



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

September 10, 2013

Ordinance 17660

Proposed No. 2013-0339.1

Sponsors Dunn

1 AN ORDINANCE authorizing the King County executive
2 to enter into an interlocal agreement with the city of Maple
3 Valley regarding the annexation of the Summit Pit property
4 and ensuring the continuance of all operations of the roads
5 maintenance facility.

6 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

7 SECTION 1. A. RCW.35.14.460 provides for annexation upon successful
8 negotiation of an interlocal agreement between an annexing code city and county for
9 property that is at least sixty percent contiguous to the annexing code city.

10 B. The Summit Pit property is located within the Urban Growth Area and is
11 completely surrounded by the city of Maple Valley.

12 C. The Summit Pit property is comprised solely of tax parcel number
13 3422069006 and is one hundred fifty-six acres in size.

14 D. The Summit Pit property is designated in the 2012 Countywide Planning
15 Policies as a Potential Annexation Area to the city of Maple Valley, and, as such is
16 eligible for annexation to the city of Maple Valley.

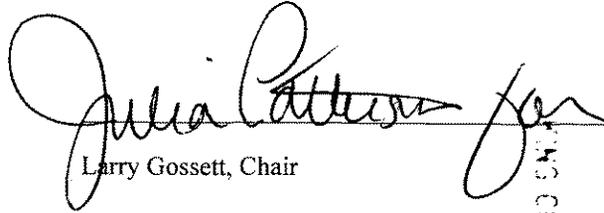
17 SECTION 2. The King County executive is hereby authorized to enter into an
18 interlocal agreement, in substantially the same form as Attachment A to this ordinance,

19 with the city of Maple Valley to allow the annexation of the Summit Pit property within
20 unincorporated King County to the city.
21

Ordinance 17660 was introduced on 7/22/2013 and passed by the Metropolitan King County Council on 9/9/2013, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Ms. Hague, Ms. Patterson,
Ms. Lambert, Mr. Dunn, Mr. McDermott and Mr. Dembowski
No: 0
Excused: 1 - Mr. Gossett

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

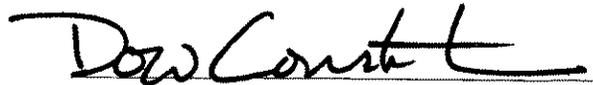

Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 18 day of SEPTEMBER 2013.



Dow Constantine, County Executive

Attachments: A. Interlocal Agreement Between the City of Maple Valley and King County

RECEIVED
2013 SEP 20 AM 9:31
CLERK
KING COUNTY COUNCIL

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF MAPLE VALLEY
AND KING COUNTY, RELATING TO THE ANNEXATION OF THE SUMMIT
PIT PROPERTY**

THIS INTERLOCAL AGREEMENT ("Annexation ILA") is entered into by the City of Maple Valley, a State of Washington municipal corporation ("City" or "Party"), and King County, a political subdivision of the State of Washington ("County" or "Party") (collectively, the "Parties").

RECITALS:

WHEREAS, pursuant to the authority of RCW 35A.14.460, the governing bodies of each of the Parties have each initiated an annexation process for unincorporated territory known as "Summit Pit," tax parcel 3422069006 ("Property"), the legal description of which is attached hereto as Exhibit A; and

WHEREAS, the City identified the Property as a Potential Annexation Area ("PAA") in its comprehensive plan; and

WHEREAS, the Property is within the City's Urban Growth Area and at least sixty percent of its boundaries are contiguous to the City and as such may be annexed to the City pursuant to the process identified in RCW 35A.14.460; and

WHEREAS, the City, in Ordinances O-11-436 through O-11-444, adopted pre-annexation zoning for the Property, establishing Master Planned Community as the zoning designation for the Property to be effective upon annexation; and

WHEREAS, in compliance with RCW 35A.14.460(3), the County held a public hearing on this Annexation ILA on _____; and

WHEREAS, in compliance with RCW 35A.14.460(3), the City held a public hearing on this Annexation ILA on _____; and

WHEREAS, in compliance with RCW 35A.14.460(4), following adoption and execution of this Annexation ILA, the City will hold a public hearing on the annexation of the Property, and subsequently adopt an Ordinance that provides for the annexation of the Property; and

WHEREAS, the City's ordinance will provide that annexation of the Property to the City will become effective 45 days from the date City adopts the ordinance pursuant to the requirements of RCW 35A.14.460(4); and

