

RESOLUTION NO. 05-389

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON ENCOURAGING THE KING COUNTY COUNCIL TO AUTHORIZE THE EXECUTION OF THE INTERGOVERNMENTAL LAND TRANSFER AGREEMENT BETWEEN KING COUNTY AND THE CITY OF BLACK DIAMOND RELATING TO THE OWNERSHIP, OPERATION AND MAINTENANCE OF PARKS, OPEN SPACE, RECREATION FACILITIES AND PROGRAMS

WHEREAS, the City of Black Diamond, King County and various property owners entered into the Black Diamond Urban Growth Area Agreement dated December 19, 1996 ("BDUGAA") as part of a vision to protect and preserve open space in the City of Black Diamond and South King County; and

WHEREAS, through the vision of the elected officials of King County, the City of Black Diamond, the goals and policies set forth in the BDUGAA are now being fully implemented; and

WHEREAS, as part of the implementation in order to assure open space and park facilities are available now and in the future for all residents of Black Diamond and King County, the County and the City are proposing entering into an Interlocal Land Transfer Agreement that will assist the parties in making a Lake Sawyer Regional Park, the land that was wisely protected by the County Council, a reality; now, therefore,

BE IT RESOLVED that the City of Black Diamond hereby expresses its appreciation for the vision of King County elected officials in working to preserve and protect valuable open space in south King County, in and around the City of Black Diamond in order to provide recreational opportunities for all residents of King County and the City of Black Diamond.

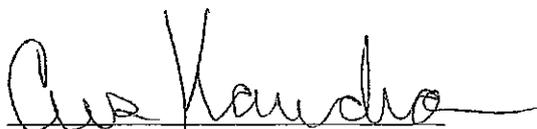
BE IT FURTHER RESOLVED that the City of Black Diamond expresses its support for the Intergovernmental Land Transfer Agreement between King County and the City of Black Diamond currently being considered by the County Council in Ordinance No. 2005-0370 and encourages the Council to adopt and to authorize the King County Executive to execute the Interlocal Governmental Land Transfer Agreement.

ADOPTED by the City Council at an open public meeting held on the 29th day of September, 2005.



Howard Botts, Mayor

Attest:



Cris Kandior, City Clerk

WHEN RECORDED RETURN TO:

NAME: Peter G. Ramels

ADDRESS: W400 King County Courthouse

516 Third Avenue

Seattle, WA 98105



20060323001828

STEWART TITLE AG 63.00
PAGE 01 OF 032
03/23/2006 14:54
KING COUNTY, WA

DOCUMENT TITLE(s)

1. Revised Intergovernmental Land Transfer Agreement
- 2.
- 3.
- 4.

STEWART TITLE

200497269(29)

REFERENCE NUMBER(s) OF DOCUMENTS ASSIGNED OR RELEASED:

Additional numbers on page _____ of document

GRANTOR(s):

1. King County
- 2.
- 3.

Additional names on page _____ of document

GRANTEE(s):

1. City of Black Diamond
- 2.
- 3.

Additional names on page _____ of document

LEGAL DESCRIPTION

PTN SW ¼ SEC 10 T21N R6E, W.M.

PTN SEC 10, T21N, R6E, W.M.

Additional legal description on page Exhibit B of document

ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER(s):

The Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

Revised Intergovernmental Land Transfer Agreement Between King County and the City of Black Diamond

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 Black Diamond, hereinafter called "City", and King County, hereinafter called "County".

WHEREAS the City desires to own, operate, and maintain parks, open space, recreation facilities and programs and other municipal programs, facilities and property inside its boundaries, including Lake Sawyer Park; and

WHEREAS the Lake Sawyer Park qualifies as In-City Open Space under the terms of the Black Diamond Urban Growth Area Agreement dated December 1996 ("BDUGGA") and the County and the City desire to implement the BDUGGA in part through this transfer and through the protection of certain views from Highway 169 in the vicinity of the Park; 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 acquired the Lake Sawyer Park in part with funds from the Washington State Interagency Committee for Outdoor Recreation (IAC) to provide public outdoor recreation; and

WHEREAS the County acquired the Lake Sawyer Park in part with Open Space Bonds and Conservation Futures funds to preserve valuable riparian habitat, open space and opportunities for passive recreation; and

WHEREAS the County has taken preliminary steps to prepare a program plan for the Park, and the City intends to develop a similar plan for the Park for the benefit of the citizens of Black Diamond and King County. The City intends that the plan shall provide for a variety of uses, which may include waterfront access, trails, interpretive and educational activities, active recreation such as athletic fields, passive recreation and natural areas, parking, and restrooms; and

WHEREAS the County desires to divest itself of ownership, management, and financial responsibility for parks, open space, recreational facilities and programs inside and near the City boundaries; and



WHEREAS the County does not have a sufficient, stable source of revenue to continue to manage and maintain its parks, open space, recreational facilities and programs at current levels; and

WHEREAS the County is legally restricted from converting many of these parks, open space, and recreational facilities from their current uses without expending funds to replace the converted facilities; and

WHEREAS given the legal restriction regarding conversion of the properties, the marketability of the properties is limited and, as a result, the cost of operating the facility is approximately equal to the value of the property to the County; and

WHEREAS to the extent the City provides scholarships, reduced fees or other means of assuring access to parks and recreational programming for City residents, the City has a goal of ensuring that such scholarships or other needs-based rates and programs are available to all persons desiring to use the park and recreational programs regardless of residency, and

WHEREAS it is in the best interest of the public that the City and the County take those actions necessary to meet those desires and to cooperate in any transition to insure a smooth transition and avoid service disruption;

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and the County agree as follows:

1. Conveyance of Title

1.1. At the date of Closing specified in the June 6, 2005 Black Diamond Area Open Space Protection Agreement ("Open Space Agreement"), King County shall convey to the City by bargain and sale deed, subject to the conditions and exceptions set forth in this Agreement and its Exhibits, all its interest in the following listed park/recreation site(s), which, subject to correction, are generally described more fully in Exhibit A, and legally described in Exhibit B (the "Property"):

LAKE SAWYER PARK

1.2. The City has reviewed Project Agreement for Project No. 97-1042A, between King County and the Washington State Interagency Committee for Outdoor Recreation ("IAC"), which provided partial funding for the acquisition of the Property, 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, or prior to the date of Closing, whichever first occurs, with Closing being contingent on execution of this amendment.



