



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 23, 2005

Ordinance 15190

Proposed No. 2005-0130.1

Sponsors Irons

1 AN ORDINANCE authorizing the county executive to
2 enter into an interlocal agreement with the city of Issaquah
3 relating to administering mineral resource operations.
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6 **STATEMENT OF FACTS:**

- 7 1. The county issued a grading permit in 1971 for Lakeside Industries to
8 operate a gravel mine at 23035 SE Issaquah-Fall City Rd.
9 2. The 1994 King County Comprehensive Plan specified that periodic
10 reviews should occur at mining sites every five years.
11 3. The city of Issaquah annexed the entire mine site on February 28, 2000,
12 as part of the North Issaquah Annexation and requested that the King
13 County department of development and environmental services continue
14 administering the Lakeside grading permit and associated periodic review
15 on the city's behalf.
16 4. King County and the city of Issaquah entered into an interlocal
17 agreement on February 15, 2000, authorizing the department of

18 development and environmental services to administer the Lakeside
19 grading permit and associated periodic review on behalf of the city of
20 Issaquah. This interlocal agreement expires on February 28, 2005, and the
21 city has asked for the interlocal agreement to be extended.

22 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

23 SECTION 1. The county executive is hereby authorized to enter into the

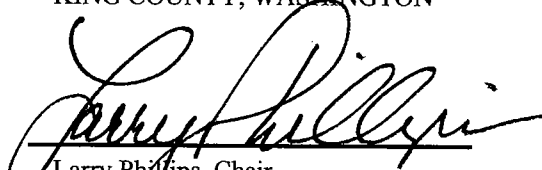
Ordinance 15190

24 interlocal agreement with the city of Issaquah relating to administering mineral resource
25 operations is in the best interest of the public, and to execute the necessary documents.
26

Ordinance 15190 was introduced on 4/11/2005 and passed by the Metropolitan King
County Council on 5/23/2005, by the following vote:

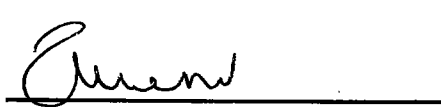
Yes: 13 - Mr. Phillips, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr.
Pelz, Mr. Dunn, Mr. Ferguson, Mr. Hammond, Mr. Gossett, Ms. Hague, Mr.
Irons, Ms. Patterson and Mr. Constantine
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 26 day of May, 2005.



Ron Sims, County Executive

RECEIVED
2005 JUN - 1 PM 2:55
CLERK
KING COUNTY COUNCIL

Attachments A. Interlocal Agreement between King County and the City of Issaquah Relating to
Administering Mineral Resource Operations

INTERLOCAL AGREEMENT BETWEEN KING COUNTY
AND THE CITY OF ISSAQUAH RELATING TO
ADMINISTERING MINERAL RESOURCE OPERATIONS

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

WHEREAS, on February 28, 2000, the City annexed an area of King County that had previously been unincorporated which is known as the North Issaquah annexation area; and

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

WHEREAS, the County has experience and expertise in administering mineral resource operations and related grading permits and code enforcement actions; and

WHEREAS, the County and City agree that having County staff administer the grading permit for the mineral resource operation that is occurring in the annexation area 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 39.34 and Article 11 of the Washington State Constitution;

WHEREAS, the parties entered into a previous interlocal agreement regarding grading permits in the annexation area whose term is about to expire;

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

1. Administration of Grading Permit No. 1104-598

1.1 The County shall administer Grading Permit No. 1104-598 (hereafter referred to as the "Permit") except as otherwise provided herein. This Permit encompasses the only permitted mineral resource operation that is presently occurring within the annexation area. Administration of the Permit shall be done pursuant to the applicable rules and regulations adopted by the City or to the rules and regulations under which the permit is otherwise vested.

1.2 In administering the Permit, the County shall monitor the permitted site for compliance with any conditions of approval and any other applicable rules or regulations, shall make appropriate inspections of the site, shall issue any necessary correction notices, and shall review and approve or deny minor revisions or field changes to issued permits. If the County determines that a formal code enforcement proceeding should be initiated with regard to a permitted site, it shall recommend such action to the City. The City, with the assistance of the County if requested in writing with regard to this permitted site, shall perform any necessary code enforcement according to the terms of Section 3 of this Agreement.

