



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

February 19, 2008

Ordinance 16020

Proposed No. 2008-0056.2

Sponsors Dunn

1 AN ORDINANCE authorizing the executive to enter into
2 an interlocal agreement between King County and Renton
3 school district for transfer to the district of Renton pool.
4

5 **STATEMENT OF FACTS:**

6 1. King County desires to divest itself of ownership, management and
7 financial responsibility for local pools, parks, open space, recreational
8 facilities and programs inside and near city boundaries in urban areas of
9 the county.

10 2. King County owns and operates the Renton pool, located in the Benson
11 Hill Communities potential annexation area of the city of Renton ("city")
12 on real property leased to the county by the Renton school district 403
13 ("district") pursuant to the terms of a site lease dated May 14, 1970 ("site
14 lease").

15 3. At the general election held November 6, 2007, voters in the Benson
16 Hill Communities potential annexation area passed a measure to annex to

17 the city and the city has taken final action to accept annexation of the area
18 effective March 1, 2008.

19 4. The city and the district have entered into an agreement whereby the
20 city will provide certain ongoing financial support to the district for
21 operation of the Renton pool after annexation of the Benson Hill
22 Communities area.

23 5. King County and the district have agreed to terms for an interlocal
24 agreement for the termination of the site lease and the transfer of Renton
25 pool and certain pool equipment and supplies to the district.

26 6. The background section of the agreement set forth relevant facts
27 supporting and explaining the terms of the transfer.

28 7. The equipment and supplies being conveyed along with the pool are
29 integral to the continued operation and maintenance of the park and are
30 surplus to the county's needs.

31 8. Transfer of Renton pool under the terms and conditions of the attached
32 agreement will serve an important county purpose by ensuring that the
33 pool will remain open and available to all county residents.

34 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

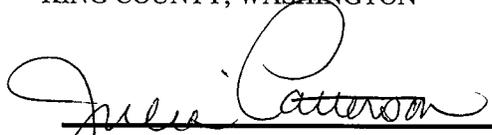
35 SECTION 1. Transfer of the Renton pool under the terms and conditions of the
36 attached agreement will serve an important county purpose by ensuring that the pool will
37 remain open and available to all county residents.

38 SECTION 2. The King County executive is hereby authorized to enter into an
39 interlocal agreement, substantially in the form of the attached, with Renton school district
40 403 relating to the transfer of Renton pool.
41

Ordinance 16020 was introduced on 1/28/2008 and passed as amended by the
Metropolitan King County Council on 2/19/2008, by the following vote:

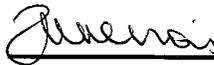
Yes: 8 - Ms. Patterson, Mr. Dunn, Mr. Constantine, Ms. Lambert, Mr. von
Reichbauer, Mr. Ferguson, Mr. Gossett and Mr. Phillips
No: 0
Excused: 1 - Ms. Hague

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Julia Patterson, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 20th day of February, 2008.



Ron Sims, County Executive

RECEIVED
2008 FEB 21 AM 10:25
KING COUNTY COUNCIL CLERK

Attachments A. Renton Pool Lease Termination and Asset Transfer Statement, February 19, 2008

Attachment A: February 19, 2008

**RENTON POOL LEASE TERMINATION AND ASSET TRANSFER
STATEMENT**

This STATEMENT OF LEASE TERMINATION AND ASSET TRANSFER is dated as of _____, 2008 and is executed by and between KING COUNTY, a home rule charter county and political subdivision of the State of Washington (the "County"), and RENTON SCHOOL DISTRICT 403, a special purpose local government (the "District"). The County and the District are collectively referred to herein as the "Parties."

BACKGROUND

1. The County leased certain real property from the District pursuant to the terms of a Lease Agreement dated May 14, 1970 ("Lease"), a copy of which is attached hereto as **Exhibit A**. The leased property is located on the premises of the District's Lindbergh High School.
2. Pursuant to the Lease, the County constructed on the leased property described on **Exhibit B** those certain improvements and known as the Renton Pool ("Pool"). Pursuant to the Lease, the parties have also entered into a separate Pool Use Agreement, a copy of which is attached hereto as **Exhibit C**, setting the terms and conditions under which the District may use the Pool.
3. The County desires to divest itself of ownership, management, and financial responsibility for local parks and recreation facilities located inside cities.
4. The Benson Hill Communities area voted at an election on November 6, 2007, to annex to the City of Renton (the "City") and the City has taken action necessary to ensure annexation of the area is effective March 1, 2008.
5. By separate agreement between the City and the County dated as of _____ (the Annexation Agreement), the County will pay the City certain amounts to offset costs incurred by the City associated with annexing the Benson Hill Communities area. A portion of this financial support is conditioned on the transfer of the Pool to the District and the City agreeing to provide ongoing funds to the District in support of the pool. A copy of the section of the Annexation Agreement containing these terms is attached as **Exhibit D**. A copy of the executed funding agreement between the City and the District is attached as **Exhibit E**. The District is not a third party beneficiary of the Annexation Agreement. The County does not by this agreement commit any funds to the District in support of the operation or improvement of the Pool, nor is this agreement contingent on the City and District meeting their obligations under the agreement attached as Exhibit E.
6. The Lease does not contain any specific terms or conditions relating to early termination.