1.3 All deeds shall also contain the following specific covenants pertaining to use, which covenants shall run with the land for the benefit of the County and the County land that makes up its public park, recreation and open space system. The County and the City agree that the County shall have standing to enforce these covenants both as a matter of contract under this Agreement, and as covenants in the deeds. These covenants shall be set forth as follows:

"The City, as required by RCW 36.89.050, covenants that the Property shall be continued to be used in perpetuity for open space, park, or recreation facility purposes."

"The City acknowledges that eastern portion of the Property depicted in Exhibit C as Area B, which contains wetlands, streams and riparian habitat, were purchased for open space purposes with funds from Open Space Bonds authorized in 1989 by King County Ordinance 9071 and with Conservation Futures funds authorized by Ordinances 10750 and 13717 and covenants that it shall abide by and enforce all terms, conditions and restrictions in Ordinances 9071, 10750 and 13717, including that the City covenants that the Property will continue to be used in perpetuity for the purposes contemplated by these Ordinances, which prohibits both active recreation and motorized recreation such as off-road recreational vehicles but allows passive recreation, that the Property shall not be transferred or conveyed except by agreement providing that the Property shall continue to be used in perpetuity for the purposes contemplated by these Ordinances, and that the Property shall not be converted to a different use than allowed by these Ordinances."

"The City covenants that it shall not use the Property in a manner that would cause the interest on County bonds related to the Property to no longer be exempt from federal income taxation."

"The City further covenants that it will not limit or restrict access to and use of the active recreation portion of the Property depicted in Exhibit C as Area A, 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 further covenants that it will not limit or restrict access to and use of the open space portion of the Property depicted in Exhibit C as Area B, by County residents in any way that does not also apply to city residents. The City covenants that any and all user fees charged for that portion of the Property, including charges imposed by any lessees, concessionaires, service providers, and/or other assignees shall be at the same rate for County residents as for the residents of the City."

"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 In Conveying the Property by deed, the County shall reserve a Regional Trail Easement within the Property in substantially the form of Exhibit D, attached hereto and made a part of this Agreement by this reference.

1.5 When Conveying the Property by deed, the County shall also record a restrictive covenant against an adjacent parcel of land known as the Wedge Property, which is intended to serve as a trail head for a Regional Trail, in substantially the form of Exhibit E, attached hereto and made a part of this Agreement by this reference.

1.6 In conveying the Property by deed, the County shall reserve the rights set forth as "RESERVATIONS" numbered 1 and 2 immediately following the legal description in Exhibit B.

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

2.1 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, except for the construction, operation, maintenance, repair and improvement of a regional trail and trail head within the reserved easements referenced in paragraph 1.4 of this Agreement, which construction, operation, maintenance, repair and improvement of the regional trail and trail head shall be the sole responsibility of the County.

2.2 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, except as to the warranties of title inherent in the conveyance deed.

2.3 The City acknowledges and agrees that except as indicated in paragraph 3.2, the County shall have no liability for, and that the City shall release and have no recourse against the County for, any defect or deficiency of any kind whatsoever in the Property without regard to whether such defect or deficiency was known or discoverable by the City or the County.

3. Environmental Liability

3.1 "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.

3.2 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.

3.3 If the City discovers the presence of hazardous materials at levels that could give rise to a statutory claim for contribution against the County it shall immediately notify the County in writing. Such notice shall in no event be provided more than 30 days after discovery. The parties shall make their best efforts to reach agreement as to which party is responsible for remediation under the terms of this Agreement prior to undertaking any remediation. The parties acknowledge that if hazardous materials on the Property pose an imminent threat to human health or the environment emergency response may be required before the parties can agree on the responsibility for remediation.

3.4 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. Indemnification and Hold Harmless

4.1 King County shall indemnify and hold harmless the City and its elected officials, officers, agents or employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, (i) which are caused by or result from a negligent action or omission of King County, its officers, agents and employees in performing its obligations pursuant to this Agreement, and/or (ii) arising from those occurrences related to the Property that occurred prior to the effective date of conveyance of the Property to the City, except to the extent that indemnifying or holding the City harmless would be limited by Section 3 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.

4.2 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.

4.3 The City shall indemnify and hold harmless King County and its elected officials,

officers, agents and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, (i) which are caused by or result from a negligent act or omission of the City, its officers, agents and employees in performing obligations pursuant to this Agreement, and/or (ii) arising from those occurrences related to the Property that occurred on or after the effective date of conveyance of the Property to the City, except to the extent that indemnifying or holding the County harmless would be limited by Section 3 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.

- 4.4 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.
- 4.5 Each party agrees that its obligations under this paragraph extend to any claim, demand, and/or cause of action brought by or on behalf of any employees, or agents. For this purpose, each party, by mutual negotiation, hereby waives, with respect to the other party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify the other party.
- 4.6 This Section 4 shall not apply to any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever ("Claims") related to the Trail Corridor as defined in the reserved trail easement in the deed of conveyance, which Claims shall be instead governed by the indemnification and hold harmless provisions of the reserved trail easement.

5. View Protection

- 5.1 After Closing occurs as specified in the Open Space Agreement, any application for a development permit in East Section 2 as defined in the Open Space Agreement may not be approved by the County unless the City has provided written approval of the application indicating that the view protection terms of Section (III)(D) of the Open Space Agreement and the Conservation Easement referenced therein have been complied with by the applicant. The applicant shall be responsible for obtaining such approval and presenting it to the County prior to the County's final approval of such applications.

