.
- ii. 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 Road-Related Properties and no official, employee, representative or agent of King County is authorized otherwise.
- iii. The City acknowledges and agrees that 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 Road-Related Properties without

regard to whether such defect or deficiency was known or discoverable by the City or the County.

d. Environmental Liability related to the Road-Related Properties.

- i. "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.
- ii. 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 Road-Related Properties 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, changing the configuration of, or changing the use of the Road-Related Properties.
- iii. 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 notify the County in writing within ninety (90) days of 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.
- iv. 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.

e. Indemnification related to Road-Related Properties.

- i. 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, arising from those occurrences related to the Road-Related Properties that occurred prior to the effective date of annexation, except to the extent that indemnifying or holding the City harmless would be limited by Section 8 (d) 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.
- ii. 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, arising from those occurrences related to the Road-Related Properties that occur on or after the effective date of annexation, except to the extent that indemnifying or holding the County harmless would be limited by Section 8(d) 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.

- iii. For a period of three years following transfer, 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 Road-Related Properties.
 - iv. Each Party to this Agreement 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 to this Agreement, 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.
- f. The provisions of this Section 8 shall survive the expiration or termination of this Agreement.

9. PARK AND OPEN SPACE FACILITIES AND PROPERTIES. The County shall transfer to the City, and the City shall accept, the park properties located in the North Highline Area X Annexation Area listed in **Exhibit E** attached hereto and incorporated herein, which park properties are more generally known as Arbor Lake Park, Hazel Valley Park, Hilltop Park, Puget Sound Park, Salmon Creek Park, Southern Heights Park.

These transfers shall be accomplished through the execution by the County Executive and Mayor of Burien of an intergovernmental transfer agreement in substantially the form as Exhibit E, attached hereto and incorporated herein. It is the intent of the parties that transfer of Arbor Lake Park, Hazel Valley Park, Hilltop Park, Puget Sound Park, Salmon Creek Park, Southern Heights Park (hereinafter the "Park Properties") shall occur as nearly as possible on or immediately after the effective date of the annexation of the North Highline Area X Annexation Area.

10. STATUS OF COUNTY EMPLOYEES. Subject to City civil service rules and state law, the City agrees to consider the hiring of County employees whose employment status is affected by the change in governance of the Annexation Areas where such County employees make application with the City per the City's hiring process and meet the minimum qualifications for employment with the City, and provided further that the City's consideration of hiring affected sheriff department employees shall be governed by the provisions set forth in RCW 35.13.360 et seq. The County shall in a timely manner provide the City with a list of those affected employees.

11. ADMINISTRATION AND CONTACT PERSONS. The Parties stipulate that the following persons shall be the administrators of this Agreement and shall be the contact person for their respective jurisdiction.

City of Burien:

King County:

Mike Martin
City Manager
City of Burien
400 SW 152nd St, Suite 300
Burien, WA 98166

Dwight Dively
Director Office of Management and Budget
King County
401 – 5th Avenue, Suite 810
Seattle, WA 98104

12. COMPLIANCE WITH LAWS. Each Party accepts responsibility for compliance with federal, state, and local laws and regulations. Specifically, in meeting the commitments encompassed in this Agreement, all parties will comply with, among other laws and regulations, the requirements of the Open Meetings Act, Public Records Act, Growth Management Act, State Environmental Policy Act, and Annexation Statutes. The Parties retain the ultimate authority for land use and development decisions within their respective jurisdictions as provided herein. By executing this Agreement, the Parties do not purport to abrogate the decision-making responsibility vested in them by law.

13. INDEMNIFICATION.

The following indemnification provisions shall apply to the entirety of this Agreement except for: (1) **Section 8** concerning Road-Related Properties which contains separate indemnification provisions; and (2) **Exhibit C** relating to Development Permit Processing which contains separate indemnification provisions; and (3) **Exhibit E** relating to the transfer of Park Properties which also contains separate indemnification provisions.

- a. The County shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principal of governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.
- b. The City shall indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit

based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principal of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.

- c. The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.
- d. The provisions of this Indemnification Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

14. GENERAL PROVISIONS.

- a. Entire Agreement. This Agreement together with all Exhibits hereto contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.
- b. Road Levy Tax. The County's collection and disbursement of road levy tax within the Annexation Area(s) shall be in accordance with state law.
- c. Filing. A copy of this Agreement shall be filed with the Burien City Clerk and recorded with the King County Recorder's Office.
- d. Records. Until December 31, 2015, 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. Other provisions of this section notwithstanding, police/sheriff records shall be retained according to the state records retention schedule as provided in RCW Title 42 and related Washington Administrative Code provisions.
- e. Amendments. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.
- f. Severability. If one or more of the clauses of this Agreement is found to be unenforceable, illegal, or contrary to public policy, the Agreement will remain in full force and effect except for the clauses that are unenforceable, illegal, or contrary to public policy.

- g. Assignment. Neither the City nor the County shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.
- h. Successors in Interest. Subject to the foregoing subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs, and assigns.
- i. Dispute Resolution. The Parties should attempt if appropriate to use a formal dispute resolution process such as mediation, through an agreed-upon mediator and process, if agreement cannot be reached regarding interpretation or implementation of any provision of this Agreement. All costs for mediation services would be divided equally between the Parties. Each jurisdiction would be responsible for the costs of their own legal representation.
- j. Attorneys' fees. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys' fees, costs and expenses.
- k. No waiver. Failure of either the County or the City to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default.
- l. Applicable Law. Washington law shall govern the interpretation of this Agreement. King County shall be the venue of any arbitration or lawsuit arising out of this Agreement.
- m. Authority. Each individual executing this Agreement on behalf of the City and the County represents and warrants that such individuals are duly authorized to execute and deliver the Agreement on behalf of the City or the County.
- n. Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth above in Section 14. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the addresses set forth above in Section 14. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.
- o. Performance. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.
- p. Equal Opportunity to Draft. The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.

- q. Third Party Beneficiaries. This agreement is made and entered into for the sole protection and benefit of the parties hereto. No other person or entity shall have any right of action or interest in this Agreement based on any provision set forth herein.

IN WITNESS THEREOF, the Parties have executed this Agreement.

CITY OF BURIEN:

KING COUNTY:

Joan McGilton Mayor

Dow Constantine, Executive

Date: _____

Date: _____

ATTEST:

ATTEST:

City Clerk

DATED: _____

DATED: _____

Approved as to Form:

Approved as to Form:

City Attorney

Sr. Deputy Prosecuting Attorney

Exhibit A

Description of Annexation Area

North Highline Area X Proposed Annexation Area

Legal Description

BOUNDARIES OF THE PROPOSED NORTH HIGHLINE AREA X ANNEXATION AREA

The legal description of the boundaries of the proposed North Highline Annexation Area, located in Section 12, Township 23 North, Range 3 East, W.M. and in Sections 4, 5, 7, 8 and 9, Township 23 North, Range 4 East, W.M. and, all in King County, Washington, more particularly described as follows:

Beginning at the northeast corner of existing City of Burien as established by King County Ordinance 10236, said corner also being the intersection of the west margin of Des Moines Memorial Drive South (Des Moines Way South) with the north margin of South 128th Street said point being also on the city limits of SeaTac as established by King County Ordinance 8820 and situated in the Southwest quarter of Section 9, Township 23 North, Range 4 East, W.M., King County, Washington;

Thence easterly along said north margin of South 128th Street and said city limits of SeaTac to the east margin of Military Road South and an angle point in said north margin of South 128th Street and the city limits of Tukwila as established by City of Tukwila Ordinance 1574;