7. The County and the District have agreed to terminate the Lease, subject to and consistent with the terms and conditions set forth in this Statement. The parties have also agreed to terminate their Pool Use Agreement through this same Statement.

TERMS AND CONDITIONS OF LEASE TERMINATION

- 1.0 Termination of Lease and Pool Use Agreement.** The Lease shall be terminated as of the Transfer Date. The District releases the County from all obligations of any kind or nature under the Lease, effective from and after the Transfer Date. The Pool Use Agreement is also terminated as of the Transfer Date, and neither party shall have any further right, duty or obligation under that agreement from and after such date. The "Transfer Date" shall be the date on which the deed referenced in Section 2.1 of this Agreement is fully executed and recorded, and shall occur on March 1, 2008 or as soon thereafter as practicable.
- 2.0 District Takes Pool and Other Improvements "AS IS".**
- 2.1 The parties agree that the Pool is annexed to the leased property and cannot be removed from it without destroying the Pool and causing substantial damage to the leased property. The County shall assign, transfer and convey to the District, as of the Transfer Date, all of the County's right, title, and interest in and to the Pool and in and to any and all other County-made improvements on the leased property. The District will accept and assume, as of the Transfer Date, all of the County's right, title and interest in and to the Pool and in and to any and all other County-made improvements on or in the leased property. The County shall cooperate with the District after the date hereof in executing additional transfer documents (including, but not limited to, a bargain and sale deed as to the improvements) if necessary to convey or perfect title to the Pool in the District as of the Transfer Date.
- 2.2 The County will make its records concerning the Pool available to the City and the County personnel most knowledgeable about the Pool will be available to jointly inspect the Pool with District personnel and to provide the District the status of maintenance of such facilities and point out known conditions, including any defects or problems, if any, with the Pool. The District agrees to, accept the Pool as of the Transfer Date in AS IS condition, and assume full and complete responsibility for all operations, maintenance, repairs, or improvements of, and provision of recreational services at, the Pool.
- 2.3 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 Pool, and no official, employee, representative or agent of King County is authorized otherwise.
- 2.4 The District acknowledges and agrees that except as indicated in paragraph 5.2 of this Statement, the County shall have no liability for, and that the District shall release and have no recourse against the County for, any defect or deficiency of any kind whatsoever in the Pool without regard to whether such defect or deficiency was known or discoverable by the District or the County.

3.0 Transfer to District of Personal Property Associated with the Pool. The County shall, effective as of the Transfer Date, convey, assign and deliver to the District certain existing equipment and supplies necessary to operate and maintain the Pool, as enumerated in **Exhibit F**. The County will leave such equipment and supplies on site, which equipment and supplies will include all furniture, lifeguard equipment, first aid supplies, specialty tools, operator manuals, as-built pool and remodel plans, phone system, lighting fixtures, miscellaneous pool equipment, building maintenance supplies, spare parts, and materials such as chlorine and filtration supplies for pool maintenance. The District shall take all equipment and supplies AS IS and WHERE IS and agrees that the County holds no future responsibility with regard to the equipment and supplies or any occurrence related to or resulting from use of the equipment and supplies. Any equipment and supplies stored at the Pool for use at other King County facilities will not be transferred. The County shall cooperate with the District after the date hereof in executing additional transfer documents (including, but not limited to, a bill of sale) if necessary to convey or perfect title to the equipment and supplies in the District as of the Transfer Date.

4.0 District's Forward Thrust Covenants.

4.1 The deeds referenced in Section 2.1 shall contain the following specific covenants pertaining to use, which covenants shall run with the leased property 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 until the covenants terminate, both as a matter of contract under this Statement, and as covenants in the deed, which covenants shall be set forth as follows:

- (a) The District covenants that for so long as the Pool is operated it shall:
 - (1) Abide by and enforce all terms, conditions and restrictions in King County Resolution 34571;
 - (2) Not transfer or convey the Pool or convert the leased property to a non-recreational use except by agreement providing that such lands shall continue to be used for the purposes contemplated by Resolution 34571.
- (b) The District covenants that for so long as the Pool is operated, the Pool and the leased property shall continue to be used for public park or recreation purposes, unless other equivalent lands or facilities within the County are received in exchange therefore and the replacement lands or facilities are used for park or recreation purposes.
- (c) The District further covenants that for so long as the Pool is operated, the District will not limit or restrict access to and use of the Pool or the leased property by non-District residents in any way that does not also apply to District residents. The District covenants that if differential fees for non-District residents are imposed, they will be reasonably related to the cost borne by District taxpayers to

maintain, improve or operate the Pool or the leased property for parks and recreation purposes.