WHEREAS, the King County Department of Transportation ("KCDOT") operates its Roads Maintenance Facility ("RMF") on the Property; and

WHEREAS, as set forth under the Terms, herein, the County will continue the RMF uses, and operations at the Property until all of the operations and uses are relocated; and

WHEREAS, the Terms of this Annexation ILA are intended in part to address the County's permit and operational needs to ensure, subject to the Terms herein, that the County can continue its current operations and uses, including the operation of a gravel mine, at the Property prior to relocation; and

WHEREAS, there is no intent on the part of the County to continue the long-term operation of a gravel mine at the Property separate and apart from the RMF after the Property is sold and that facility relocates to another property; and

WHEREAS, the City's comprehensive plan prohibits active gravel mining as a permitted use within this PAA and active gravel mining will be a legal non-conforming use on the Property after annexation of the Property is effective; and

WHEREAS, KCDOT has received annual extensions of the permits which authorize various operations on the Property from the King County Department of Permitting and Environmental Review ("DPER") for the last 20 years; and

WHEREAS, DPER has developed a significant level of expertise in reviewing and permitting the various operations KCDOT carries out on the Property; and

WHEREAS, the City's permitting agency has not previously permitted a facility such as the KCDOT RMF and gravel mine currently operating on the Property; and

WHEREAS, the Terms of this Annexation ILA will allow DPER to continue to process the various permits issued to KCDOT for its operations on the Property in order that KCDOT can continue to use and operate its RMF on the Property; and

WHEREAS, the City recognizes and understands that the County's relocation of the RMF is based on the ability of the County to successfully market and sell the Property for a price sufficient to cover the cost to develop and/or establish a fully functional RMF site at an alternative location to meet service needs; and

WHEREAS, the Parties understand that the value of the Property could be affected by the County's mining and related activities on the Property; and

WHEREAS, the County intends to perform its mining and related activities on the Property in a manner that will substantially preserve the value of the Property for redevelopment and will not be inconsistent with Parties' mutual interest in the Property's eventual redevelopment for use as something other than the RMF; and

WHEREAS, the City recognizes and understands that the value of the Property will be affected by zoning established for the Property during the City's scheduled 2014 Comprehensive Plan Update; and

WHEREAS, The Parties acknowledge that the City has adopted pre-annexation zoning, which, unless it is amended, would apply to the Property upon annexation. The County understands that, beginning in 2014, the City intends to engage in a comprehensive plan update process, which could result in the adoption of different policies and zoning applicable to the Property. The City agrees to provide notice to the County of the initiation and progress of its comprehensive plan update and code development process and to provide the County opportunities to participate in that process. The City recognizes, understands and agrees to include and collaborate with the County in determining the future zoning for the Property that most closely satisfies the City's and the County's respective goals and objectives.

TERMS:

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

1. RECITALS INCORPORATED; PURPOSE. The Recitals are herein incorporated as material terms of this Annexation ILA. The purpose of this Annexation ILA is to effectuate the annexation of the Property into the City and to make provisions for the administration of certain permits after annexation in order to ensure the continuation of KCDOT activities on the Property.

2. BOUNDARIES OF THE TERRITORY TO BE ANNEXED. The northwest quarter of Section 34, Township 22 North, Range 6 East, W.M., in King County, Washington; EXCEPTING there from that portion conveyed by instrument recorded under Recording Number 8905110590, in King County, Washington; AND EXCEPT that portion conveyed to the City of Maple Valley by deed under Recorder's No. 20040824000981. And SUBJECT TO: Easement for Slope and Sidewalk conveyed to the City of Maple Valley under Recorder's No. 20040824000980 and Easement for Slope conveyed to the City of Maple Valley under Recorder's No. 20040824000982.

3. OPERATION OF KCDOT FACILITY ON THE PROPERTY.

3.1 Clearing and Grading Permit. DPER issued Clearing and Grading Permit #C9103700 to KCDOT on May 29, 1992 for its operations on the Property. This permit has been extended annually in each subsequent year. Activities authorized on the Property, in part, by Clearing and Grading Permit #C9103700 include (1) the Street Waste Processing Program ("SWAP"), (2) storage of materials for roads maintenance operations, (3) temporary storage of debris collected during emergency events, (4) Pit Fill, (5) the Consolidated Reduction of Waste Program ("CROW"), and (6) Sand and Gravel Mining.