6. Audits and Inspections

- 6.1 Until December 31, 2011, 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
Ron Sims

City
Howard Botts

11. Exhibits

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

Exhibit A
Exhibit B
Exhibit C
Exhibit D
Exhibit E

General Description of Property
Legal Description of Property
Open Space and Active Recreation Map
Reserved Regional Trail Easement
Trail Head Covenant

EXHIBIT F

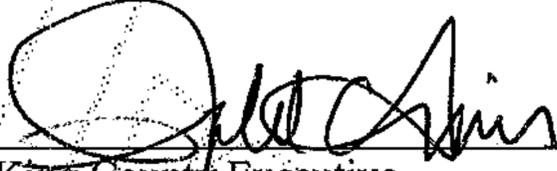
NOTICE PROVISIONS

IN WITNESS WHEREOF, the parties have executed this Agreement.

King County

City of Black Diamond




King County Executive


Mayor

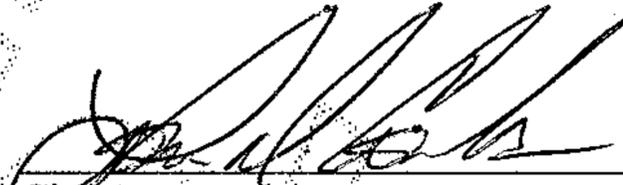
11-30-2005
Date

12-14-05
Date

Approved as to Form:

Approved as to Form:


King County
Deputy Prosecuting Attorney


City Attorney

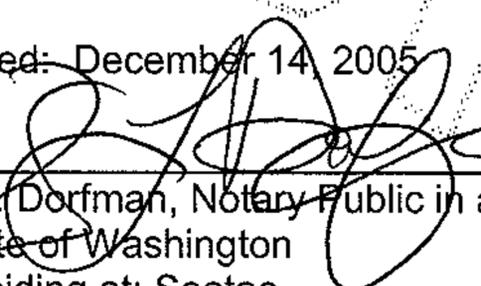
11/30/05
Date

12/14/05
Date

STATE OF Washington)
) ss.
County of King)

I hereby certify that I know or have satisfactory evidence that Howard Lester Botts is the person who appeared before me, said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledge it as Mayor of the City of Black Diamond, to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: December 14, 2005



V.L. Dorfman, Notary Public in and for the
State of Washington
Residing at: Seatac
My appointment expires: 9/19/07



EXHIBIT A
General Description of Property

Name of park

Lake Sawyer Park

Amenities/facilities

Undeveloped Land

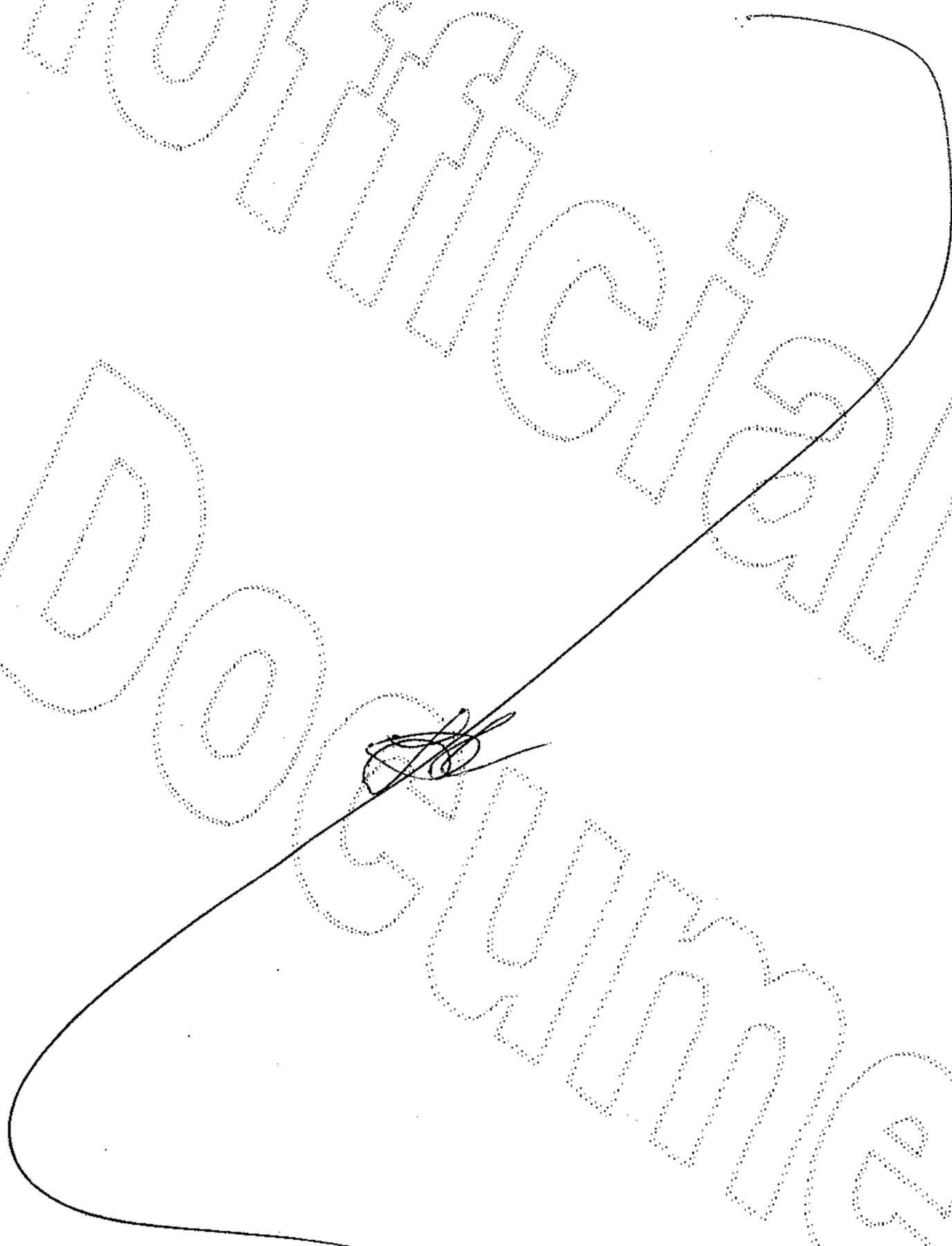


EXHIBIT B
Legal Description of Property

PARCEL B:

That portion of the SW 1/4 of Section 10, Township 21 North, Range 6 East, W.M., described as follows:

Beginning at the West quarter corner of said Section 10 and the True Point of Beginning; thence South 88-49-03 East along the North line of the SW 1/4 of said Section 10 a distance of 1335.74 feet to the NE corner of the NW 1/4 of the SW 1/4 of said Section 10; thence continuing along the North line of said SW 1/4 South 88-47-34 East 267.42 feet to the East line of the West 1603.00 feet of said SW 1/4; thence South 00-23-48 West along the East line thereof 1152.51 feet; thence North 88-55-00 West 1443.87 feet to the centerline of Lake Sawyer Road Southeast and a point of non-tangent curve, the center of which bears North 78-40-02 East; thence Northerly on said curve and centerline to the right having a radius of 1926.41 feet, a central angle 04-03-23 and an arc length of 136.38 feet; thence North 07-16-35 West along said centerline 1020.53 feet to the West line of said SW 1/4; thence North 00-23-48 East along said West line 11.52 feet to the West quarter corner of said Section 10 and the True Point of Beginning;

TOGETHER WITH an easement for temporary ingress and egress over a strip of land 30 feet in width, the Northerly line of which is described as follows:

Beginning at a point on the North line of the SW 1/4 of said Section 10, 1603.00 feet East of the West quarter corner of said Section; thence South 00-23-48 West along said East line 334.62 feet to the true point of beginning of said line description; thence South 73-50-05 East 204.79 feet to a point of non-tangent curve, the center of which bears North 17-03-20 East; thence Easterly on said curve to the left having a radius of 278.98 feet, a central angle of 23-47-34 and an arc length of 115.85 feet to a point of reverse curve, the center of which bears South 10-34-09 East; thence Easterly on said curve to the right having a radius of 413.28 feet, a central angle of 13-32-09 and an arc length of 97.63 feet; thence South 86-36-00 East 68.09 feet to a point of non-tangent curve, the center of which bears South 02-27-17 West; thence Southeasterly on said curve to the right having a radius of 283.77 feet, a central angle of 18-11-34 and an arc length of 90.11 feet; thence South 72-19-08 East 236.83 feet; thence South 71-41-12 East 186.97 feet to a point of non-tangent curve, the center of which bears South 17-21-07 West; thence Southeasterly on said curve to the right having a radius of 259.36 feet, a central angle of 26-41-51 and an arc length of 120.85 feet to the terminus of said line.

PARCEL C:

That portion of Section 10, Township 21 North, Range 6 East, W.M., described as follows:

Beginning at the North quarter corner of said Section 10; thence South 89-30-17 East along the North line of said section a distance of 1193.16 feet to the SE corner of "Lot HH" of Boundary Line Adjustment No. L97L0008, as recorded in Book 114 of Surveys, pages 2 through 2D, inclusive, under Recording No. 9703199013, records of King County, Washington and the True Point of Beginning; thence South 01-26-10 West 388.89 feet; thence South 57-49-59 West 244.04 feet to a point of a curve; thence Southwesterly on said curve to the right having a radius of 1700.00 feet, a central angle of 31-49-16 and an arc length of 944.15 feet; thence South 89-39-15 West 93.30 feet to the West line of the NE 1/4 of said section; thence South 0-49-12 West along



said West line 204.75 feet; thence South 20-18-30 West 159.76 feet; thence South 80-25-59 West 42 feet; more or less to the shoreline of Lake Sawyer; thence along said shoreline to the East line of the West 397.00 feet of Government Lot 2 as described in instrument recorded as Recording No. 4892604, records of King County, Washington; thence South 0-44-57 West along said East line 178 feet, more or less, to a point on a line described in an instrument recorded under Recording No. 9902223255, also being an angle point in the east line of Revised Lot "A", King County Boundary Line Adjustment No. S90M0004, approved May 22, 1990; thence South 7-52-01 East along said line 166.87 feet to the North line of the South 30.00 feet of said Government Lot 2; thence North 88-47-34 West along said North line 25.00 feet to the East line of the West 397.00 feet of said Government Lot 2; thence South 0-44-57 West along said line 30.00 feet to the North line of the SW 1/4 of said Section 10; thence North 88-47-34 West along said North line 129.60 feet to the East line of the West 1603.00 feet of the SW 1/4 of said Section 10; thence South 0-23-48 West along said East line 334.62 feet; thence South 73-50-05 East 204.79 feet to a point of non-tangent curve, the center of which bears North 17-03-20 East; thence Easterly on said curve to the left having a radius of 278.98 feet, a central angle of 23-47-34 and an arc length of 115.85 feet to a point of reverse curve, the center of which bears South 10-34-09 East; thence Easterly on said curve to the right having a radius of 413.28 feet, a central angle of 13-32-09 and an arc length of 97.63 feet; thence South 86-36-00 East 68.09 feet to a point of non-tangent curve, the center of which bears South 02-27-17 West; thence Southeasterly on said curve to the right having a radius of 283.77 feet, a central angle of 18-11-34 and an arc length of 90.11 feet; thence South 72-19-08 East 236.83 feet; thence South 71-41-12 East 186.97 feet to a point of non-tangent curve, the center of which bears South 17-21-07 West; thence Southeasterly on said curve to the right having a radius of 259.36 feet, a central angle of 26-41-51 and an arc length of 120.85 feet to a point of compound curve, the center of which bears South 46-12-14 West; thence Southerly on said curve to the right having a radius of 116.90 feet, a central angle of 45-06-12 and an arc length of 92.02 feet; thence South 01-51-39 East 74.54 feet; thence South 15-49-20 East 224.13 feet to a point of non-tangent curve, the center of which bears South 69-36-19 West; thence Southerly on said curve to the right having a radius of 451.94 feet, a central angle of 21-43-57 and an arc length of 171.42 feet; thence South 01-59-30 East 69.10 feet to a point of non-tangent curve, the center of which bears North 79-24-40 East; thence Southerly on said curve to the left having a radius of 1640.30 feet, a central angle of 05-23-39 and an arc length of 154.43 feet; thence South 20-29-49 East 231.36 feet; thence South 89-04-21 East 328.28 feet; thence North 20-30-47 East 155.31 feet; thence North 24-59-36 West 222.08 feet; thence North 22-48-34 East 141.43 feet; thence North 21-33-44 East 344.13 feet; thence North 27-41-39 East 296.49 feet; thence North 16-06-32 East 690.19 feet; thence North 40-29-17 West 760.32 feet; thence North 01-35-06 West 111.89 feet; thence North 08-45-10 West 49.85 feet; thence North 02-41-17 East 376.35 feet to a point of non-tangent curve, the center of which bears North 06-45-47 West; thence Northeasterly on said curve to the left having a radius of 1900.00 feet, a central angle of 35-17-10 and an arc length of 1170.13 feet to a point of compound curve, the center of which bears North 42-02-57 West; thence Northerly on said curve to the left having a radius of 625.00 feet, a central angle of 68-12-39 and an arc length of 744.06 feet; thence North 20-15-36 West 182.85 feet to the North line of said Section 10; thence North 89-30-17 West along said North line 477.42 feet to the True Point of Beginning.