- (d) The District covenants that it shall place the preceding covenants in any deeds or other documents transferring the Pool for public recreation purposes provided however that the covenants in Section 4.1(a) shall terminate on May 14, 2010, the expiration of the original term of the Lease and the end of the contemplated useful life of the Pool as stated in Resolution 34571.

5.0 Environmental Liability.

- 5.1 "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.
- 5.2 Nothing in this Statement shall be deemed to waive any statutory claim for contribution that the District might have against the County under federal or state environmental statutes that arises from hazardous materials deposited or released on the leased property by the County during the County's tenancy. The District may not, however, assert such a claim to the extent that the District creates the need for or exacerbates the cost of remediation upon which a statutory claim for contribution is based as a result of the District performing construction activities on the leased property, changing the configuration of the leased property, or changing the use of the leased property.
- 5.3 If the District discovers the presence of hazardous materials at levels that could give rise to a statutory claim for contribution against the County it shall notify the County in writing within ninety (90) days of such discovery. Prior to undertaking any remediation of hazardous materials, the parties shall use their best efforts to reach agreement as to which party is responsible for remediation.
- 5.4 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.

6.0 Indemnification and Hold Harmless.

- 6.1 King County shall indemnify and hold harmless the District 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, including, but not limited to, attorneys' fees, (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 Statement, and/or (ii) in accordance with the indemnification provisions of the Lease (Exhibit A) which provisions shall survive the termination of the Lease, arising from those occurrences related to the Pool that occurred prior to the Transfer Date, except to the extent that indemnifying or holding the District harmless would be limited by Section 5 of this Statement. In the event that any suit based upon such a claim, action, loss or damage is brought against the District or the District and King County, (as described in (i) above), King County shall defend the same at its

sole cost and expense and, if final judgment be rendered against the District and its elected officials, officers, agents and employees or jointly against the District and King County and their respective elected officials, officers, agents and employees, King County shall satisfy the same. In the event that any suit based upon such a claim, action, loss or damage is brought against the District or the District and King County, (as described in (ii) above), King County and the District shall defend, settle and satisfy the same in accordance with the indemnification provisions of the Lease (Exhibit A), which provision shall survive the termination of the Lease.

- 6.2 In executing this Statement, the County does not assume liability or responsibility for or in any way release the District from any liability or responsibility which arises in whole or in part from the existence or effect of District rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such District rule or regulation is at issue, the District shall defend the same at its sole expense and if judgment is entered or damages are awarded against the District, the County or both, the District shall satisfy the same, including all chargeable costs and attorney's fees.
- 6.3 The District 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, including, but not limited to, attorneys' fees, (i) which are caused by or result from a negligent act or omission of the District, its officers, agents and employees in performing obligations pursuant to this Statement, and/or (ii) arising from those occurrences related to the Pool that occurred on or after the Transfer Date, except to the extent that indemnifying or holding the County harmless would be limited by Section 5 of this Statement. 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 District, the District 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 District and their respective officers, agents and employees, the District shall satisfy the same.
- 6.4 Each party 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 Pool.
- 6.5 Each party agrees that its obligations under this Section 6 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.
- 7.0 **General Provisions Regarding Effect, Construction, and Enforcement of this Statement.** This Statement contains all of the agreements of the Parties with respect to termination of the Lease and with respect to any matter covered or mentioned in this Statement. This Statement shall be binding upon and inure to the benefit of the Parties'

successors and assigns. This Statement creates no rights, duties, or obligations in any person or entity not a party to it. Any provision of this Statement that is declared invalid or illegal shall in no way affect or invalidate any other provision. In the event either of the Parties defaults on the performance of any terms of this Statement or any Party places the enforcement of this Statement in the hands of an attorney, or files a lawsuit in connection with this Statement, each Party shall pay all its own attorneys' fees, costs and expenses. This Statement shall be governed by the laws of the State of Washington. The venue for any dispute related to this Statement shall be Washington State Superior Court in and for King County, Washington. Failure of any Party to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default. Time is of the essence of this Statement and each and all of its provisions in which performance is a factor.

8.0 Status of County Employees. Subject to District civil service rules and state law, the District agrees to consider the hiring of County employees whose employment status is affected by the transfer of ownership of the Pool where such County employees make application with the District per the District's hiring process and meet the minimum qualifications for employment with the District. The County shall in a timely manner provide the City with a list of those affected employees. The County acknowledges that the District does not guarantee that any such County employees will in fact be hired.

9.0 Notices. All notices or communications by one of the parties hereto to the other shall be addressed, respectively, as follows:

If to the County:

King County
Kevin Brown, Manager
King County Parks and Recreation Division
Seattle, WA 98104

If to the District:

Renton School District
300 SW 7th Street
Renton, WA 98055
Attn: Rich Moore, Asst. Superintendent

Any notice shall be deemed to have been given (a) three (3) business days after the mailing thereof when mailed by registered or certified mail (return receipt requested), (b) the next business day after delivery to any overnight courier service offering proof of receipt; (c) upon receipt if sent by facsimile (with copy by registered or certified mail, return receipt requested), or (d) upon receipt if by hand delivery.