Thence continuing along said north margin of South 128th Street and said city limits of Tukwila to the intersection with the south line of Section 9, Township 23 North, Range 4 East, W.M.;

Thence east along the south line of said Section 9 to the intersection with a line lying 250 feet (measured perpendicular to) westerly of and parallel with the centerline of Pacific Highway South;

Thence northerly along said parallel line to the south line of the north 34 feet of the North half of the South half of the South half of the Southeast quarter of the Southeast quarter of said Section 9;

Thence continuing northerly along said parallel line which lies 250 feet westerly of and parallel with the centerline of Pacific Highway South a distance of 5 feet more or less to a point located opposite Highway Engineers Station PT 527 + 88.4 on said centerline;

Thence continuing northerly along said line, North 12°21'28" West a distance of 200.30 feet to the south line of the north half of the north half of the south half of the southeast quarter of the southeast quarter of said Section 9;

Thence along said south line, South 88°56'52" West to a point which lies 564.93 feet westerly of the west margin of Pacific Highway South when measured along said line;

Thence North 00°05'43" East to a point on the north line of the south half of the north half of the southeast quarter of the southeast quarter, said point being 453.07 feet westerly from the west margin of Pacific Highway South when measured along said line;

Thence westerly along said north line to a point which lies 609.72 feet east of the west line of the Southeast quarter of the Southeast quarter of said Section 9, said point also being the southwest corner of Lot "A" of City of Tukwila Boundary Line Adjustment No. L98-0033 recorded under Recorder's Number 9810059013, records of King County, Washington;

Thence northerly along the west line of said Lot "A" to a point on the north line of the southeast quarter of the southeast quarter of said Section 9 which is located 614.26 feet east of the northwest corner thereof, said point also being an angle point on the westerly line of said Lot "A";

Thence easterly along said north line to a point located 300 feet westerly of the west margin of Pacific Highway South when measured along said north line, said point also being an angle point in the westerly line of said Lot "A";

Thence northwesterly along the westerly line of Lots "A", "B", "C", and "D" of said City of Tukwila Boundary Line Adjustment to a point on the north line of the northeast quarter of the southeast quarter of Section 9 which is located 100 feet east of the northwest corner thereof, said point also being the northwest corner of said Lot "D";

Thence easterly along said north line to the westerly limited access line of PSH No. 1 (SR-99);

Thence generally northerly along said westerly limited access line to its intersection with the north margin of South 116th Way (South 116th Place);

Thence northwesterly along said north margin of South 116th Way to the new westerly right-of-way line and limited access line for Primary State Highway No. 1 (S.R. 99) as approved 7-23-57 and shown on Sheets 1 & 2 of 7;

Thence northerly along said new westerly right-of-way line to the intersection with the south margin of South 108th Street;

Thence departing from said city limits of Tukwila westerly along said south margin of South 108th Street to the intersection with the east line of the Southwest quarter of the Southwest quarter of Section 4, Township 23 North, Range 4 East, W.M.;

Thence north 30 feet along said east line to the southeast corner of the Northwest quarter of the Southwest quarter of said Section 4;

Thence west 30 feet along the south line of the Northwest quarter of the Southwest quarter of said Section 4 to the west margin of 20th Avenue South;

Thence northerly along said west margin of 20th Avenue South to the north line of the south 136 feet of the Northwest quarter of the Southwest quarter of said Section 4;

Thence westerly along the north line of the south 136 feet of the Northwest quarter of the Southwest quarter of said Section 4 to the intersection with the west line of said Section 4;

Thence southerly along the west line of said Section 4 to the north margin of South 112th Street;

Thence westerly along said north margin of South 112th Street to intersection with the north line of said Section 8;

Thence westerly along said north line to the intersection with the east margin of State Route 509;

Thence southerly along said east margin of State Route 509 to the north margin of South 116th Street;

Thence westerly along said north margin of South 116th Street and Southwest 116th Street to the west margin of 10th Avenue Southwest;

Thence northerly along said west margin of 10th Avenue Southwest to the north margin of Southwest 114th Street;

Thence westerly along said north margin of Southwest 114th Street to the east margin of 15th Avenue Southwest;

Thence northerly along said east margin of 15th Avenue Southwest to the south margin of Southwest 112th Street.

Thence westerly along said south margin of Southwest 112th Street to the east margin of Seola Beach Drive Southwest;

Thence southerly along said east margin of Seola Beach Drive Southwest to the intersection with the north line of Government Lot 3, Section 12, Township 23 North, Range 3 East, W.M. said point being the northwest corner of the existing City of Burien;

Thence easterly along said north line and the boundary of said existing City of Burien as established by King County Ordinance 10236 to the west margin of 30th Avenue Southwest;

Thence north 30 feet to the north margin of Southwest 116th Street;

Thence easterly along the north margin of Southwest 116th Street to the intersection with the east margin of 12th Avenue Southwest;

Thence southerly along said east margin of 12th Avenue Southwest to the east margin of Ambaum Boulevard Southwest;

Thence southerly along said east margin of Ambaum Boulevard Southwest to the intersection with the north margin of Southwest 128th Street;

Thence easterly along said north margin of Southwest 128th Street and South 128th Street, also being the Burien City Limits as established by King County Ordinance 10236, to the intersection with the west margin of Des Moines Memorial Drive South (Des Moines Way South) and the Point of Beginning.

Exhibit C

Development Permit Processing in Annexation Areas from and after the date of Annexation

**INTERLOCAL AGREEMENT BETWEEN
KING COUNTY AND THE CITY OF BURIEN
RELATING TO PROCESSING OF BUILDING PERMITS
AND LAND USE APPLICATIONS**

THIS AGREEMENT is made and entered into this day by and between the City of BURIEN, a municipal corporation in the State of Washington (hereinafter referred to as the “City”) and King County, a home rule charter County in the State of Washington (hereinafter referred to as the “County”).

WHEREAS, the City annexed an area of unincorporated King County described in Attachment 1 and may annex additional areas of unincorporated King County (collectively referred to as the “Annexation Area”); and

WHEREAS, all local governmental authority and jurisdiction with respect to the Annexation Area transfers from the County to the City upon the date of annexation; and

WHEREAS, the County and City agree that having County staff process various Annexation Area building permits and land use applications on behalf of the City for a transitional period will assist in an orderly transfer of authority and jurisdiction; and

WHEREAS, it is the parties’ intent by virtue of this Agreement that any and all discretionary decisions shall be made by the City; and

WHEREAS, this Agreement is authorized by the Interlocal Cooperation Act, RCW Chapter 39.34;

NOW, THEREFORE, in consideration of the terms and provisions, it is agreed by and between the City and the County as follows:

1. Fees. The City shall adopt legislation authorizing the County to charge applicants fees in amounts currently specified or hereafter adopted in King County Code Title 27 for applications processed by the County in accordance with the terms of this Agreement.

2. Pre-annexation Building Permit Applications Filed with King County.

2.1 Except as otherwise provided for herein, the County shall continue to review on behalf of the City all vested building-related permit applications filed with the County before the effective date of annexation that involve property within the Annexation Area. For the purposes

of this Agreement, building-related permits include but are not limited to building permits, mechanical permits, fire systems/fire sprinkler permits and clearing and grading permits. Review by the County shall occur in accordance with the regulations to which the applications are vested. Any decision regarding whether or when an application has vested shall be made by the City.