RESERVATIONS:

- 1) All covenants, conditions, restrictions and other matters imposed by instrument.
RECORDED: November 21, 1938
RECORDING NO: 3020865



2) Rights of King County and the public to the use of Lake Sawyer Road Southeast

SUBJECT TO:

- 1) All covenants, conditions, restrictions, reservations, easements or other servitudes, if any, disclosed by Survey No. 69/171, recorded under King County Recording No. 8911279001.

Rights or benefits, if any, which may be disclosed by the recorded document(s) above affecting land outside the boundary.

- 2) All covenants, conditions, restrictions, reservations, easements or other servitudes, if any, disclosed by Survey No. 86-180, recorded under King County Recording No. 9204179003.

Rights or benefits, if any, which may be disclosed by the recorded document(s) above affecting land outside the boundary.

- 3) All covenants, conditions, restrictions, reservations, easements or other servitudes, if any, disclosed by Survey No. 103-94, recorded under King County Recording No. 9504209007.

Rights or benefits, if any, which may be disclosed by the recorded document(s) above affecting land outside the boundary.

- 4) All covenants, conditions, restrictions, reservations, easements or other servitudes, if any, disclosed by Survey No. 103-95, recorded under King County Recording No. 9504209008.

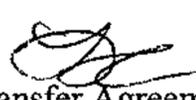
Rights or benefits, if any, which may be disclosed by the recorded document(s) above affecting land outside the boundary.

- 5) Easement and terms and conditions thereof:
GRANTEE: Puget Sound Power & Light Company, a Washington corporation
PURPOSE: Electric distribution system
AREA AFFECTED: A portion of said premises
RECORDED: August 24, 1995
RECORDING NO: 9508241496

- 6) All covenants, conditions, restrictions, reservations, easements or other servitudes, if any, disclosed by Survey No. 106-238, recorded under King County Recording No. 9512119006.

Rights or benefits, if any, which may be disclosed by the recorded document(s) above affecting land outside the boundary.

- 7) All covenants, conditions, restrictions, reservations, easements or other servitudes, if any, disclosed by Survey No. 103-96, recorded under King County Recording No. 9504209009.



Rights or benefits, if any, which may be disclosed by the recorded document(s) above affecting land outside the boundary.

- 8) Notice of tap or connection charges which have been or will be due in connection with development or re-development of the land as disclosed by recorded instrument. Inquiries regarding the specific amount of the charges should be made to the City/County/Agency.
CITY/COUNTY/AGENCY: Soos Creek Water and Sewer District
RECORDED: July 11, 1997
RECORDING NO: 9707110496
- 9) Covenants, conditions, restrictions, easements, dedications, notes and recitals, and the terms and conditions thereof, contained on Survey:
RECORDED: February 25, 1998
RECORDING NO: 9802259007
- 10) Covenants, conditions, restrictions, easements, dedications, notes and recitals, and the terms and conditions thereof, contained on Lot Line Adjustment:
RECORDED: April 26, 1999
RECORDING NO: 9904269011
AFFECTS: Parcel A and other lands
- 11) Easement and the terms and conditions thereof:
GRANTEE: City of Tacoma
PURPOSE: Water transmission pipeline or pipelines
AREA AFFECTED: A portion of Parcel B and other lands
RECORDED: March 6, 1975 and February 28, 1977
RECORDING NOS: 7503060275 and 7702280520
- 12) All covenants, conditions, restrictions, reservations, clauses and other matters imposed by Statutory Warranty Deed:
RECORDED: June 25, 1999
RECORDING NO: 19990625001627
- 13) All covenants, conditions, restrictions, reservations, clauses and other matters imposed by Statutory Warranty Deed:
RECORDED: October 14, 1999
RECORDING NO: 19991014001161
- 14) Right of the State of Washington in and to that portion, if any, of the land herein described which lies below the line of ordinary high water of the Lake Sawyer.
- 15) Rights and easements of the public for commerce, navigation, recreation and fisheries.
- 16) Any restriction on the use of the land resulting from the rights of the public or riparian owners to use any portion which is now, or has formerly been, covered by water.
- 17) Location of the lateral boundaries of second class tidelands and shorelands.
- 18) Covenants, conditions, restrictions, easements, dedications, notes and recitals, and the

terms and conditions thereof, contained on Survey:

RECORDED: January 20, 2000
RECORDING NO: 20000120900002

- 19) All covenants, conditions, restrictions, reservations, clauses and other matters imposed by Deed or Right to Use Land for Public Recreation Purposes:
RECORDED: September 21, 1999
RECORDING NUMBER: 19990921000418
- 20) All covenants, conditions, restrictions, reservations, clauses and other matters imposed by Deed or Right to Use Land for Public Recreation Purposes:
RECORDED: July 6, 2000
RECORDING NUMBER: 20000706000512
- 21) All covenants, conditions, restrictions, reservations, clauses and other matters imposed by Deed or Right to Use Land for Public Recreation Purposes:
RECORDED: January 8, 2001
RECORDING NUMBER: 20010108000197
- 22) All covenants, conditions, restrictions, reservations, clauses and other matters imposed by Deed or Right to Use Land for Public Recreation Purposes:
RECORDED: February 8, 2001
RECORDING NUMBER: 20010208000198
- 23) All covenants, conditions, restrictions, reservations, clauses and other matters imposed by Memorandum of Oil and Gas Lease:
RECORDED: February 4, 2000
RECORDING NUMBER: 20000204000902
Assignment:
RECORDED: March 15, 2000
RECORDING NUMBER: 20000315000621
Amendment:
RECORDED: February 5, 2001
RECORDING NUMBER: 20010205002622

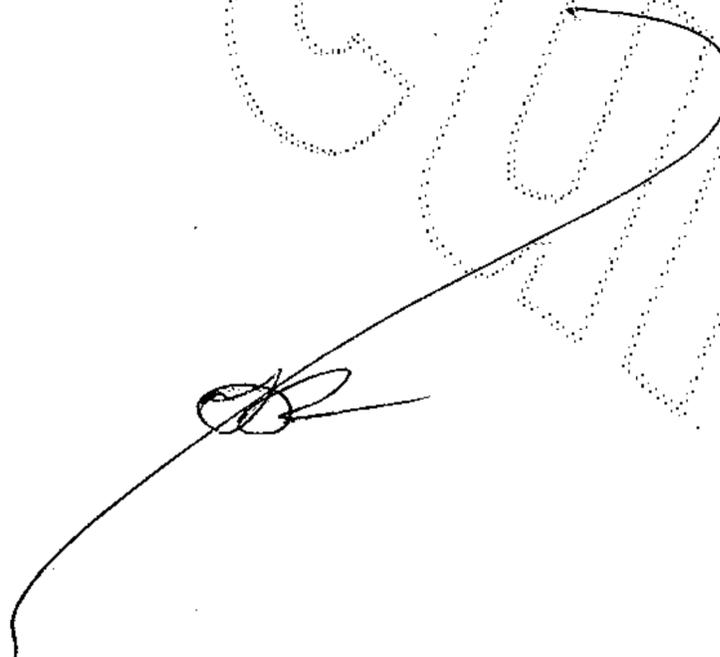
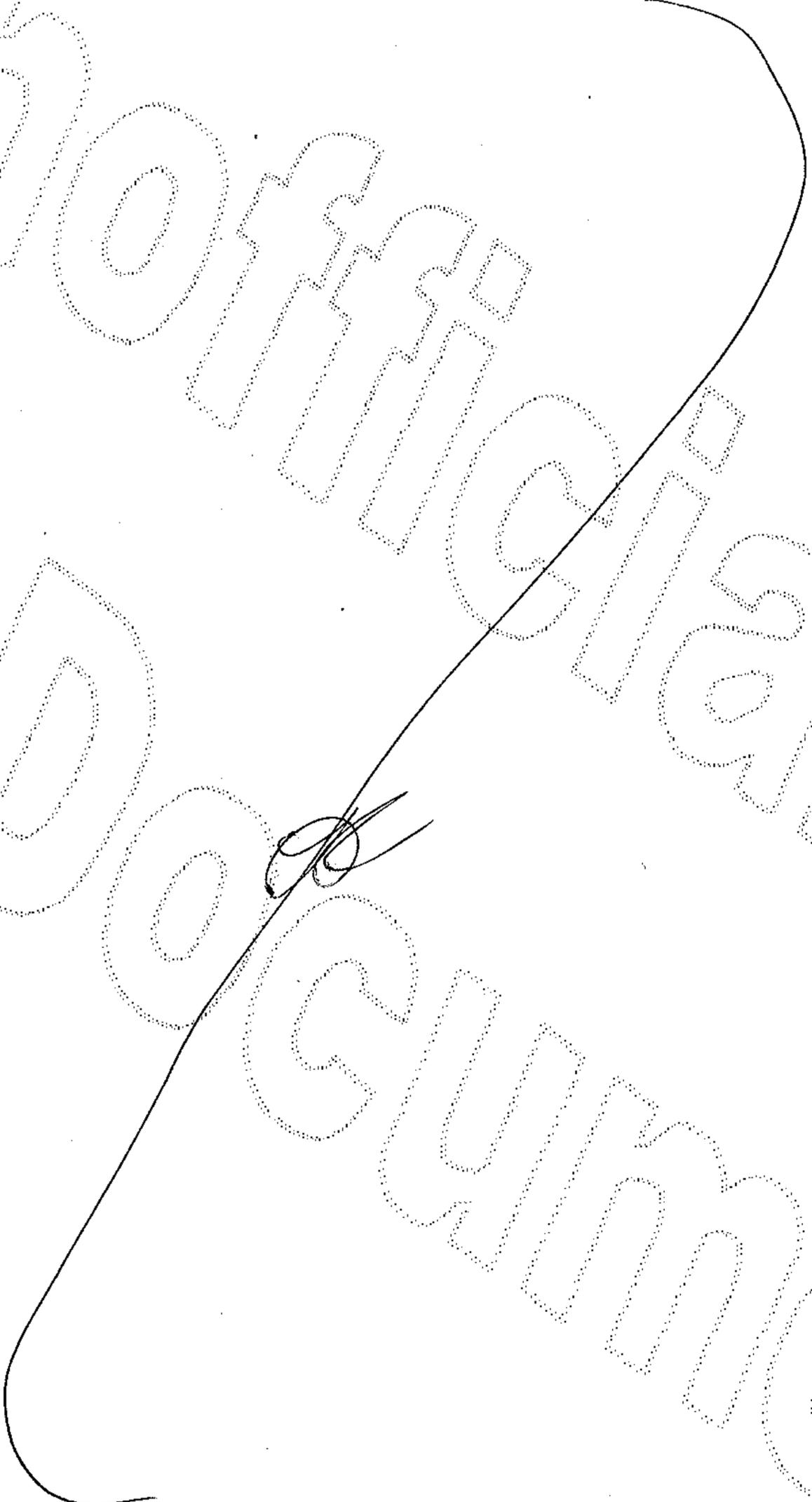