10.0 Counterparts. This Statement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Statement.

11.0 Neutral Authorship. Each party has had opportunity to consult with counsel in connection with the negotiation, execution and delivery of this Statement and in connection with termination of the Lease. Each of the provisions of this Statement has been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would interpret the provisions of this Statement in favor of or against the party preparing the same will apply

in connection with the construction or interpretation of any of the provisions of this Statement.

12.0 Execution Authorized. Each Party represents to the others that the execution of this Statement has been duly authorized by all necessary action on behalf of such party and that the signatories below have the necessary authority to bind the Parties to all terms of this Statement.

IN WITNESS WHEREOF, the parties have executed this Statement.

King County

Renton School District No. 403

King County Executive

Superintendent

Date

Date

Approved as to Form:

Approved as to Form:

Attorney

Attorney

Date

Date

EXHIBIT A

Copy of Lease between County and District

LINDBERG

A 01055

LEASE AGREEMENT

THIS LEASE made in quadruplicate this 14th day of May, 1970, is between KING COUNTY, WASHINGTON, a legal subdivision of the State of Washington ("King County"), and RENTON SCHOOL DISTRICT 403, a Washington municipal corporation ("Renton").

WITNESSETH:

In consideration of the covenants and agreements of King County hereinafter set forth, Renton does by these presents lease and demise unto King County that certain real estate described as follows:

Beginning at the southwest corner of the southeast quarter of the northeast quarter of Section 28, Township 23 North, Range 5 E.W.M.; thence north 1°59'35" east 294 feet; thence south 88°11'25" east 658 feet to the true point of beginning; thence north 1°59'35" east 190 feet; thence north 88°11'25" west 148.50 feet; thence south 31°48'35" west 218 feet more or less to a point that is north 88°11'25" west from the true point of beginning; thence south 88°11'25" east 257 feet more or less to the true point of beginning. ALSO, an easement for ingress, egress, including parking; ALSO, an easement for utilities over, under and across the following described property:

The southeast quarter of the northeast quarter, Section 28, Township 23 North, Range 5 E.W.M., less the south 250 feet of the east 523 feet of the west 553 feet, known as Tax Lot 4, records of King County, Washington.

The term of such lease shall be for a period of forty (40) years from the date above written.

King County accepts the premises in their present condition for the sole purpose of immediately constructing thereon a major indoor swimming pool.

King County shall be responsible for all utility charges or other governmental charges that may be levied against the property and shall keep the swimming pool in good repair, free of liens and insured against all damage and liability resulting from the use thereof.

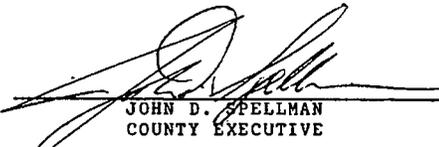
King County shall permit Renton to use the swimming pool in accordance with a Use Agreement between the parties.

King County agrees to hold Renton harmless and to indemnify and defend it against any claims or liability for damage to any person or property and costs incident thereto arising with respect to the leased premises, except when such damage is a result of Renton sponsored or controlled activities on the leased premises and is attributable to some act or omission of Renton.

Renton agrees to hold King County harmless and to indemnify and defend it against any claims or liability for damage to any person or property and costs incident thereto caused by the negligence of Renton arising as a result of Renton sponsored or controlled activities on the leased premises, and where such damage is not attributable to some act or omission of King County.

This lease shall be reviewed after 39 years with the intent at this date that it be renewed for at least the remaining life of the swimming pool on the premises.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the date first above written.


JOHN D. SPELLMAN
COUNTY EXECUTIVE

RENTON SCHOOL DISTRICT NO. 403

By 
President

By 
Secretary

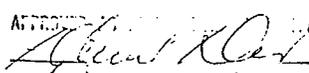
APPROVED

5-18-70

EXHIBIT B

Legal Description of leased property

Beginning at the southwest corner of the southeast quarter of the northeast quarter of Section 28, Township 23 North, Range 5 E.W. M.; thence north $1^{\circ} 59' 35''$ east 294 feet; thence south $88^{\circ} 11' 25''$ east 658 feet to the true point of beginning; thence north $1^{\circ} 59' 35''$ east 190 feet; thence north $88^{\circ} 11' 25''$ west 148.50 feet; thence south $31^{\circ} 48' 35''$ west 218 feet more or less to a point that is north $88^{\circ} 11' 25''$ west from the true point of beginning; thence south $88^{\circ} 11' 25''$ east 257 feet more or less to the true point of beginning. ALSO, an easement for ingress, egress, including parking; ALSO; an easement for utilities over, under and across the following described property:

The southeast quarter of the northeast quarter, Section 28, Township 23 North, Range 5 E.W.M., less the south 250 feet of the east 523 feet of the west 553 feet, known as Tax Lot 4, records of King County, Washington.

