

1

November 28, 2012

[pdc]

Sponsor:



Proposed No.: 2012-0230

1 **AMENDMENT TO PROPOSED ORDINANCE 2012-0230, VERSION 1**

2 On page 1 delete lines 9 through 13 and insert:

3 "2. King County wishes to transfer the parcel to the city of Tukwila so
4 that the city of Tukwila can ensure that road-related stormwater drainage
5 shall be adequately detained. The city of Tukwila wishes to accept the
6 parcel on which the storm drainage facility is located."

7 Delete Attachment A, Interlocal Agreement-City of Tukwila Re Transfer of a Drainage
8 Facility, and replace with Attachment A, An Interlocal Agreement Between King County
9 and the City of Tukwila Relating to the Transfer of a Drainage Facility, dated November
10 28, 2012.

11 **EFFECT: Modifies Section 2 to clarify the purpose for transferring the parcel from**
12 **the County to the city of Tukwila. Deletes transmitted interlocal agreement and**
13 **replaces it with a revised interlocal agreement that clarifies the purposes of the**
14 **property transfer and the city of Tukwila's commitment to ensure stormwater**
15 **conveyance from South 200th Street.**

**AN INTERLOCAL AGREEMENT BETWEEN KING COUNTY AND
THE CITY OF TUKWILA RELATING TO THE TRANSFER OF
A DRAINAGE FACILITY**

THIS IS AN INTERLOCAL AGREEMENT between King County, a home rule charter county, a political subdivision of the State of Washington, hereinafter referred to as the "County," and the City of Tukwila, a municipal corporation of the State of Washington, hereinafter referred to as the "City."

- A. The County owns a storm drainage facility within the City adjacent to South 200th Street.
- B. The storm drainage facility is located on parcel 022204-9061 as shown in Exhibit 1, (the "Parcel").
- C. The storm drainage facility supports the section of South 200th Street that is within the City as a result of the approved Tukwila South Annexation.
- D. As part of the Tukwila South Project, the stormwater drainage from South 200th Street will be piped to a new regional stormwater drainage facility ("Regional Facility") that will be built and maintained by the proponent of the Tukwila South Project, Segale Properties LLC. The Regional Facility will be built on parcel 0222049015. As a result of the construction of the new regional stormwater drainage facility by Segale Properties LLC, it is not necessary for the Parcel to continue to be used as a stormwater drainage facility. The City requests that the County transfer the Parcel to the City so that the City may transfer the Parcel to Segale Properties LLC. Segale Properties LLC will construct the "Green River Off-Channel Habitat Area" on the Parcel, a use previously approved in the City's Sensitive Areas Master Plan (SAMP) approved for the Tukwila South Project.
- E. The County wishes to transfer the Parcel to the City. The Parcel is legally described in Exhibit 1.
- F. The City desires to accept the Parcel.
- G. RCW Chapter 39.33 permits the transfer of property from the County to the City.
- H. The County and the City are authorized, pursuant to RCW Chapter 39.34, to enter into an Interlocal Cooperative agreement of this nature.

NOW THEREFORE, in consideration of the terms and conditions contained herein, it is mutually agreed by the County and the City as follows:

1. COUNTY RESPONSIBILITIES

- 1.1 Within thirty (30) days of the execution of this Agreement by the parties, the County shall transfer to the City, ownership of the Parcel by quit claim deed.
- 1.2 The City agrees to accept the Parcel "as is" and assumes full and complete responsibility for operation, maintenance, and repairs to the Parcel upon transfer of the Parcel to the City.

2. CITY RESPONSIBILITIES

- 2.1 The City agrees to accept the Parcel "as is".
- 2.2 Prior to transfer of the Parcel to Segale Properties LLC, the City will require Segale Properties LLC to execute a permanent easement granting the City the right to discharge the stormwater drainage from South 200th Street that previously flowed to the storm drainage facility on the Parcel, into the Regional Facility. If in the future, the stormwater drainage from South 200th Street is no longer accepted into the Regional Facility, the City agrees (a) to notify the County within 30 days from the date that the drainage is no longer accepted into the Regional Facility and (b) pay the County the fair market value of the Parcel at the time of its transfer from the County to the City or otherwise ensure that the stormwater drainage from South 200th Street is adequately accepted into another stormwater facility.
- 2.2 The deed to the property shall contain all reservations of record known to the County, and the following specific covenant pertaining to use:

The Grantee shall maintain, or cause the property to be maintained in perpetuity in an improved condition as part of the Tukwila South SAMP.

3. INDEMNIFICATION

- 3.1 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 the County, its officers, agents and employees in performing its obligations pursuant to this Agreement, and/or (ii) arising from those occurrences related to the Parcel that occurred prior to 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 the City, the County shall defend the same at its sole cost and expense and, if final judgment be rendered the City and its elected officials, officers, agents and employees, the County shall satisfy the same. Where such claims, demands, suits, and judgments result from the concurrent

negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's negligence.

3.2 The City shall indemnify and hold harmless the 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 Parcel that occurred on or after the effective date of conveyance of the Properties to the City. 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 and, if final judgment be rendered against the County and its officers, agents and employees, the City shall satisfy the same. Where such claims, demands, suits, and judgments result from the concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's negligence.

3.4 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 Parcel.

3.5 Each party agrees that its obligations under this Section 3 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.

4. AUDITS AND INSPECTIONS

The records and documents with respect to all matters covered by this contract shall be subjected to inspection, review or audit by the City or the County at the requesting party's sole expense during the term of this Agreement and three (3) years after expiration or termination. Such records shall be made available for inspection during regular business hours within a reasonable time of the request.

5. WAIVER OR AMENDMENTS

Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. This Agreement shall not be modified or amended except by an instrument, in writing, signed by the parties hereto.

6. ENTIRE AGREEMENT

This Agreement is the complete expression of the terms hereof and any representations or understandings, whether oral or written, not incorporated herein are excluded

7. INVALID PROVISION

If any provision of this contract shall be held invalid, the remainder of the agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the parties.

8. Interlocal Cooperation Act

8.1 The County and the City enter into this Agreement pursuant to the Washington State Interlocal Cooperation Act, RCW 39.34. As a home rule charter county and political subdivision of the State of Washington, the County has the inherent authority to acquire, hold and dispose of real property, all of which it does pursuant to King County Code Chapter 4.56, RCW 36.34 and 39.33. As a non-charter code city, the City has the inherent authority to enter into this Agreement.

8.2 The purpose of this Agreement is to transfer the Parcel from the County to the City while retaining certain rights in the County.

8.3 This Agreement does not create a separate joint board or other legal or administrative entity.

8.4 The parties shall hold and dispose of property as set forth in this Agreement.

8.5 The parties are each responsible for their own finances in connection with this Agreement, and nothing in this Agreement shall be deemed or construed otherwise.

8.6 The duration of this Agreement shall be perpetual, unless terminated by the Parties through an amendment to this Agreement or a separate agreement, either of which must be: (a) approved by the Tukwila City Council or its successor in interest and approved by ordinance by the King County Council or its successor in interest; and (b) executed with equal formality as this Agreement.

8.7 This Agreement will be recorded by the County or otherwise be made public by it in conformance with the Interlocal Cooperation Act.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date last written below,

KING COUNTY

CITY OF TUKWILA

KING COUNTY EXECUTIVE

CITY MAYOR

DATE

DATE

Approved as to Form:

Approved as to Form:

King County Deputy Prosecuting Attorney

City Attorney

DATE

DATE