1.3 Any financial guarantees related to the permit shall be transferred from the County to the City and the City shall require the holder of the Permit to modify such financial guarantees to be in favor of the City. All future financial guarantees related to the permit shall be in favor of the City. The City shall be responsible for processing, maintaining and releasing all financial guarantees related to the Permit.

1.4 In administering the Permit, the County shall also conduct an annual review of the Permit. The County shall invite City staff to accompany the County in the on-site inspection that occurs as part of this annual review in order to provide the training contemplated by Section 10.3 of this Agreement.

1.5 In administering the Permit, the County shall also conduct a periodic review of the Permit. The periodic review procedure for the Permit commenced in January 2001 and is ongoing. The County has evaluated public comments, site operations and permit conditions, and prepared a staff report and recommendation for City approval. The City shall issue the periodic review report and determination whether to modify, add or subtract any permit conditions. Any appeal of this administrative determination shall be heard by the Issaquah Hearing Examiner. City staff responsible for the periodic review shall represent the City at any such appeal hearing. County staff shall provide technical and administrative assistance to the City at any such appeal hearing.

2. SEPA Compliance

2.1 In order to satisfy the procedural requirements of the State Environmental Policy Act ("SEPA"), the City shall serve as lead agency for any action invoking SEPA review for the Permit identified in this Agreement. The City shall designate and identify a SEPA responsible official to make environmental and threshold determinations and to supervise the preparation and content of environmental review for actions relating to this Permit. The responsible official shall not be an employee, officer, or agent of the County.

2.2 All SEPA review shall be done pursuant to the applicable rules and regulations adopted by the City or to the rules and regulations under which the Permit is otherwise vested. Any and all appeals from SEPA threshold determinations and other SEPA matters relating to projects within the City shall be heard by the City.

2.3 For those permits and permit amendment applications requiring a SEPA determination after the effective date of annexation, the County will not take final action upon the application until the City's responsible official has acted. Upon written request with regard to

a particular project, the County agrees to provide technical and administrative SEPA assistance to the City's responsible official 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 on behalf of the City's responsible official;
- 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's designated appeal hearings officer;
- attendance at appeal hearings to testify with respect to analysis of environmental impacts, mitigation measures and the environmental review process; and
- preparation of any required draft, final, addendum or supplemental EIS for approval of the City's responsible official.

2.4 In cases where an environmental impact statement is prepared for a project, the decision whether to condition or deny an application on SEPA grounds shall be made by the City.

3. Code Enforcement

3.1 The City shall be responsible for performing any necessary formal code enforcement proceedings with regard to code violations that occur on the mineral resource site subject to the Permit. The City shall do so according to the applicable City rules and regulations. Any administrative code enforcement appeal hearings shall be heard by the City.

3.2 Upon written request by the City, the County shall provide technical and administrative assistance to the City in performing code enforcement on this grading permit. Such assistance may include, but is not necessarily limited to, investigating code violations and recommending to the City when a code enforcement action should be initiated, issuing notices of

violation, preparing staff reports for administrative code enforcement appeal hearings, and testifying at any such hearings. Such technical administrative assistance shall not include the making of any discretionary decisions, such as whether to initiate a code enforcement action, whether to terminate a code enforcement action, whether to perform abatement, whether to collect civil penalties or other costs, and whether to file suit for civil code enforcement in a court of law.

3.3 The County may pursuant to paragraph 1.2 of this Agreement and without a written request from the City, investigate code violations related to the mineral extraction operation subject to the Permit and recommend to the City when a code enforcement action should be initiated.

4. Administrative and Ministerial Processing. County actions specified in this Agreement are intended to be of an administrative and ministerial nature only. Any and all legislative or quasi-judicial decisions or decisions of discretionary a nature shall be made by the City and/or its designated decisionmaker.

5. Administrative Priority. Within budgetary constraints, the County agrees to provide the services identified in this Agreement for properties in the City at the same level of service provided for properties in the unincorporated areas of the County.

6. Fees

6.1 All fees for the services to be provided by the County under this Agreement related to the Permit shall be paid by the applicant or other person owing such fees directly to the City in the amounts required by the City.