2.2 Except as provided in Section 4 of this Agreement, the County's review of building-related permits shall include rendering decisions to approve, condition or deny such applications; conducting inspections; issuing correction notices, certificates of occupancy, permit extensions and completion of extensions; and evaluating compliance with approval conditions that extend beyond issuance of a certificate of occupancy. The County agrees to consult with the City prior to rendering any administratively appealable building-related permit decision. Appeals of building related permit decisions, if any, shall be processed by the City in the same manner as appeals of land use permits are addressed in Section 3.4; provided that the City and County may agree to have the County conduct such appeals on behalf of the City in particular instances where such processing by the County would further the orderly transition envisioned by this Agreement.

2.3 The County shall receive and process any permit applications made following annexation that implement conditions of a Commercial Site Development permit issued by the County prior to annexation. The City of Burien shall receive and process ancillary permit applications, such as fire and mechanical permits, that are made following annexation and that are essential for completion of an approved project permit.

2.4 The County shall review and make a recommendation to the City on requests to renew County permits within the Annexation Area that are approaching their expiration date without having completed the permitted activity. The City shall render any final decisions on such requests.

2.5 The County shall review and render decisions on requests for changes to approved construction documents of King County vested building related permits up to the time that either a certificate of occupancy is issued or final construction approval has been issued for the project. Following issuance of the certificate of occupancy or final construction approval, requests for changes to the approved set of plans shall be referred to the City. The City intends to process such requests as new permit applications.

2.6 The County shall review and make recommendations to the City's designated decision maker on applications to vary adopted road or drainage standards that are made in conjunction with a building related application being reviewed by the County pursuant to this Agreement. All final decisions on such variance applications shall be rendered by the City.

3. Pre-annexation Land Use Permit Applications Filed with King County.

3.1 Except as otherwise provided for herein, the County shall continue to review on behalf of the City all vested land use permit applications filed with the County before the effective date of annexation that involve property within the Annexation Area. Review by the

County shall occur in accordance with the regulations to which the applications are vested. Any decisions regarding whether or when an application has vested shall be made by the City.

3.2 For those vested land use applications that do not require a public hearing prior to issuance, the County will continue to process such applications and shall make a report and recommendation to the City's designated decision maker based upon the regulations under which the applications are vested. Any decisions to approve, deny, or approve with conditions such applications shall be made by the City's designated decision maker and will be processed pursuant to the City's applicable land use review and appeal procedures.

3.3 Notwithstanding any other provision of this Agreement, applications for any rezone and any associated permit applications shall be referred to the City for all further processing.

3.4 For those vested land use applications that require quasi-judicial or legislative approval, e.g., subdivision or conditional use, or which involve administrative appeals, the County shall prepare a report and preliminary recommendation to the City's designated decision maker for a final decision or a recommendation to the designated decision-maker pursuant to the City's applicable land use review and appeal procedures. The City's decision-maker shall not be a County employee. The City shall be responsible for scheduling, providing notice, conducting any public hearings required, and making any decision in conjunction with the application. County staff shall, at the request of the City, attend the public hearing to testify with respect to analysis set forth in the County's report and preliminary recommendation.

3.5 The County shall continue to review those vested subdivision, short subdivision and binding site plan applications that have not yet received preliminary approval up to the point of making a recommendation to the City's designated decision maker on preliminary approval. At the request of the City, County staff shall appear at the public hearing to testify with respect to analysis set forth in the County's preliminary recommendation.

3.6 For those vested subdivision, short plat and binding site plan applications that have received preliminary approval prior to annexation, the County shall continue and complete all post-preliminary review up to the point of making a recommendation to the City on final approval. For purposes of this section, post-preliminary review includes: engineering plan approval, final plat, short plat or binding site plan approval, and construction inspection approval.

3.7 The County shall review and make recommendations to the City's designated decision maker on applications to vary adopted road or drainage standards that are made in conjunction with a land use application being reviewed by the County pursuant to this Agreement. All final decisions on such variance applications shall be rendered by the City.

3.8 The County shall review and render decisions on requests for changes to approved land use permit engineering plans up to the time that final construction approval has been issued for the project. Following issuance of final construction approval, requests for changes to the approved set of plans shall be referred to the City. As-builts of the final approved construction shall be forwarded to the City.

4. List of Projects and Notice of Meetings.

4.1 The County will prepare and send to the City a monthly list of all building, land use and associated ancillary permit applications pending within the Annexation Area as of the date of annexation. The list shall include the status of the projects as it is shown in the County Permit system.

4.2 The County shall notify the City of all technical screening meetings, pre-construction conferences and engineering pre-submittal meetings for projects being reviewed by the County under this Agreement. Such notice shall be provided promptly upon scheduling of the meeting. The City may participate in these meetings to learn more about the project and to offer comments.

4.3 The County shall provide the City with a copy of files and records of all land use and building permit applications processed under this Agreement upon completion of permit review, termination of the Agreement under Section 11 or expiration of the Agreement, whichever comes first.

5. SEPA Compliance.

5.1. In order to satisfy the procedural requirements of the State Environmental Policy Act (SEPA), the City shall serve as lead agency for all Annexation Area building permit and land use applications, including those being processed by the County pursuant to this Agreement.

5.2. Any and all appeals from SEPA threshold determinations and other SEPA matters relating to projects within the City shall be heard and decided by the City pursuant to the City's applicable review and appeal procedures.

5.3. For those permit applications requiring a SEPA determination, the County will not take final action upon the application until the City has acted. Upon written request with regard to a particular project being reviewed by the County, the County agrees to provide technical and administrative SEPA assistance to the City on that project. Such assistance may include, but is not limited to:

- review of an applicant's environmental checklist and collection of relevant comments and facts;
- preparation of a proposed SEPA threshold determination with supporting documentation for approval, publication and notice by the County on behalf of the City;
- preparation and submittal of a written review and comment on any appeal received on a SEPA threshold determination recommended by County staff to the City;

- attendance at appeal hearings to testify with respect to analysis of environmental impacts, mitigation measures and the environmental review process;
- preparation of any required draft, final, addendum or supplemental EIS for approval of the City; and
- coordination of adopted or required SEPA measures of mitigation with project review staff.

5.4. Any decision whether to condition or deny an application on SEPA grounds shall be made by the City.

6. Administrative and Ministerial Processing. County review specified in this Agreement is intended to be of an administrative and ministerial nature only. Any and all final recommendations on legislative or quasi-judicial decisions or decisions of a discretionary nature shall be made by the City's designated decision maker and processed pursuant to the City's applicable review and appeal procedures.

7. Code Enforcement.

7.1. Within 30 days following the effective date of this Agreement, the County shall provide the City with a list and brief explanation of all Annexation Area code enforcement cases under review by the County at the time of annexation. The City shall be responsible for undertaking any code enforcement actions following the date of annexation. The County shall provide the City with copies of any Annexation Area enforcement files requested by the City.

7.2 Code enforcement abatement actions necessary to eliminate public health or safety hazards shall be the sole responsibility of the City.

7.3 The County is authorized on behalf of the city to enforce conditions of approval for those permits that the County processes pursuant to this Agreement.

8. Financial Guarantees. Any financial guarantee that is intended to secure compliance with project conditions that are being or will be reviewed by the City shall be turned over to or posted with the City, which shall have sole authority and discretion over its release and/or enforcement. Any financial guarantee that has been posted or is otherwise required in order to guarantee compliance with conditions that are being reviewed by the County pursuant to this Agreement shall be retained by or posted with the County. On behalf of the City, the County is authorized to accept such financial guarantees and to release them where it determines that conditions for release have been satisfied. In making such decisions whether to release a financial guarantee instrument, the County may at any time seek direction from the City. The City shall be solely responsible for making any demands or initiating any legal action to enforce financial guarantees for Annexation Area projects.