EXHIBIT C
Open Space and Active Recreation Map



This page, for recording purposes only, has been substituted for a colored map. The original document should be consulted for further information.

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EXHIBIT D
Reserved Regional Trail Easement

A. King County reserves to itself, its successors and assigns, a permanent perpetual nonexclusive easement ("Easement") for a public, multi-purpose hard and/or soft-surface regional trail ("Trail") for public pedestrian, equestrian, bicycle and other non-motorized uses, over, through, along, and across certain parcels of land situated in King County. The Easement shall ultimately be a strip of land generally 30 feet in width, centered on an alignment to be determined by the parties pursuant to the terms of this Easement. The area subject to the Easement shall be referred to herein as the "Trail Corridor."

B. The Trail Corridor shall enter the Property in the vicinity of SE 312th and Lake Sawyer Road SE and shall exit the Property at the far northern boundary of the Property to connect with the trail easement to the north. The approximate entry and exit points are shown in Exhibit 1, attached to and made a part of this Deed. Aside from these entry and exit points, the County and Grantee shall consult with one another in good faith to reach agreement on the precise location of the Trail Corridor within the Property. The County and Grantee will seek to agree to a location for the Trail Corridor that best serves the public interest in an integrated recreational facility that combines a regional trail, active recreation facilities, and passive recreation.

C. The Trail Corridor shall allow for vehicular crossing(s), if needed, in order to accommodate the City's park development plans, so long as safety issues relating to the crossing(s) are adequately addressed. Should Grantee proceed to construction of a vehicle access prior to the County constructing the Trail, Grantee shall coordinate with the County to ensure that the design and construction of the access is compatible with the Trail and Trail crossing.

D. Selection of the location of the Trail Corridor shall occur as follows:

1. In order to avoid having any area that is suitable for the Trail Corridor being eliminated from consideration, the County and Grantee shall reach agreement on the location of the Trail Corridor prior to the installation of any permanent improvements on the Property unless the County and Grantee agree in writing to the installation of such improvements. Such improvements will be appropriate if the improvements are to be located in an area that would not be considered for the Trail Corridor. If either Party commenced its planning process for its respective facilities in the Park, the other Party will participate in good faith to attempt to avoid delaying that planning process.

2. If the parties agree to the location of the Trail Corridor at a general planning level of detail or at any other stage of planning prior to preparation of plans at a schematic design level of detail, the Trail Corridor will initially be 100 feet in width, and shall remain 100 feet in width until construction of the Trail is completed. The 100 foot width will allow the County to prepare schematic designs that account for the specific physical characteristics of the land within the Trail Corridor, and to construct the trail. After construction is completed, the Trail Corridor will be generally 30 feet in width, but shall be wider in areas where additional width is needed to accommodate all necessary slopes for cuts and fills for the trail, or to install drainage or detention facilities or other facilities required by a permitting agency that support or provide mitigation for the trail that cannot reasonably be located within the 30 foot width.

3. If the parties agree to the location of the Trail Corridor at a schematic design level of detail, the Trail Corridor will be generally 30 feet in width, but shall be wider in areas where additional width is needed to make all necessary slopes for cuts and fills for the Trail, or to



install drainage or detention facilities or other facilities required by the permitting agency that support or provide mitigation for the regional trail that cannot reasonably be located within the 30 foot width.

4. Whenever the parties reach agreement on the location of the Trail Corridor this Easement shall be amended to add a legal description defining the location of the Trail Corridor. Such amendment may occur more than once if the parties agree to an initial 100 foot wide Trail Corridor that is subsequently narrowed to a generally 30 foot wide Trail Corridor.

E. The County and Grantee shall consult with one another during the design of any drainage or detention facilities for each entity's respective improvements in the Park to explore whether such facilities could be shared.

F. This Easement includes the right of access for ingress and egress across the Property to the Trail Corridor, the right to make all uses of the Trail Corridor for improvement, construction, alteration, repair, maintenance, trail-related utilities and operation of a Trail, the right to make all necessary slopes for cuts and fills for a Trail, and the right to use motorized vehicles for the improvement, construction, alteration, repair, maintenance and operation of a Trail and for emergency or law enforcement purposes.

G. This Easement includes the temporary right during repair of the Trail to stage repair activities in and around the Trail Corridor as necessary to repair the Trail. Except in emergency situation, such use shall not commence until the County has prepared a restoration plan for the affected land, the surface of which shall be restored as nearly as possible to the condition in which it existed prior to the repair work. If repair work is performed in an emergency situation,



the County shall prepare and implement a restoration plan so that the surface of the affected land is restored as nearly as possible to the condition in which it existed prior to the repair work.

H. If the parties agree to the location of the Trail Corridor at a schematic design level of detail pursuant to Section C.3., this Easement shall further include the temporary right during construction to stage construction activities in and around the Trail Corridor as necessary to construct the Trail. Such use shall not commence until the County has prepared a restoration plan for the affected land, the surface of which shall be restored as nearly as possible to the condition in which it existed prior to construction.

I. The County shall be responsible for the cost of all Trail and related facilities design, construction, operation, maintenance, repair and replacement. The County shall maintain any constructed trail within the Trail Corridor consistent with County standards, policies and practices for improved regional trails and consistent with adopted budget appropriations.