EXHIBIT C

Copy of Pool Use Agreement between King County and Renton School District 403

KING COUNTY PARKS AND RECREATION DIVISION AND RENTON SCHOOL DISTRICT NO. 403

POOL USE AGREEMENT

THIS POOL USE AGREEMENT is made and entered into this 1st day of July, 2007, between Renton School District No. 403, hereinafter referred to as the "District," and King County Division of Parks and Recreation, a legal subdivision of the State of Washington, hereinafter referred to as "King County," for the use, by the District, of the Renton Forward Thrust Pool, showers, locker rooms and related facilities, hereinafter referred to as "Swimming Pool(s)".

WHEREAS the District, desires to use King County facilities for conducting certain programs of instruction in swimming and aquatic sports and King County desires to have the District use King County Swimming Pools for such purposes; and

WHEREAS King County is willing to allow the District to use King County Swimming Pools, in return for payment of rent and the District is willing to pay rent at an hourly rate for its use of a Swimming Pool, therefore, in consideration of the promises herein the parties agree as follows:

1. TERM OF AGREEMENT, HOURS AND RATE OF RENT. The term of this Pool Use Agreement shall be from July 1, 2007, to June 30, 2008. The District shall be entitled to use King County Swimming Pools beginning July 1, 2007. The specific hours of pool use shall be determined and agreed upon by the District and the County Pool Manager of each King County Swimming Pool used. The Hourly School Program Schedule may be adjusted only upon written notice to the County Pool Manager of each Swimming Pool used for the following:
 - a) The Instructional Program Hours as agreed upon.
 - b) The Interscholastic Program Hours as agreed upon.

In addition, when King County has not scheduled a Swimming Pool's use to others, the District may upon reasonable notice to King County, request permission to use the Swimming Pool for additional hours on school or non-school days. King County shall not unreasonably withhold its permission.

The District shall pay King County \$57.00 per hour for pool use in 2007-2008 school year, except at the Weyerhaeuser-King County Aquatic Center, which is \$60.00 per hour or \$11.00 per lane per hour. The rates for the 2007-2008 school year are set forth in King County Ordinances. The rates for the 2008-2009 school year will be determined in November 2007.

In the event that the parties fail to timely execute a new Pool Use Agreement upon the expiration of this agreement, the terms of this Pool Use Agreement shall remain in full force and effect, until a new Pool Use Agreement is executed or until this Pool Use Agreement is terminated pursuant to Section (9) herein.

2. SUPERVISORY AND INSTRUCTIONAL PERSONNEL. All persons empowered by the District with supervision and/or responsibility for the various school aquatic programs shall have current lifeguard training certification, current CPR certification, and current first aid certification. The District personnel acting as dive coaches may substitute United States Diving National Safety Certification in place of life guard training. Swim coaches may substitute United States Swimming Safety Training for Swim Coaches in place of life guard training.

The District assumes full responsibility for ensuring compliance with this Section (2) and acknowledges that King County is not responsible for ensuring compliance with this Section.

3. EQUIPMENT. Equipment necessary for the District program shall be provided by the District except when King County, by separate written agreement, provides equipment for use in the District's program.
4. SAFETY REGULATIONS. The District programs shall be conducted in conformance with all applicable safety regulations adopted by the State of Washington as now enacted or as hereinafter amended.

The District assumes full responsibility for ensuring compliance with this Section (4) and acknowledges that King County is not responsible for ensuring compliance with this Section.

5. PROCEDURE FOR NEEDS AND COMPLAINTS. Each party shall designate a person who shall be responsible for handling the administrative needs with respect to their use of Swimming Pools. Suggestions and/or complaints between the parties shall be transmitted through such persons.
6. INCORPORATION OF AGREEMENT REGARDING ACTIVE RECREATIONAL PROGRAMS. The Agreement between King County and Renton School District No. 403 Regarding Active Recreational Programs dated June 7, 1999, is hereby incorporated by reference into this Agreement.
7. SEVERABILITY. If any provision of this Agreement or the application of any term or provision to any person or circumstance is invalid or unenforceable, the remainder of this agreement, or the application of the term or provision or persons or circumstances other than those as to which it is held invalid, or unenforceable, will not be affected and will continue in full force.
8. NON-WAIVER. Failure of King County to insist on strict performance of the terms, agreements and conditions herein contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of King County's right thereafter to insist on compliance with any such term, agreement, or condition, but the same shall continue in full force and effect.

9. **TERMINATION.** This Pool Use Agreement may be terminated by King County or by the District upon written notice to the other party at least thirty (30) days in advance of the intended termination date.

By: Thomas Koney

KING COUNTY PARKS AND
RECREATION DIVISION
REPRESENTATIVE

Date: 9-17-07

By: May Mitchell

RENTON SCHOOL
DISTRICT No. 403

Date: 8/31/07

EXHIBIT D

Copy of Section 4(a) of the Interlocal Agreement between the City of Renton and King County, Relating to the Annexation of the Benson Hill Communities Potential Annexation Area, dated as of _____.