9. Processing Priority. Within budgetary constraints, the County agrees to process pre-annexation building and land use applications in accordance with the County's administrative procedures, at the same level of service as provided to County applications.

10. Fees and Reimbursement.

10.1 In order to cover the costs of providing services pursuant to the terms of this Agreement, the County is authorized to collect and retain such application and other fees authorized by the County fee ordinances adopted by the City pursuant to Section 1 above, or as may be modified at some future date by the County and the City.

10.2 In order to cover the costs of providing review, technical and administrative assistance, and other services not otherwise reimbursed pursuant to this Agreement, including but not limited to providing testimony at public hearings, the City shall pay the County at such hourly rate as specified in the version of King County Code Title 27 in effect at the time the services are performed. The County shall not seek reimbursement under this paragraph for review services performed on an individual permit application where the County has already been compensated for such services by the receipt of permit application review fees. The County shall provide the City with quarterly invoices for assistance and services provided, and the City shall tender payment to the County within thirty days after the invoice is received.

11. Duration. This Agreement shall become effective upon approval by the City and the County and shall continue until December 31, 2015, unless otherwise terminated in accordance with paragraph 11 or extended in accordance with paragraph 12.

12. Termination. Either party may terminate this Agreement for good cause shown upon providing at least sixty (60) days written notice to the other party. Upon expiration or termination of this Agreement, the County shall cease further processing and related review of applications it is processing under this Agreement. The County shall thereupon transfer to the City those application files and records, posted financial guarantee instruments, and unexpended portions of filing fees for pending land use and building-related applications within the Annexation Area. Upon transfer, the City shall be responsible for notifying affected applicants that it has assumed all further processing responsibility.

13. Extension. The City and County may agree to extend the duration of this Agreement through December 31, 2019 or to a date prior thereto. In order for any such extensions to occur, the City shall make a written request to the County not less than sixty (60) days prior to the otherwise applicable expiration date. Any agreement by the County to the proposed extension(s) shall be made in writing. If the parties have not agreed to the extension in writing by the otherwise applicable expiration date, the Agreement shall expire.

14. Application Process. The County and the City will each prepare and have available for applicants and other interested parties a document describing the handling of applications based on this Agreement.

15. Indemnification, Hold Harmless and Defense.

15.1 The County shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principal or governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

15.2 The City shall indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principal of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.

15.3 The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.

15.4 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 that arises in whole or in part from the existence or effect of City ordinances, rules, regulations, policies or procedures. If any cause, claim, suit, action or proceeding (administrative or judicial), is initiated challenging the validity or applicability of any City ordinance, rule or regulation, the City shall defend the same at its sole expense and if judgment is entered or damages awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorneys' fees.

16. Personnel. Control of County personnel assigned by the County to process applications under this Agreement shall remain with the County. Standards of performance, discipline and all other aspects of performance shall be governed by the County.

17. Administration. This Agreement shall be administered by the County Director of the Department of Development and Environmental Services or his/her designee, and by the City's designated decision maker or his/her designee.
18. Amendments. This Agreement is the complete expression of the terms hereto and any oral representation or understanding not incorporated herein is excluded. Any modifications to this Agreement shall be in writing and signed by both parties.
19. Legal Representation. The services to be provided by the County pursuant to this Agreement do not include legal services, which shall be provided by the City at its own expense.
20. Notice of Annexation Area Processing. In the event that the City intends for the County to conduct permit review in any future City Annexation Area pursuant to this Agreement, the City shall exercise its best efforts to provide the County with written notice of its intent no less than sixty days prior to the date County processing of such Annexation Area applications would occur.
21. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties hereto. No other person or entity shall have any right of action or interest in this Agreement based upon any provision set forth herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed.

KING COUNTY

King County Executive

Dated

Approved as to Form:

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: _____

Senior Deputy Prosecuting Attorney

Dated

CITY OF BURIEN

(Enter Name of City Here) _____

Dated

Approved as to Form:

City Attorney

Dated

Exhibit D

Roads Related Properties

<u>Tax Parcel Number</u>	<u>Street Address</u>
0723049199 -	Retention/detention pond SW116th St
0257000192 -	A 5' wide strip connecting 24th Ave S. to Hilltop Park
1446800314 -	Pedestrian overpass across 1st Ave S.
0985000695 -	Small parcel along Glendale Way S.
3826000625 -	Detention pond S.120 th St.

Legal Descriptions

Right of Way Tracts Owned by King County and Described as follows for transfer to City of Burien:

That portion of Lot 21 of Ardath Park Addition unrecorded, said portion described as follows: The north 125 ft of the south 295 ft less the south 60 ft of the north 65 ft thereof of the west ½ of the west ½ of the SW ¼ of the SW ¼ of the SE ¼ of STR 9-23-4 in King County, Washington; less county road.

The north 100 ft of Lot 1, Block 6, Boulevard Park Addition, as recorded in Volume 22 of Plat, Page 64, records of King County, Washington.

The easterly 10 ft of the southerly 85 ft of the north ½ of the NW ¼ of the SE ¼ of the NE ¼ of STR 7-23-4 in King County, Washington; Also, the west 190 ft of the east 200 ft of the south 10 ft of said subdivision.

Together with,

The southerly 160 ft of the westerly 185 ft of the west ½ of that portion of the north 396.00 ft of the NE ¼ of the SE ¼ of the NE ¼ of STR 7-23-4 in King County, Washington, lying south of the south line of SW 116th Street and west of the west line of 1st Avenue South.

Together with,

Portion of Tract "X" described as follows: Beginning at the SW corner of the following described Tract "X"; thence north along the west line, a distance of 264 ft to the NW corner; thence easterly along the north line, a distance of 185 ft; thence south 32-00-00 west a distance of 170 ft; thence south 41-30-00 east a distance of 162 ft M/L to a point on the south line of said Tract "X"; thence west, along said south line, a distance of 205.20 ft to the point of beginning. Tract "X"; commencing at the SE corner of the NE ¼ of the SE ¼ of the NE ¼ of STR 7-23-4; thence westerly 45.03 ft, parallel with section line between Sections 6 and 7, to the true point of beginning; thence westerly parallel with said section line 618.20 ft; thence northerly parallel with section line between sections 7 and 8, a distance of 264 ft; thence easterly, parallel with said east and west cession line, 368.17 ft; thence southerly, parallel with said north and south section line, 85 ft; thence easterly, parallel with said east and west section line, 250 ft, M/L to the westerly line of State Highway #1-K (1st Ave. S.); thence southerly 179 ft to the true point of beginning.

Together with,

That portion of the south ½ of the SE ¼ of the NE ¼ of STR 7-23-4 in King County, Washington, described as follows: Beginning at the NE ¼ corner of said subdivision; thence S 88-43-09 W, along the north line thereof, 458 ft to the true point of beginning; then continuing S 88-43-09 W, along said north line, 256 ft; thence S 0-29-04 W, parallel with the east line of said subdivision, 150 ft; thence N 88-43-09 E, parallel with the north line of said subdivision, 256 ft to a point from which the true point of beginning bears N 0-28-04 E; thence N 0-28-04 E 150 ft to the true point of beginning; Except the west 66 ft thereof.

The west 100 ft (in width) of Lot 10, Block 12, Cedarhurst Division #2, according to plat recorded in Volume 32 of Plats, page 2, in King County, Washington.

