



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**October 13, 2008**

**Ordinance 16269**

**Proposed No.** 2008-0406.1

**Sponsors** Hague and von Reichbauer

1 AN ORDINANCE authorizing the King County executive  
2 to enter into an interlocal transfer agreement for a 5.18 acre  
3 portion of North Green River park between King County  
4 and the city of Auburn.

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BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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**SECTION 1. Findings.**

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A. King County's Annexation Initiative encourages the expedited annexation of all remaining urban unincorporated areas in order to achieve both financial stability in the current expense fund, and the regional land use vision set forth in the countywide planning policies.

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B. Consistent with the parks and recreation division's Business Transition Plan and the focus on partnering with groups and jurisdictions to provide additional recreation opportunity, this transfer will result in the enhanced development of an adjacent city park facility.

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C. King County and the city of Auburn have agreed to terms of an interlocal agreement for the transfer of a portion of North Green River park to the city.

18           D. The recitals in the agreement set forth relevant facts supporting and explaining  
19 the terms of the transfer.

20           E. King County and the city have agreed that the transfers will take place within  
21 thirty days following execution of the interlocal agreement by both parties.

22           F. Transfer of the park under the terms and conditions of the attached agreement  
23 will serve an important county purpose by ensuring that the park will remain open and  
24 available for community use.

25           SECTION 2. The King County executive is hereby authorized to enter into an  
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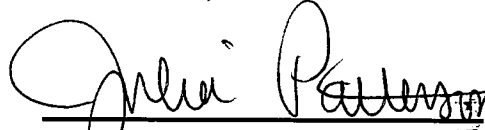
27 interlocal agreement, substantially in the form of the attached agreement, with the city of  
28 Auburn relating to the transfer of real property.

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Ordinance 16269 was introduced on 7/28/2008 and passed by the Metropolitan King County Council on 10/13/2008, by the following vote:


Yes: 9 - Ms. Patterson, Mr. Dunn, Mr. Constantine, Ms. Lambert, Mr. von Reichbauer, Mr. Ferguson, Mr. Gossett, Mr. Phillips and Ms. Hague  
No: 0  
Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



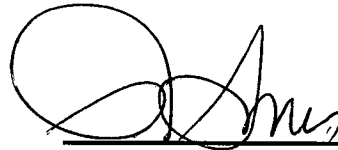
Julia Patterson, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 20 day of October, 2008.



Ron Sims, County Executive

RECEIVED  
2008 OCT 20 PM 4:03  
CLERK  
KING COUNTY COUNCIL

**Attachments**      A. Intergovernmental Land Transfer Agreement between King County and the City of Auburn

**Intergovernmental Land Transfer Agreement Between  
King County and the City of Auburn**

Relating to the Ownership, Operation and Maintenance of Parks,  
Open Space, Recreation Facilities and Programs

This Agreement is made and entered into this day by and between the City of Auburn, hereinafter called "City", and King County, hereinafter called "County".

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

WHEREAS the County, under the authority of RCW 36.89.050, King County Resolution 34571 and other federal, state and county laws, has acquired and developed a substantial park, recreation and open space system that depends on the continued operation of its many individual properties and facilities in order to fully serve the needs of the residents of King County and the cities within it; and

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

WHEREAS a portion of the North Green River Park is located in the City and adjacent to the City's Mary Olson Farm Park,

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

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

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

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

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

## **1. Conveyance of Title**

- 1.1 Within thirty (30) days of execution of this Agreement, King County shall convey to the City by deed all its ownership interest, and/or, when possible, by assignment, any leasehold interest or shared use responsibility, in the following listed park/recreation site(s), which are described more fully in Exhibits A and B (the "Property"):

A portion of North Green River Park

- 1.2 The City has reviewed Project Agreement for North Green River II Project No. 72-042 between King County and the Washington State Interagency Committee for Outdoor Recreation ("IAC") now known as the Recreation and Conservation Office (RCO) for funding for the acquisition of the Property, and agrees that it shall execute an amendment to the Project Agreement that substitutes the City for the County as the "Contracting Party" in the Project Agreement so that the City shall become the "Project Sponsor" for the parcel to be transferred. The City shall execute this amendment within fifteen (30) days of execution of this Agreement
- 1.3 All deeds shall also contain the following specific covenants pertaining to use, which covenants shall run with the land for the benefit of the County and the County land that makes up its public park, recreation and open space system. The County and the City agree that the County shall have standing to enforce these covenants, which shall be set forth as follows:

"The City covenants that it shall abide by and enforce all terms, conditions and restrictions in King County Resolution 34571, including that the City covenants that the Property will continue to be used for the purposes contemplated by Resolution 34571, that the Property shall not be transferred or conveyed except by agreement providing that such lands shall continue to be used for the purposes contemplated by Resolution 34571, and that the Property shall not be converted to a different use unless other equivalent lands and facilities within the County or City shall be received in exchange therefore."

"The City covenants that it shall place the covenants herein in any deed transferring the Property or a portion of the Property for public park, recreation or open space uses."

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

"The City further covenants that it will not limit or restrict access to and use of the Property by non-city residents in any way that does not also apply to city residents. The City covenants that any and all user fees charged for the Property, including charges imposed by any lessees, concessionaires, service providers, and/or other assignees shall be at the same rate for non-City residents as for the residents of the City."