1. ANNEXATION FUND PAYMENT AND ROAD IMPROVEMENTS CONTRIBUTION.

In order to partially offset the City's cost of transitioning and providing services to the Annexation Area, and in consideration of the City relieving the County of the burden of providing local public services (including but not limited to drainage services and operation of local park and recreation facilities) in the Annexation Area, the County will provide the City with a payment from the annexation initiative incentive reserve funds, and shall fund certain roadway improvements in advance of annexation.

- a. The County shall pay the City up to \$950,000 in County General Fund dollars, which amount shall be paid as follows:
 - i. Upon the City's request, \$475,000 shall be transmitted to the City not later than 30 days following adoption by the City of an ordinance accepting annexation of the Annexation Area effective no later than March 1, 2008 (which action shall be taken after receiving certification that the proposition was approved by voters).
 - ii. \$175,000 and any portion of the \$475,000 the County has not already paid to the City authorized by paragraph 4.a.1 above shall be transmitted to the City within 30 days following the effective date of the annexation of the Annexation Area so long as that effective date is no later than March 1, 2008.
 - iii. \$300,000 of the \$950,000 shall be transmitted to the City when: (i) the City provides the County with a copy of an executed, written agreement between the City and the Renton School District ("District") committing the City to pay the District for support of future operations of the Renton Pool; and (ii) the District and County have executed and recorded a lease termination and asset transfer agreement for the Renton Pool. It is the intent of the parties that, in lieu of transferring the Renton Pool to the City, the Pool will instead be owned and operated by the District from and after the date of annexation with ongoing financial support from the City; therefore it is agreed by the parties that the \$300,000 retained by the County with respect to the Renton Pool shall not be payable to the City if the conditions (i) and (ii) set forth in the preceding sentence are not met by June 1, 2008.

Exhibit E

Copy of Pool Funding Support Agreement between City of Renton and Renton School District

**RENTON POOL FUNDING AGREEMENT
BETWEEN
THE CITY OF RENTON AND RENTON SCHOOL DISTRICT 403**

This FUNDING AGREEMENT is dated as of _____, 2008 and is executed by and between the CITY OF RENTON, a municipal corporation of the State of Washington ("City"), and RENTON SCHOOL DISTRICT 403, a special purpose local government (the "District"). The City and the District are collectively referred to herein as the "Parties."

RECITALS

1. WHEREAS, King County ("County") leased certain real property from the District pursuant to the terms of a Lease Agreement ("Lease") dated May 14, 1970, located on the premises of the District's Lindbergh High School; and
2. WHEREAS, pursuant to the Lease, the County constructed on the leased property certain improvements known as the Renton Pool ("Pool"). Pursuant to the Lease, the parties entered into a separate Pool Use Agreement, setting the District's use terms and conditions; and
3. WHEREAS, the Lease does not contain any specific terms or conditions relating to early termination; and
4. WHEREAS, King County desires to divest itself of ownership, management, and financial responsibility for local parks and recreation facilities located inside cities; and current and future annexations of the City's potential annexation areas would have the effect of removing areas from the jurisdiction of King County; and
5. WHEREAS, the Benson Hill Communities area voted at an election on November 6, 2007, to annex to the City and the City has taken action necessary to ensure annexation of the area is effective March 1, 2008; and
6. WHEREAS, the boundaries of the Benson Hill Communities annexation includes the Renton Pool property, such annexation resulting in the Pool property being located within city limits; and
7. WHEREAS, by separate agreement between the District and the County dated _____, a copy of which is attached hereto as **Exhibit A** ("Lease Termination Agreement"), the County and the District have agreed to terminate the Lease and Pool Use Agreement effective as of March 1, 2008 ("Transfer Date"), or as soon thereafter as practicable; and

Exhibit E

Copy of Pool Funding Support Agreement between City of Renton and Renton School District

8. WHEREAS, the District has inspected and knows the condition of the Pool and will, as of the Transfer Date, accept and assume full and complete responsibility for all operations, maintenance, repairs, or improvements of, and provision of recreational services at the property; and
9. WHEREAS, the District and the City have agreed as to the value of preserving the operation of the Pool as a community asset that supports educational, athletic and recreational opportunities, and water safety awareness for residents of all ages; and
10. WHEREAS, the District and the City now desire to memorialize their agreements regarding the continued operation of the Renton Pool in a manner that will ensure continued access by residents to appropriate aquatics facilities; and

NOW, THEREFORE, in consideration of their mutual agreements set forth herein, the District and the City hereby agree as follows:

TERMS

1. **Financial Arrangement.** The City will provide some share of financial support for the Pool in consideration for the District's agreement to assume title and continue to operate and maintain the Pool at its expense; and to assure access to recreational swimming and aquatics opportunities, and awareness of water safety for the entire Renton community. The City agrees to transmit a payment of between \$125,000 and \$175,000 to the District no later than July 31 of each of the years 2008 and 2009 to be used for the purposes of Renton Pool operations, repair and maintenance.