All that portion of the following described Parcel described as follows:

The west 30 feet of Kensington Heights Replat Lot 120,

Together with the east 40 feet of Kensington Heights Replat Lot 119,

Together with that portion of said parcel lying northwesterly and adjacent to the following described line,

Begin at the northwest corner of said parcel,

Thence east along the north property line a distance of 10 feet to the True Point of Beginning,

Thence southwest to a point along the west property line, said point being 10 feet south from the northwest corner of the property.

Parcel Description:

Lots 118 and 119, and the west 30 feet of Lot 120, Kensington Heights Replat, according to the plat thereof recorded in Vol. 31 of Plats, page 21, in King County, Washington.

Together with the right to make all necessary slopes for cuts and fills upon the abutting property on each side of any road which is now, or may be constructed hereafter on said property, may be made on their property as herein set forth, in conformity with standard plans and specifications for highway purposes, and to the same extent and purposes as if the rights herein granted had been acquired by condemnation proceedings under Eminent Domain statutes of the State of Washington.

Exhibit E

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

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 BURIEN, a municipal corporation in the State of Washington (hereinafter referred to as the “City”) and King County, a home rule charter County in the State of Washington (hereinafter referred to as the “County”)

WHEREAS the County is a home rule charter county and political subdivision of the State of Washington; and

WHEREAS the City is a code city with a council-manager form of government, organized under Chapter 35.21 RCW; and

WHEREAS the City desires to own, operate, and maintain parks, open space, recreation facilities and programs and other municipal programs, facilities and property near its boundaries and within its potential annexation area; 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 does not have a sufficient, stable source of revenue to continue to manage and maintain its urban-area local 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 properties 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 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, and pursuant to RCW chapter 39.33, RCW chapter 67.20 and other authorities, the City and the County agree as follows:

1. Conveyance of Title

- 1.1. Timely following execution of this Agreement, King County shall convey to the City by deed all its ownership interest, and/or, when possible by assignment, any easement interest, leasehold interest or shared use responsibility, in the following listed park/recreation site(s), which are described more fully in Exhibits E1 and E2 (the "Property"):

- Arbor Lake Park**
 - Hazel Valley Park**
 - Hilltop Park**
 - Puget Sound Park**
 - Salmon Creek Park**
 - Southern Heights Park**

- 1.2. The City has reviewed Project Agreement for Project No. 70-007A (the "Project Agreement") between King County and the Washington State Interagency Committee for Outdoor Recreation ("IAC") for funding for the acquisition of Arbor Lake Park, and agrees that it shall execute an amendment to the Project Agreement that substitutes the City for the County as the "Contracting Party" in the Project Agreement so that the City shall become the "Project Sponsor." The City shall execute this amendment within fifteen (15) days of execution of this Agreement.
- 1.3 The deeds to the property 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:

All deeds to the property shall contain the following covenant:

"The City covenants that the Property 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."

All deeds to the property, except for the deed to Puget Sound Park and Southern Heights Park, shall also contain the following covenants:

"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."

All deeds to the property, including the deed for Puget Sound Park and Southern Heights Park, shall also contain the following covenants:

"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."

- 1.4 The City and County agree that the assignment of the County's easement over the real property underlying Southern Heights Park will convey all the rights and obligations of the County contained in the easement, and that the City shall assume all the rights and obligations of the County, including the covenants, contained in the easement.
- 1.5 The County shall also convey to the City all of the County's right, title and interest in certain personal property and appurtenances ("the Personal Property") associated with the Property including but not limited to structures, fencing, irrigation and asphalt. The City agrees to accept the Personal Property in AS IS condition, and to assume full and complete responsibility for the Personal 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 Personal Property, and no official, employee, representative or agent of King County is authorized otherwise. The City acknowledges and agrees that the County shall have no liability for, and that the City shall release, hold harmless, and indemnify the County, and shall have no recourse against the County for, any defect or deficiency of any kind whatsoever in the Personal Property, without regard to whether such defect or deficiency was known to or discoverable by the City or the County.

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 paragraphs 4.2 and 5.1, the County shall have no liability for, and that the City shall hold harmless, indemnify and 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.

4.5 This section 4 shall not apply to hazardous materials deposited or released on Arbor Lake Park. Instead, Exhibit E-4 to this Agreement shall govern hazardous materials deposited or released on Arbor Lake Park.

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 Article 5 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, then 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, (i) indemnifying or holding the County harmless would be limited by Article 5 of this Agreement, or (ii) any such claims, actions, suits, liability, loss, costs, expenses or damages arise out of the acts or omissions of the County, or its elected officials, officers, agents or employees, occurring after the effective date of conveyance of the Property to the City. 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, then 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 Article 5 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, 2020, 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:

Kevin Brown
Director, Parks and Recreation
Division, DNRP
King Street Center
201 S. Jackson Street, Rm. 700
Seattle, WA 98104

City:

Mike Martin
City Manager
400 SW 152nd St., Suite 300
Burien, WA 98166

11.0 General Terms and Conditions

- 11.1 **Severability.** In the event any portion of this Agreement is found to be invalid by the Superior Court of King County, Washington, then such holding shall not impact or affect the remaining provisions of this Agreement unless that court also rules that the principal purpose and intent of this Agreement should and/or must be defeated, invalidated or voided.
- 11.2 **Binding Effect.** This Agreement is binding upon and shall inure to the benefit of each party hereto, its successors and assigns.
- 11.3 **Legal Relationships.** The parties to this Agreement execute and implement this Agreement solely as grantor and grantee. No partnership, joint venture or joint undertaking shall be construed from this Agreement. This Agreement creates no right, interest, duty, obligation, or cause of action in any person or entity not a party to it.
- 11.4 **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.
- 11.5 **Cooperation.** 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.
- 11.6 **Governing Law; Jurisdiction and Venue; Attorneys' Fees.** 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. In the event of any litigation hereunder, the Superior Court of King County, Washington shall have the exclusive

jurisdiction and venue. The Parties agree to submit to the personal jurisdiction of that court. The prevailing Party in any dispute arising out of or relating to the interpretation of this Agreement, including those disputes brought in Superior Court and/or on appeal, shall be entitled to reasonable attorney's fees and costs including expert witness fees.

11.7 **Assignment.** The City may not assign this Agreement or any rights hereunder without the County's prior written consent.

11.8 **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. If there is any conflict between the terms and provisions of this Agreement, and the terms and provisions of the deed executed to convey the Property, then the terms and provisions of the deed shall control. 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, although each party must determine if they wish to obtain and pay for such legal review. Each party shall be and is separately responsible for payment of any legal services rendered on their behalf regarding legal review of the terms found in this Agreement.

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

Exhibit E-1	Legal Descriptions
Exhibit E-2	Illustration of Parks
Exhibit E-3	Form of Southern Heights Easement Assignment
Exhibit E-4	Environmental Liability Relating to Arbor Lake Park

IN WITNESS WHEREOF, the parties have executed this Agreement.