6.2 In order to cover the costs of performing such services, the City shall pay to the County the fees for such services that the County requires in its fee schedule as set forth in

K.C.C. title 27 as currently adopted or hereafter amended. All such payments shall be made by the City to the County within thirty (30) days of the County's invoicing of those fees.

6.3 In order to cover the costs of providing technical and administrative assistance and training to the City under this Agreement, the City shall pay the County the hourly rate for the Department of Development and Environmental Services set forth in K.C.C. 27.01.190 as currently adopted in the amount of \$144.90 or as hereafter amended. All such payments shall be made by the City to the County within thirty (30) days of the County's invoicing of those fees.

7. Filing Documents. All documents that the County will review in the performance of the services identified in this Agreement shall be filed with the City, and the City shall within five (5) days transmit such documents to the County.

8. 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.

9. Indemnification

9.1 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 adoption, existence, validity or effect of City ordinances, policies, rules or regulations. If any cause, claim, suit, action, or administrative proceedings is commenced in which the enforceability and/or validity of any such City ordinance, policy, 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 fees.

9.2 The County shall indemnify and hold harmless the City, its officers, agents or employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses

and damages of any nature whatsoever, by reason of or arising out of any negligent act or omission of the County, its officers, agents or employees, or any of them, relating to or arising out of performing services pursuant to this Agreement. In the event that any such 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 such suit if any principle of governmental or public law is involved. If final judgment be rendered in said suit against the City, its officers, agents or employees, or any of them, or jointly against the City and the County or their respective officers, agents or employees, or any of them, the County shall satisfy the same.

9.3 The City shall indemnify and hold harmless the County, its officers, agents or employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, by reason of or arising out of any negligent act or omission of the City, its officers, agents or employees or any of them, relating to or arising out of performing services pursuant to this Agreement. In the event that any such suit based on 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 such suit if any principle of governmental or public law is involved. If final judgment be rendered in said suit against the County, its officers, agents or employees, or any of them, or jointly against the County and the City or their respective officers, agents or employees, or any of them, the City shall satisfy the same.

9.4 If any claims, actions, suits, liability, loss, costs, expenses or damage are caused or result from the concurrent negligence of the City, its officers, agents or employees, or the

County, its officers, agents or employees, this section shall be valid and enforceable only to the extent of the negligence of each party, its officers, agents or employees.

10. Administration

10.1 This Agreement shall be administered by the Director of the King County Department of Development and Environmental Services or his/her designee, and by the City Public Works Director, or his/her designee.

10.2 If the County and the City disagree as to the course of action that should be taken with regard to the Permit, they shall negotiate in good faith to resolve the disagreement. If the County and the City cannot resolve the disagreement, either party may terminate in writing this Agreement according to the terms of Section 11 of this Agreement.

10.3 The County agrees to assist the City in training City staff to administer a grading permit for mineral resource operations.

11. Term and Termination

11.1 This Agreement shall be effective on the date last signed by the parties and shall renew automatically from year to year for a period of five (5) years unless either party initiates the termination procedures outlined herein.

11.2 Either party shall have the right to terminate this Agreement at any time upon the giving of thirty (30) days written notice to the other of such cancellation.

11.3 Upon the termination of this Agreement, the County shall cease further processing and related review and enforcement functions with respect to clearing and grading. The County shall also within forty-five (45) days of giving or receiving notice of the termination of this Agreement transfer to the City all files related to the Permit along with any unexpended portions of filing fees related to the Permit.

11.4 Upon giving or receiving notice of the termination of this Agreement, the City shall promptly advise the affected Permit holder that it has assumed all further processing responsibility with regard to the Permit and shall within thirty (30) days pay to the County all money owed under this Agreement.

12. Amendments. This Agreement is the complete expression of the terms hereto and any oral representation or understandings not incorporated herein are excluded. Any modifications to this Agreement shall be in writing and signed by both parties.

13. 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

Ron Sims
King County Executive

Dated

Approved as to Form:

NORM MALENG
King County Prosecuting Attorney

By: _____
Senior Deputy Prosecuting Attorney

Dated

CITY OF ISSAQUAH

Ava Frisinger
Mayor, City of Issaquah

Dated

Approved as to Form:

Issaquah City Attorney

Dated