The District and the City shall jointly review the operating costs and revenues of the Pool no later than June of each year through the year 2010 to determine the precise level of City payment between \$125,000 and \$175,000, using a financial plan as outlined in Exhibit C, and to analyze opportunities for the Pool to be self-sustaining.

Other than the funds provided pursuant to this paragraph, the City shall have no obligation to provide additional funds to the District relating to the operations, repair and maintenance of the Pool.

2. **Recreation Programs.** The District retains authority to provide such recreational programming at the Pool that will complement current District programming and which will continue access to aquatics programs for the entire Renton community.

The District has agreed to abide by the County's Forward Thrust Covenants from and after the Transfer Date and until May 14, 2010, which is the date the Lease would have expired in the absence of the Lease Termination Agreement and which is the date the parties agree is the end of the useful life of the Pool, and to not transfer or convey the Pool or convert the property to a non-recreational use prior to such date except by agreement providing that such

Exhibit E

Copy of Pool Funding Support Agreement between City of Renton and Renton School District lands shall continue to be used for the purposes contemplated by King County Resolution 34571.

The District has further agreed that until May 14, 2010, the District will not limit or restrict access to and use of the Pool or the leased property by non-District residents in any way that does not also apply to District residents. The District covenants that if differential fees for non-District residents are imposed, they will be reasonably related to the cost borne by the District.

The District is assuming the Pool equipment and supplies left on site by King County, which includes all furniture, lifeguard equipment, first aid supplies, specialty tools, operator manuals, as-built pool and remodel plans, phone system, lighting fixtures, miscellaneous pool equipment, building maintenance supplies, spare parts, and materials such as chlorine and filtration supplies for pool maintenance.

Following the annual review each June of the operating costs and revenues of the Pool, the City and the District will seek community input as to the value of the program offerings at the Pool and additional program options available in the community, with the intent for the District to evaluate whether it is financially feasible to continue the Pool's operation beyond its useful life in 2010.

- 3. Dispute Resolution.** If a dispute arises between the District and the City concerning the performance of any provision of this Agreement or the interpretation thereof, and the District and the City are unable to resolve their differences through informal discussions, the parties will endeavor to settle the dispute by mediation under such mediation rules as shall be agreeable to the parties. Such mediation will be non-binding but a condition precedent to having the dispute resolved pursuant to litigation.

In the event any action is brought to enforce any provision of this Agreement, the parties agree to be subject to exclusive jurisdiction in the King County Superior Court, and agree that in any such action venue shall lie exclusively in King County.

- 4. Enforcement.** Should either party bring suit against the other to enforce any provision of this Agreement or to redress any breach thereof, the prevailing party in such litigation shall be entitled to recover its costs and reasonable attorney's fees. No action shall be commenced prior to completion of the dispute resolution process set forth above.
- 5. Duration of Agreement.** This Agreement shall become effective on the date of transfer of the Pool, and shall remain in full force and effect until the later of July 31, 2010 or the date of payment of the last amount due to be paid hereunder.
- 6. Relationship of the Parties.** The parties to this Agreement are independent and nothing in this Agreement is intended to create a partnership, joint venture or other mutual undertaking between the parties.

Exhibit E

Copy of Pool Funding Support Agreement between City of Renton and Renton School District

7. **No Assignment.** The terms, covenants and conditions set forth in this Agreement shall be deemed personal to the parties hereto and may not be assigned or transferred to any other person.
8. **No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the parties hereto, and no third party shall be entitled to claim or enforce any rights hereunder except as specifically provided herein.
9. **Severability.** In the event any part of this Agreement is declared void or invalid, the remaining portions of this Agreement shall not be affected, but shall remain in full force and effect.
10. **Modification.** The obligations of the parties to this Agreement may not be modified, amended or waived except by written agreement executed by both parties.
11. **Equal Opportunity to Draft.** Each party has had opportunity to consult with counsel in connection with the negotiation, execution and delivery of this Agreement. Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same will apply in connection with the construction or interpretation of any of the provisions of this Agreement.
12. **Insurance.** The District shall maintain comprehensive general liability, errors and omissions, and automobile insurance.
13. **Indemnification.**

The District 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 District, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the District 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 school district authority is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and District and their respective officers, agents, and employees, or any of them, the District shall satisfy the same.

The City shall indemnify and hold harmless the District and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon

Exhibit E

Copy of Pool Funding Support Agreement between City of Renton and Renton School District such a claim, action, loss, or damage is brought against the District, the City shall defend the same at its sole cost and expense, provided that the District retains the right to participate in said suit if any principal of governmental authority is involved; and if final judgment be rendered against the District and its officers, agents, employees, or any of them, or jointly against the City and District and their respective officers, agents, and employees or any of them, the City shall satisfy the same.