King County

City of Burien

King County Executive

City Manager

Date

Date

Approved as to Form:

Approved as to Form:

King County

City Attorney

Senior Deputy Prosecuting Attorney

Date

Date

NOTARY BLOCKS APPEAR ON FOLLOWING PAGE

EXHIBIT E-1

LEGAL DESCRIPTIONS

Arbor Lake Park

1 of 2

Parcel A

Beginning at the Northeast corner of the Southwest quarter of Section 8, Township 23 North, Range 4 East, W.M., King County, Washington, and running thence along the North line of said Southwest quarter, South 89°00'47" West 853.118 feet;
Thence South 0°02'15" East parallel with the East line of said Southwest quarter 1030.00 feet;
Thence South 89°00'47" West 625.669 feet to the true point of beginning;
Thence South 0°12'15" East 160.00 feet;
Thence North 89°00'47" East 25.00 feet;
Thence South 0°02'15" East 80.00 feet;
Thence North 89°00'47" East 25.00 feet;
Thence South 0°02'15" East 100.00 feet;
Thence North 89°00'47" East 235.67 feet;
Thence South 0°02'15" East 241.67 feet to the North margin of South 124th Street;
Thence Westerly along said North margin 448.69 feet to the Easterly margin of 2nd Avenue South;
Thence Northerly along the Easterly margin to a point from which the true point of beginning bears North 89°00'47" East;
Thence North 89°00'47" East to the true point of beginning, EXCEPT the East 25 feet of the North 80 feet thereof.

SUBJECT TO: Right to enter said premises to make repairs and the right to cut brush and trees which constitute a menace or danger to the electric transmission line located in street or road adjoining said premises, under Auditor's File No. 2975292.

Easements under Auditor's File Nos. 6157868 and 6431026 and various other instruments of record. Easement affecting portion of premises for the purpose of pumping and draining water from Arbor Lake, under Auditor's File No. 6169356. Covenants, conditions and restrictions under Auditor's File No. 3214220. Right to make necessary slopes for cuts or fills upon said premises under Auditor's File No. 3087104.

EXHIBIT E-1
LEGAL DESCRIPTIONS

Arbor Lake Park

2 of 2

Parcel B

Beginning at the Northeast corner of the Southwest quarter of Section 8, Township 23 North, Range 4 East, W.M., King County, Washington, and running thence along the North line of said Southwest quarter, South 89°00'47" West 853.118 feet;
Thence South 0°02'15" East parallel with the East line of said Southwest quarter 630.00 feet;
Thence South 89°00'47" West 801.572 feet to the West line of 3rd Avenue South and the true point of beginning of this description;
Thence South 0°02'15" East 40.00 feet;
Thence North 89°00'47" East 148.48 feet;
Thence South 0°02'15" East 260.00 feet;
Thence South 89°00'47" West 413.75 feet to a line 30 feet Easterly from and parallel to the East boundary of the plat of Cedarhurst Div. No. 2, according to the plat recorded in Volume 32 of plats, Page 2, in King County, Washington;
Thence North 0°00'48" East 300 feet along said parallel line to a point which bears South 89°00'47" West from the true point of beginning;
Thence North 89°00'47" East 265 feet to the true point of beginning.
"Being known as the North 300.00 feet of "Lake Tract", Cedarhurst Division No. 3, unrecorded".

SUBJECT TO: Right to enter said premises to make repairs and the right to cut brush and trees which constitute a menace or danger to the electric transmission line located in street or road adjoining said premises as granted under Auditor's File No. 2975292. Right of the public to make necessary slopes for cuts and fills upon said premises as granted under Auditor's File No. 3087104.

Agreement dated November 20, 1970 between King County and United States of America, as recorded under Auditor's File No. 6719414 and Vault File 5069567.

Parcel C

Beginning at the Northeast corner of the Southwest quarter of Section 8, Township 23 North, Range 4 East, W.M., King County, Washington;
Thence South 89°00'47" West along the North line of said Southwest quarter 853.118 feet;
Thence South 0°02'15" East parallel to the East line of said Southwest quarter 930 feet to the true point of beginning;
Thence South 0°02'15" East 100 feet;
Thence South 89°00'47" West to the Easterly margin of 2nd Avenue South;
Thence Northerly along said Easterly margin to a point which bears South 89°00'47" West from the True Point of Beginning;

Thence North 89°00'47" East to the True Point of Beginning, EXCEPT the East 523.092 feet.

EXHIBIT E-1
LEGAL DESCRIPTIONS
Hazel Valley Park
1 of 2

Parcel A

Lot 2 of King County Short Plat No. 177074 recorded under Recording No. 7810050805 described as follows:

That portion of the South half of the Southeast quarter of the Southeast quarter of Section 7, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Beginning at a point 887 feet West and 631.95 feet North of the corner common to Sections 7, 8, 17 and 18 of said township and range;
Thence West 85 feet;
Thence North to the South line of Southwest 126th Street;
Thence East 85 feet along the South line of Southwest 126th Street as established;
Thence South to point of beginning;

Parcel B

Lot 4 of the same short plat, described as follows:

That portion of the South half of the Southeast quarter of the Southeast quarter of Section 7, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Beginning at a point 99 feet North and 887 feet West of the corner common to Sections 7, 8, 17 and 18 of said township and range;
Thence North 532.95 feet;
Thence West 85 feet;
Thence North to the South line of Southwest 126th Street;
Thence West 30 feet along the South line of Southwest 126th Street as established;
Thence South 182.5 feet;
Thence West 85 feet;
Thence South 445.95 feet;
Thence East 200 feet to point of beginning.

EXCEPT the West 30 feet of that portion of said Lot 4 lying North of the South line of Lot 3 of said Short Plat and extended Easterly.

EXHIBIT E-1
LEGAL DESCRIPTIONS
Hazel Valley Park
2 of 2

Parcel C

The North half of that portion of the South half of the Southeast quarter of the Southeast quarter of Section 7, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Beginning at a point 99 feet North and 754 feet West of the Southeast corner of said South half;
Thence West 133 feet;

Thence North to the North line of said subdivision;

Thence East 133 feet;

Thence South to the point of beginning;

EXCEPT the South 196.80 feet to said North half;

ALSO that portion of the North half of the Southeast quarter of the Southeast quarter of Section 7, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Beginning at a point on the South line of said North half 754 feet West of the Southeast corner;

Thence West 133 feet;

Thence North to the South line of Southwest 126th Street (William Rasmussen Road) as now located;

Thence East along said South line 133 feet;

Thence South to the point of beginning.

EXHIBIT E-1
LEGAL DESCRIPTIONS

Hilltop Park

1 of 2

Parcel A

The East half of the South half of the South half of the Northwest quarter of the Southwest quarter of the Southeast quarter of Section 9, Township 23 North, Range 4 East, W.M., in King County, Washington;
EXCEPT the east 30 feet thereof.

Parcel B

The East half of the North half of the South half of the Northwest quarter of the Southwest quarter of the Southeast quarter of Section 9, Township 23 North, Range 4 East, W.M., in King County, Washington;
EXCEPT the North 80 feet thereof and
EXCEPT the East 60 feet thereof.

Parcel C

The East half of the West half of the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 9, Township 23 North, Range 4 East, W.M., in King County, Washington;

EXCEPT the South 290 feet thereof, Also the West 10 feet of the North 75 feet of the South 290 feet of the East half of the West half of the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 9, Township 23 North, Range 4 East, W.M., in King County, Washington.

Parcel D

The South 100 feet of the East half of the West half of the Northwest quarter of the Southwest quarter of the Southeast quarter of Section 9, Township 23 North, Range 4 East, W.M., in King County, Washington.

Parcel E

The East 20 feet of the South 170 feet of the West half of the East half of the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 9, Township 23 North, Range 4 East, W.M., in King County, Washington;

EXCEPT the South 30 feet for County road. Contains 2,800 sq. ft. or 0.0643 acres.