3.1.1 Except as otherwise provided for herein, the Parties agree that DPER shall continue to review and issue determinations, on behalf of the City, concerning extension applications for Clearing and Grading Permit #C9103700 for five years from the effective date of the City's next Comprehensive Plan Update as long as the following conditions are met:

3.1.1.1 Mining activity complies with the current permit;

3.1.1.2 No new uses are proposed on the Property;

3.1.1.3 The rights provided by the permit shall not be transferred to a for-profit entity or utilized in a for-profit manner; and

3.1.1.4 The Property has not been sold to a non-governmental entity.

3.1.2 DPER shall apply the King County Code provisions to which Clearing and Grading Permit #C9103700 is vested.

3.1.3 DPER shall provide to the City copies of all materials submitted by KCDOT in support of the annual extension of Clearing and Grading Permit #C9103700 at the same time the materials are submitted to DPER.

3.2 DPER shall continue to process extensions to Clearing and Grading Permit #C9103700 for five years from the effective date of the City's next Comprehensive Zoning Plan Update unless otherwise extended in accordance with paragraph 3.3.

3.3 The Parties may agree to lengthen the duration of DPER' processing of extensions to Clearing and Grading Permit #C9103700 for up to an additional three years beyond the time period provided for in 3.2. In order for any such extensions of DPER's processing authority to occur, the City or the County may make a written request to the other Party not less than sixty (60) days prior to the otherwise applicable expiration date. Any agreement to the proposed extension shall be made in writing and shall not be unreasonably denied and shall be subject to the Dispute Resolution set forth in Section 8.8. If the Parties have not agreed to the extension in writing by the otherwise applicable expiration date, the agreement set forth in Paragraph 3.1.1 shall expire.

3.4 All other existing non-conforming uses, not covered by the Clearing and Grading Permit #C9103700, shall be allowed to continue on the Property until the Property is sold or transferred.

4. ZONING. The pre-annexation zoning approved with Ordinance _____ shall apply to the Property upon annexation. Notwithstanding any law to the contrary, the Parties contemplate, however, that the Property will be rezoned sometime after

annexation and that the effectiveness of the pre-annexation zoning will not have a pre-determined duration. While any rezoning of the Property after annexation shall be a determination made by the City, the Parties agree to utilize the process below, in addition to the City's required public process, to ensure that the County has a meaningful opportunity to participate in the formulation of future zoning proposals for the Property. While the Parties' goal is to allow zoning for the Property to be formulated in a collaborative manner that renders future development of the Property and relocation of the RMF financially feasible, the final determination regarding zoning of the Property shall be left to the City's discretion.

4.1 Comprehensive plan amendments and zoning amendments both originate with the City's Planning Commission before a determination is made by the City Council.

4.2 The City agrees to notify the County at least forty-five days before it intends to forward to the Planning Commission a proposed comprehensive plan amendment or zoning amendment that would affect the Property. If the City has already prepared a draft amendment, the notice shall include a copy of the draft. If the City has not yet prepared a draft, the City shall notify the County to commence a collaborative drafting process.

4.3 The Parties agree to meet in person within fifteen days of the issuance of the notice referenced above to discuss the proposed amendment(s) and/or alternatives thereto in more detail.

4.4 If the Parties cannot agree on one version of the amendment(s) before it is forwarded to the Planning Commission, the Parties agree that the County may submit an alternative proposal to the Planning Commission for consideration at the same meeting as the City's proposal. If this occurs, the County's draft shall be submitted in a format that shows differences from the City's proposal in an underline/strike-through format to the extent practicable along with a memorandum prepared by County staff that explains why the County prefers its draft of the proposed amendment(s).

4.5 Once the proposed amendment(s) has been submitted to the Planning Commission for consideration, the process will follow the City's applicable process for the type of amendment(s) proposed.

5. TERM. This Annexation ILA exists in perpetuity, unless otherwise jointly amended or terminated by the Parties, or until the intent, purpose, and processes set forth herein are no longer applicable or necessary. The Annexation of the Property shall be effective forty five (45) days following the City's adoption of an annexation ordinance pursuant to RCW 35A.14.460(4), which will occur following approval by the official action of the governing bodies of each of the Parties of this Annexation ILA and its execution by the duly authorized representative of each of the Parties. The annexation of the Property, once such annexation is effective pursuant to ordinance, shall continue in force and effect in perpetuity.