J. All right, title, and interest that may be used and enjoyed without interfering with the easement rights herein reserved are transferred to the City. The construction, installation or maintenance of unapproved structures or improvements, whether temporary or permanent, shall be absolutely prohibited within the Trail Corridor and shall be deemed an interference with the County's rights unless specifically approved in writing by the County, which approval shall not be unreasonably withheld. Considerations governing approval shall include whether the proposed structure or improvement would interfere with the County's use of the Trail Corridor for trail purposes or would pose any health or safety risks.



K. To the extent permitted by law, each party shall protect, defend, indemnify and save harmless the other party, its officials, employees and agents, from any and all costs, expenses, claims, actions, suits, liability, loss, judgments, attorney's fees and/or awards of damages arising out of or in any way resulting from the indemnifying party's, or its officials', employees' or agents' negligent acts, errors or omissions related to the Trail Corridor. If such costs, expenses, claims, actions, suits, liability, loss, judgments, attorney's fees and/or awards of damages are caused by, or result from, the concurrent negligence of the parties, or their officials, employees and agents, this Section shall be valid and enforceable only to the extent of the negligence of each party, its officials, employees and agents.

The foregoing indemnity is specifically and expressly intended to constitute a waiver of indemnifying party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the indemnified party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed by them.

L. Any facilities installed by the County under the authority of this Easement shall be consistent with the restrictive covenants reserved by the County in this Deed.

M. The County shall comply with all applicable development standards, including those relating to stormwater, wetland setbacks and buffers, and other critical areas, and obtain such



permits as are necessary to construct the Trail and the Trail improvements located within the City.

N. The easement and agreements contained herein shall be deemed covenants running with the land (subject to the terms hereof) and shall inure to the benefit of and be binding upon County's and City's respective successors and assigns. The exhibits attached hereto are incorporated herein by this reference as if fully set forth.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over the page.

This page, for recording purposes only, has been substituted for a colored map. The original document should be consulted for further information.

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EXHIBIT E
Trail Head Covenant

When Recorded Return to:

DECLARATION OF TRAIL HEAD BUFFER COVENANT

THIS DECLARATION OF TRAIL HEAD BUFFER COVENANT ("Covenant") is dated for reference purposes as of _____ and is made by King County, a political subdivision of the State of Washington (the "County") in favor of the City of Black Diamond, a Washington municipal corporation (the "City").

RECITALS

- A. The County is the owner of certain real property located in King County, Washington, as more particularly described on the attached Exhibit A ("Subject Property").
- B. The County intends to develop the Subject Property as a public trail head, trail head parking area, and trail connection associated with a public, multipurpose hard and/or soft-surface regional trail for pedestrian, equestrian, bicycle and other non-motorized uses.
- C. The City would like any development of the Subject Property to include a visual buffer of filtered views from portions of Lake Sawyer Road Southeast into the Subject Property, and as a result of this Covenant the Subject Property will qualify as "In-City Open Space" under the Black Diamond Urban Growth Area Agreement dated December 31, 1996.

DECLARATION

1. **Trail Head Buffer Covenant.** The County hereby covenants that when it develops the Subject Property it will incorporate a landscape buffer that is a minimum of twenty feet wide in the area of the Subject Property depicted in Exhibit B as the "Buffer Area." The County will incorporate a buffer in the Buffer Area into the design and development of the Subject Property that provides filtered views of any developed interior portion of the Subject Property from Lake Sawyer Road Southeast, provided, the County may within the Buffer Area build access roads that enter or exit the Subject Property from or to Lake Sawyer Road Southeast, clear areas adjacent to such access roads in order to maintain appropriate sight lines



for motorized vehicles, and satisfy any regulatory requirements. The buffer requirements may be met through the retention of existing vegetation on the Subject Property or adjacent properties or by adding new plantings, or both. The County may further, with the City's consent, which shall not be unreasonably withheld, modify the buffer requirements in order to address site-specific conditions identified through the design or development of the Subject Property in order to meet the operational goals of the intended development, or to avoid impairing visual security from Lake Sawyer Road Southeast for trail head, parking, or trail users.

2. **Amendment.** This Covenant may only be amended in writing (i) executed by the County, (ii) approved in writing by the City, and (iii) recorded in the real property records of King County.

3. **Covenant Running with the Land.** This Covenant shall be deemed a covenant running with the land and shall inure to the benefit of and shall be binding upon, all persons having any right, title or interest in such land and their respective successors, grantees and assigns.

4. **Subject to Prior Encumbrances.** This Covenant is granted subject to all prior encumbrances of record on the Subject Property.

EXECUTED as of the day and year first written above.

KING COUNTY

By: _____
Name: _____
Title: _____

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

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 2005.

Printed Name
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My commission Expires _____

EXHIBIT A
LEGAL DESCRIPTION OF SUBJECT PROPERTY

That portion of the Southwest quarter of Section 10, Township 21 North, Range 6 East, W.M., in King County, Washington, lying Southwesterly of the centerline of Lake Sawyer Road Southeast (also known as 228th Avenue Southeast).

**EXHIBIT F
NOTICE**

Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally to the addressee of the notice, may be faxed and emailed to the addressee of the notice, or may be deposited in the United States mail, postage prepaid, to the addressee. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing. The parties may change their contact information by sending written notice thereof to the other.

King County:

Ron Sims
King County Executive
701 Fifth Avenue, Suite 3210
Seattle, WA 98105

With a copy to:

King County Prosecuting Attorney's Office
Attn: Peter G. Ramels
E-550 King County Courthouse
516 Third Avenue
Seattle, WA 98104

City of Black Diamond:

City of Black Diamond
Attn: City Administrator
P.O. Box 599
Black Diamond, WA 98010

With a copy to:

McGavick Graves, P.S.
Attn: Loren D. Combs
P.O. Box 1317
Tacoma, WA 98401-1317