EXHIBIT E-1
LEGAL DESCRIPTIONS

Hilltop Park

2 of 2

Parcel F

The West half of the East half of the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 9, Township 23 North, Range 4 East, W.M., in King County, Washington;

EXCEPT the South 170 feet thereof; AND,

The East half of the East half of the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 9, Township 23 North, Range 4 East, W.M., in King County, Washington;

EXCEPT the South 30 feet thereof;

SUBJECT TO: The right to make slopes for cuts and fills, as set forth in instrument recorded under Recording No. 7106150437.

EXHIBIT E-1
LEGAL DESCRIPTIONS
Puget Sound Park

Parcel A

The East 621.00 feet of the Southeast quarter of Section 7, Township 23 North, Range 4 East, W.M., in King County, Washington, described as follows:

Lying South of the South line of Southwest 126th Street (William Rasmussen Road) as now located.

EXCEPT the East 45.00 feet for County road and EXCEPT the South 400.00 feet thereof.

Parcel B

Lots 19, 20, 21, 24, 25 and 26, Block 26, Southern Addition to Seattle, according to the plat thereof recorded in Volume 5 of Plats, page 65, in King County, Washington;

TOGETHER WITH vacated Lots 22 and 23 and vacated alley lying Southerly of the extension of the South line of Lot 21, produced eastward to the Northwest corner of Lot 23, Block 26, said plat;

TOGETHER WITH vacated Southwest 126th Street lying South of Block 26 within the extension of the West and East lines of said Block 26, extended South to the South line of Southwest 126th Street;

EXCEPT those portions of Lots 23, 24, 25 and 26, and vacated Southwest 126th Street, Block 26, said plat as condemned for First Avenue South in King County Superior Court Cause Number 323419.

EXHIBIT E-1
LEGAL DESCRIPTIONS
Salmon Creek Park

The South half of the Northwest quarter of the Southwest quarter of the Northeast quarter of Section 7, Township 23 North, Range 4 East, W.M., in King County, Washington;

EXCEPT the West 15 feet reserved for highway purposes and
EXCEPT the South 30 feet conveyed for Southwest 118th Street by instrument recorded under Auditor's File No. 5075204.

Southern Heights

The West half of Lot 1 and all of Lots 2, 3, 4, 5, 6, 7, 8, 9 and 10 of Block 4 of Stimson Park Division 1, according to Plat recorded in Volume 25 of Plats, Page 41, records of King County, Washington.

EXHIBIT E-2
ILLUSTRATION OF PARKS – ARBOR LAKE PARK



Image below is a color aerial photo of the same area as shown above.



EXHIBIT E-2
ILLUSTRATION OF PARKS – HAZEL VALLEY PARK



Image below is a color aerial photo of the same area as shown above.



EXHIBIT E-2
ILLUSTRATION OF PARKS – HILLTOP PARK

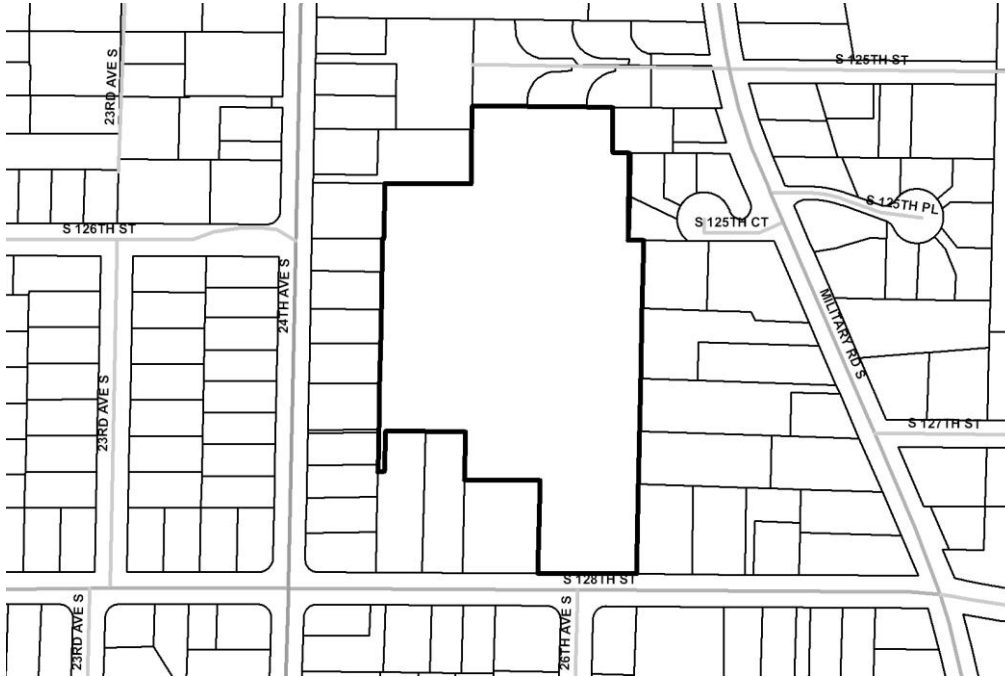


Image below is a color aerial photo of the same area as shown above.

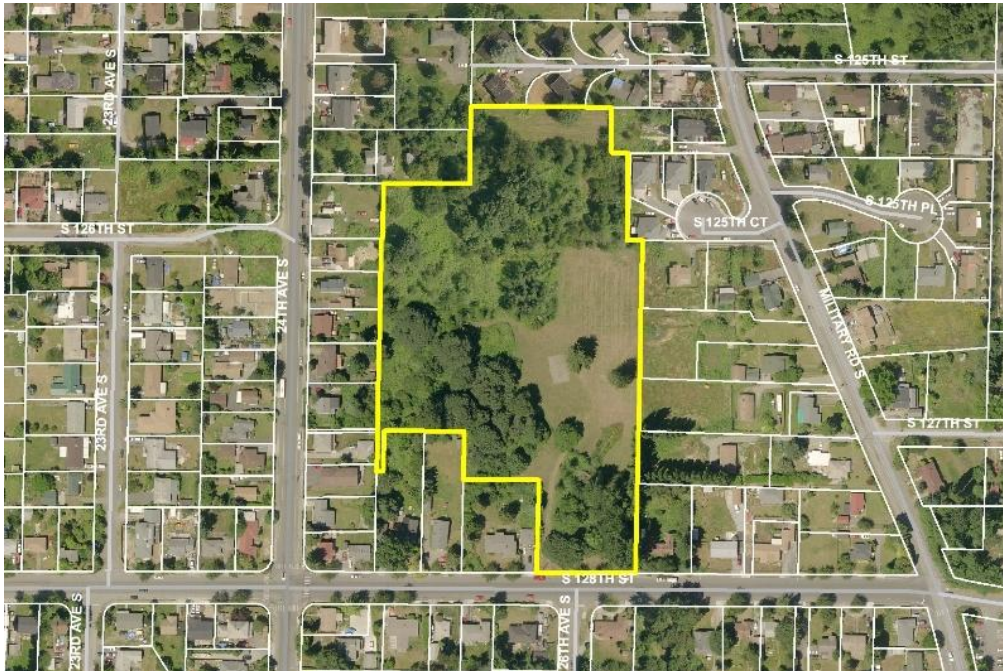


EXHIBIT E-2
ILLUSTRATION OF PARKS – PUGET SOUND PARK



Image below is a color aerial photo of the same area as shown above.