6. 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 Maple Valley:

David Johnston, City Manager
City of Maple Valley
P.O. Box 320
22017 SE Wax Rd., Ste.200
Maple Valley, WA 98038

King County:

Sung Yang, Chief of Staff
King County Executive's Office
401 5th Avenue, Suite 800
Seattle, WA 98104

With a copy to:

Jeff Taraday
Lighthouse Law Group PLLC
1100 Dexter Avenue N, #100
Seattle, WA 98109

With a copy to:

Ian Taylor
King County Prosecutor's Office
516 3rd Avenue, W400
Seattle, WA 98104

7. 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 Annexation ILA, all Parties will comply with, among other laws and regulations, the requirements of the Open Public Meetings Act, Public Records Act, Growth Management Act, State Environmental Policy Act, and RCW 35A.14.460 and .470.

8. INDEMNIFICATION. The following indemnification provisions shall apply to the entirety of this Annexation ILA.

8.1 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 Annexation ILA. 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. 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.

8.2 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 Annexation ILA. 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. 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.

8.3 The Parties 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.

8.4 The provisions of this Indemnification Section shall survive the expiration or termination of this Annexation ILA with respect to any event occurring prior to such expiration or termination.

9. GENERAL PROVISIONS

9.1 Multiple originals; filing. This Annexation ILA will be produced in multiple originals. An original of this Annexation ILA shall be filed with the Clerk for the City of Maple Valley, an original shall be recorded with the King County Recorder's Office, and an original shall be filed with the King County Assessor's Office.

9.2 Records. For five years from the effective date of annexation, any of either Party's records related to any matters covered by this Annexation ILA 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.

9.3 Amendments. No provision of this Annexation ILA may be amended or modified except by written agreement signed by the Parties.

9.4 Severability. If one or more of the clauses of this Annexation ILA is found to be unenforceable, illegal, or contrary to public policy, the Annexation ILA will remain in full force and effect except for the clauses that are unenforceable, illegal, or contrary to public policy.

9.5 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.

9.6 Third Party Beneficiaries. This Annexation ILA 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 Annexation ILA based on any provision set forth herein.

9.7 Dispute Resolution. Should a dispute arise during the term of this agreement the Parties will make a good faith attempt 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 this Annexation ILA. All costs for mediation services will be divided equally between the Parties. Each Party will be responsible for the costs of their own legal representation.

9.8 Remedies. Upon the occurrence and continuance of any event of default, the non-defaulting Party's remedies shall be limited to equitable remedies, which may include specific performance and declaratory judgment; provided, however, that the prevailing Party shall be entitled to recover reasonable attorney's fees and costs.

9.9 No waiver. Failure of either Party to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with such breach or default shall not constitute a waive such breach or default.

9.10 Applicable Law. Washington law shall govern the interpretation of this Annexation ILA. King County shall be the venue of any arbitration or lawsuit arising out of this Annexation ILA.

9.11 Authority. Each individual executing this Annexation ILA on behalf of the City and the County represents and warrants that such individuals are duly authorized to execute and deliver the Annexation ILA on behalf of the City or the County.

9.12 Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth above in Section 5. 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 5. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing. Either Party shall have the right to notify the other Party of a change of address, and shall do so in writing.

9.13 Equal Opportunity to Draft. Each Party has participated and had an equal opportunity to participate in the drafting of this Annexation ILA. No ambiguity shall be construed against any Party upon a claim that that Party drafted the ambiguous language.

9.14 Compliance with RCW 39.34.030(3): This Annexation ILA will not require maintaining a budget for financing any joint or cooperative action. This Annexation ILA,

once effective, is in force in perpetuity and it is unnecessary to make provisions for the disposal of property. Other than the annexation becoming effective pursuant to the terms herein, neither Party will acquire, or hold personal or real property under this Annexation ILA.

9.15 Effective Date. This Agreement is effective on the later date of the execution of this Agreement by either Party.

IN WITNESS THEREOF, the Parties hereto have executed this Agreement.

CITY OF MAPLE VALLEY:

KING COUNTY:

David W. Johnston, City Manager

Dow Constantine, Executive

Date: _____

Date: _____

DATED: _____

DATED: _____

Approved as to Form:

Approved as to Form:

Jeff Taraday
City Attorney

Ian S. Taylor
Senior Deputy Prosecuting Attorney