The City and the District 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 District, 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. The parties hereto have expressly bargained for and do waive for purposes of this Indemnification section, only, the immunities of Title 51 RCW, as it relates to any claim, suit or cause of action by one party's employee(s) against the other party.

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

14. **Notices.** All notices or communications by one of the parties hereto to the other shall be addressed, respectively, as follows:

If to the City:

City of Renton
Terry Higashiyama, Administrator
Community Services Department
1055 South Grady Way
Renton, WA 98057

If to the District:

Renton School District
Attn: Rich Moore, Asst. Superintendent
300 SW 7th Street
Renton, WA 98055

Any notice shall be deemed to have been given (a) three (3) business days after the mailing thereof when mailed by registered or certified mail (return receipt requested), (b) the next business day after delivery to any overnight courier service offering proof of receipt; (c) upon receipt if sent by facsimile (with copy by registered or certified mail, return receipt requested), or (d) upon receipt if by hand delivery.

Dated this _____ day of February 2008.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Exhibit E

Copy of Pool Funding Support Agreement between City of Renton and Renton School District

On this _____ day of _____, 200_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared, to me known to be the individual described in and who executed the forgoing instrument, and acknowledged to me that _____ signed and sealed the said instrument as _____ free and voluntary act and deed for the uses and purposed therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the State of
Washington, residing
at _____
City and State

My appointment expires _____

EXHIBIT A

Copy of Termination Agreement between County and District

EXHIBIT B

Legal Description of Renton Pool

Beginning at the southwest corner of the southeast quarter of the northeast quarter of Section 28, Township 23 North, Range 5 E.W. M.; thence north $1^{\circ} 59' 35''$ east 294 feet; thence south $88^{\circ} 11' 25''$ east 658 feet to the true point of beginning; thence north $1^{\circ} 59' 35''$ east 190 feet; thence north $88^{\circ} 11' 25''$ west 148.50 feet; thence south $31^{\circ} 48' 35''$ west 218 feet more or less to a point that is north $88^{\circ} 11' 25''$ west from the true point of beginning; thence south $88^{\circ} 11' 25''$ east 257 feet more or less to the true point of beginning. ALSO, an easement for ingress, egress, including parking; ALSO; an easement for utilities over, under and across the following described property:

The southeast quarter of the northeast quarter, Section 28, Township 23 North, Range 5 E.W.M., less the south 250 feet of the east 523 feet of the west 553 feet, known as Tax Lot 4, records of King County, Washington.

Exhibit E

Copy of Pool Funding Support Agreement between City of Renton and Renton School District

EXHIBIT C

2008 Financial Plan for Renton Pool

Exhibit E

Copy of Pool Funding Support Agreement between City of Renton and Renton School District EXHIBIT F

Personal Property to be Transferred From County to District, AS IS, WHERE IS

1	Water Slide	2	Tall office chairs
1	Rope Swing		Adding machine
1	Water Basketball Hoop	4	Telephones
1	Backboard	2	Electric pencil sharpeners
2	Tot Docks		Manual pencil sharpener
1	Handicap lift - water activated	3	Staplers
1	Handicap lift - hand crank	4	Tape dispensers
1	Shallow water steps	2	Large brooms
1	1 meter diving board	2	Small brooms
1	3 sided Kiosk	2	Long handled dust pans
5	Patio chairs	2	3-hole punches
1	Glass top patio table	Misc.	Office supplies - pens, pencils, markers, scissors, etc.
16	Fun noodles		3x4 mounted dry erase board
6	Garbage cans with lids		Refrigerator
10	Mustang Lifejackets		First Aid cot with bedding
34	Orange Lifejackets	2	4 drawer file cabinet
2	Ring buoys		2 drawer file cabinet
1	Sheppard hook	3	8 foot tables
3	Rescue tubes	1	6 foot table
39	Kickboards		5 foot table
5	Lane lines	Misc.	Flashlights
2	Pace Clocks	28	Clip boards
16	Sets of Hydro Fit deep water exercise equipment	Misc.	First Aid supplies
6	Starting blocks	Misc.	Waste baskets
1	T-rope		Water chemistry test kit with test tablets
1	Shallow water lane line	1	Box fan
15	Pull buoys	Misc.	Scrub brushes and floor squeegees
1	6 foot moveable guard chair	2	Litter pickers
1	6 foot stationary guard chair	2	3 tiered shelf
2	Lifeguard rescue fanny packs	5	Whistles
1	Set of backstroke flags and poles	5	Paper cutter
1	Pool Vacuum		16' ladder
2	Large swim mats	1	8' ladder
7	Small swim mats	1	6' ladder
1	Deck table	2	wheeled hand cart
4	Desks	1	Shop vacuum
6	Office chairs	Misc.	Garden tools
1	Clothes washer	Misc.	Hand & power tools
1	Clothes dryer		Several Garden hoses
1	TV/VCR player		Extension cord
1	Set of Manikins -3 adult and 2 infant		
30	Folding Chairs and rack		
1	Storage cart with toys		
8	Floating dumb bells		