EXHIBIT E-2
ILLUSTRATION OF PARKS – SALMON CREEK PARK

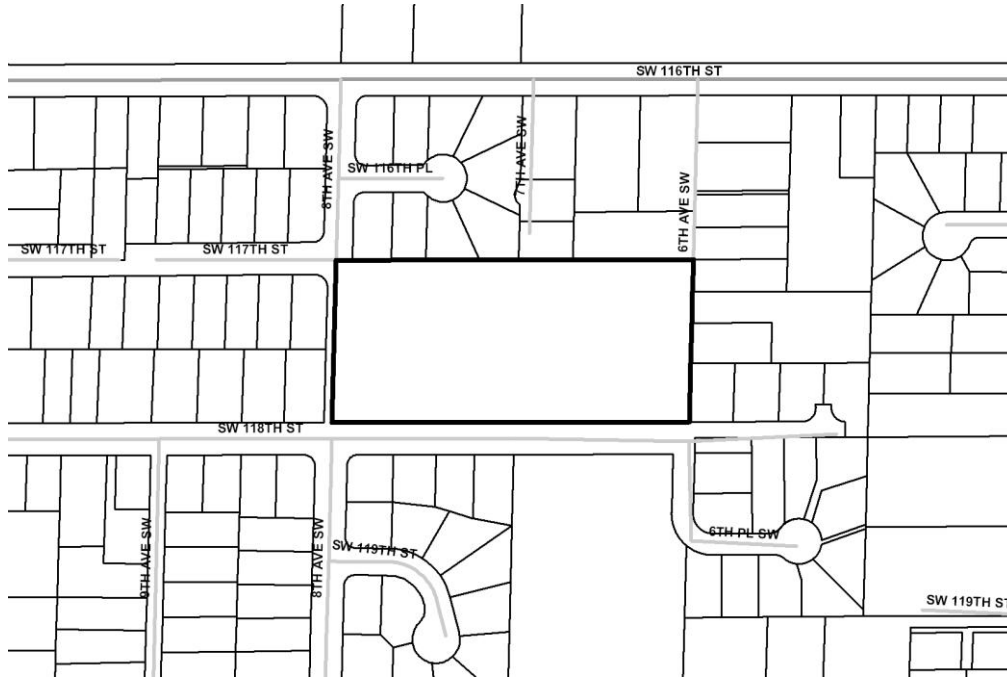


Image below is a color aerial photo of the same area as shown above.



EXHIBIT E-2
ILLUSTRATION OF PARKS - SOUTHERN HEIGHTS PARK



Image below is a color aerial photo of the same area as shown above.



EXHIBIT E-3

FORM OF SOUTHERN HEIGHTS EASEMENT ASSIGNMENT

AFTER RECORDING RETURN TO:

King County Real Estate Services
King County Administration Building
500 Fourth Avenue, Room 500A
Seattle, Washington 98104

ASSIGNMENT AGREEMENT

ASSIGNOR: KING COUNTY, WASHINGTON

ASSIGNEE: CITY OF BURIEN, WASHINGTON

LEGAL: W ½ of Lot 1, together with Lots 2-10 of Block 4, Stimson Park Division No. 1, Volume 25 of Plats, p.41, King County, Washington.

TAX ACCT. #: 8018600811

REFERENCE: Southern Heights Park

THIS ASSIGNMENT AGREEMENT ("Assignment") is entered by, between and among KING COUNTY, a home rule charter county and political subdivision of the State of Washington ("Assignor"), and the CITY OF BURIEN, a municipal corporation of the State of Washington ("Assignee").

Assignor, for and in consideration of mutual benefits, pursuant to King County Ordinance No. _____ and that certain *Intergovernmental Property Transfer Agreement between King County and the City of Burien* as relates to various parks, dated _____, under Recording No. _____ ("Transfer Agreement"), and subject to the covenants, conditions, and restrictions described more fully herein, does hereby assign unto Assignee, all of Assignor's right, title, and interest in that certain easement recorded under King County Recording No. **7812270685** ("Easement"), copy attached hereto as **Exhibit A**; and Assignee does hereby accept said assignment under the terms and conditions set forth herein.

TERMS AND CONDITIONS

1. **Assignment.** Assignor hereby assigns, transfers and conveys to Assignee all of Assignor's right, title, and interest in and to the Easement.
2. **Assumption.** Assignee hereby accepts and assumes all of Assignor's right, title and interest in and to the Easement and assumes all obligations of any kind or nature under the Easement that arise or have arisen prior to and after the date of this Assignment. Assignee agrees for itself, its successors, assigns and assignors hereunder, to defend, indemnify, and hold harmless Assignor, its appointed and elected officials and employees, from and against any and all claims, liability, damages, demands, suits, judgments, costs, including attorney fees and costs of defense, which are caused by, arise out of, or are incidental to any breach or violation of the terms of the Easement or this Assignment. Assignee hereby accepts and assumes all of Assignor's rights, title, interest, obligations and duties in and to the Easement, if any, and assumes all obligations of any kind or nature under the Easement that arise or have arisen prior to and after the date of this Assignment.

3. Covenants, Conditions, and Restrictions. Assignee understands, acknowledges, and agrees that this Assignment is subject to the following covenants pertaining to use, which are intended to be running covenants burdening and benefiting the parties, and their successors and assigns, and which shall run with the land for the benefit of King County and the land that makes up King County's public park, recreation and open space system, subject always to the terms and conditions set forth in the Easement. Assignee and Assignor agree that Assignor shall have standing to enforce these covenants:
 - (a) Assignee covenants that the Easement 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.
 - (b) Assignee further covenants that it will not limit or restrict access to and use of the Easement by non-city residents in any way that does not also apply to city residents. Assignee 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 Easement for parks and recreation purposes.
 - (c) Assignee covenants that it shall place the preceding covenants in any deed transferring the Easement or a portion of the Easement for public park, recreation or open space uses.
4. Counterparts. This Assignment may be executed in counterparts, and each set of duly delivered identical counterparts which includes all signatories shall be deemed to be one original document.
5. Applicable Law, Venue and Jurisdiction. This Assignment shall be governed by the laws of the State of Washington, without regard to its conflicts of law provisions or choice of law rules. The venue for all claims or disputes arising from this Assignment shall be the King County Superior Court. Assignee and Assignor agree to submit to the personal jurisdiction of said court.
6. No Other Amendments. Except as expressly modified or amended by this Assignment, all of the terms and conditions of the Easement remain unchanged.
7. Relation to Intergovernmental Property Transfer Agreement. Assignor and Assignee understand, acknowledge, and agree that all of the terms, covenants, representations and warranties contained in the Transfer Agreement do not merge in this Assignment, but survive the Assignment and continue in force subject to the terms and conditions set forth in the Transfer Agreement.
8. Exhibits. There is one (1) exhibit to this Assignment, which is Exhibit A, the Easement.

EXECUTED as of the date last written below.

Assignor:

Assignee:

KING COUNTY

CITY OF BURIEN

By _____

By _____

Its _____

Its _____

DATE: _____

DATE: _____

Approved as to Form:

King County
Deputy Prosecuting Attorney

NOTARY BLOCKS APPEAR ON FOLLOWING PAGE

The City and the County agree that this Exhibit E-4 governs the deposit or release of hazardous materials on Arbor Lake Park. The City and the County agree that Article 4 of the Agreement governs the deposit or release of hazardous materials on Hazel Valley Park, Hilltop Park, Puget Sound Park, Salmon Creek Park, and Southern Heights Park.

E-4.0 Environmental Liability related to Arbor Lake Park

- E-4.1 Nothing in this Agreement is intended to or shall operate to waive any statutory claim for contribution that the City might have against the County that arises under federal or state environmental statutes.

DRAFT