**2. Existing Restrictions, Agreements, Contracts or Permits**

- 2.1 The City shall abide by and enforce all terms, conditions, reservations, restrictions and covenants of title at the time of conveyance and/or in the deed of conveyance.
- 2.2 The City and the County acknowledge and agree that the Property is currently subject to special use permit for river protection recording number 20080624000905 and found as Exhibit C. Effective as of the date the Property is conveyed to the City, the County hereby assigns, transfers and conveys to the City all of the County's rights, privileges and obligations in the Permit, and the City hereby accepts and assumes all of the County's rights, privileges and obligations in the Permit.

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

- 3.1 The City has inspected and knows the condition of the Property and agrees to accept the Property in AS IS condition, and to assume full and complete responsibility for all operations, maintenance, repairs, improvements of, and provision of recreational services at, the Property.
- 3.2 King County does not make and specifically disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose, with respect to the Property, and no official, employee, representative or agent of King County is authorized otherwise.
- 3.3 The City acknowledges and agrees that except as indicated in paragraph 4.2, the County shall have no liability for, and that the City shall release and have no recourse against the County for, any defect or deficiency of any kind whatsoever in the Property without regard to whether such defect or deficiency was known or discoverable by the City or the County.

**4. Environmental Liability**

- 4.1 "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.

- 4.2 Nothing in this agreement shall be deemed to waive any statutory claim for contribution that the City might have against the County under federal or state environmental statutes that arises from hazardous materials deposited or released on the Property by the County during the County's period of ownership. The City may not, however, assert such a claim to the extent that the City creates the need for or exacerbates the cost of remediation upon which a statutory claim for contribution is based as a result of the City performing construction activities on the Property, changing the configuration of the Property, or changing the use of the Property.
- 4.3 If the City discovers the presence of hazardous materials at levels that could give rise to a statutory claim for contribution against the County it shall immediately notify the County in writing. Such notice shall in no event be provided more than 10 days after discovery. The parties shall make their best efforts to reach agreement as to which party is responsible for remediation under the terms of this Agreement prior to undertaking any remediation.
- 4.4 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.

## **5. Indemnification and Hold Harmless**

- 5.1 King County shall indemnify and hold harmless the City and its elected officials, officers, agents or employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, (i) which are caused by or result from a negligent action or omission of King County, its officers, agents and employees in performing its obligations pursuant to this Agreement, and/or (ii) arising from those occurrences related to the Property that occurred prior to the effective date of conveyance of the Property to the City, except to the extent that indemnifying or holding the City harmless would be limited by Section 5 of this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against the City or the City and King County, King County shall defend the same at its sole cost and expense and, if final judgment be rendered against the City and its elected officials, officers, agents and employees or jointly against the City and King County and their respective elected officials, officers, agents and employees, King County shall satisfy the same.
- 5.2 In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such City ordinance, rule or regulation is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County or both, the City shall satisfy the same, including all chargeable costs and attorney's fees.

- 5.3 The City shall indemnify and hold harmless King County and its elected officials, officers, agents and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses and damages of any nature whatsoever, (i) which are caused by or result from a negligent act or omission of the City, its officers, agents and employees in performing obligations pursuant to this Agreement, and/or (ii) arising from those occurrences related to the Property that occurred on or after the effective date of conveyance of the Property to the City, except to the extent that indemnifying or holding the County harmless would be limited by Section 5 of this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against King County or King County and the City, the City shall defend the same at its sole cost and expense and, if final judgment be rendered against King County and its officers, agents and employees or jointly against King County and the City and their respective officers, agents and employees, the City shall satisfy the same.
- 5.4 Each Party to this Agreement shall immediately notify the other of any and all claims, actions, losses or damages that arise or are brought against that Party relating to or pertaining to the Property.
- 5.5 Each party agrees that its obligations under this paragraph extend to any claim, demand, and/or cause of action brought by or on behalf of any employees, or agents. For this purpose, each party, by mutual negotiation, hereby waives, with respect to the other party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify the other party.

## **6. Audits and Inspections**

- 6.1 Until December 31, 2018, any of either party's records related to any matters covered by this Intergovernmental Agreement not otherwise privileged shall be subject to inspection, review, and/or audit by either party at the requesting party's sole expense. Such records shall be made available for inspection during regular business hours within a reasonable time of the request.

## **7. Waiver and Amendments**

- 7.1 Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition shall be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

## **8. Entire Agreement and Modifications**

- 8.1 This Intergovernmental Agreement and its Exhibits sets forth the entire agreement between the parties with respect to the subject matter hereof. It may be supplemented by addenda or amendments, which have been agreed upon by both parties in writing. Copies of such addenda and amendments shall be attached hereto and by this reference made part of this contract as though fully set forth herein.



**9. Duration and Authority**

9.1 This agreement shall be effective upon signature and authorization by both parties. The terms, covenants, representations and warranties contained herein shall not merge in the deed of conveyance, but shall survive the conveyance and shall continue in force unless both parties mutually consent in writing to termination.

**10. Notice**

10.1 Any notice provided for herein shall be sent to the respective parties at:

King County:

Kevin Brown, Division Director  
Parks and Recreation Division, DNRP  
201 South Jackson Street, #700  
Seattle, WA 98104  
206-296-8631  
[Kevin.brown@kingcounty.gov](mailto:Kevin.brown@kingcounty.gov)  
Fax: 206-296-8686

City:

Daryl Faber, Director  
Auburn Parks and Recreation  
919 - 9<sup>th</sup> Street SE  
Auburn, WA 98002  
253-931-3043  
[dfaber@c.auburn.wa.us](mailto:dfaber@c.auburn.wa.us)  
Fax: 253-288-3132

IN WITNESS WHEREOF, the parties have executed this Agreement.

King County

City of Auburn

\_\_\_\_\_  
King County Executive

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
King County  
Senior Deputy Prosecuting Attorney

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

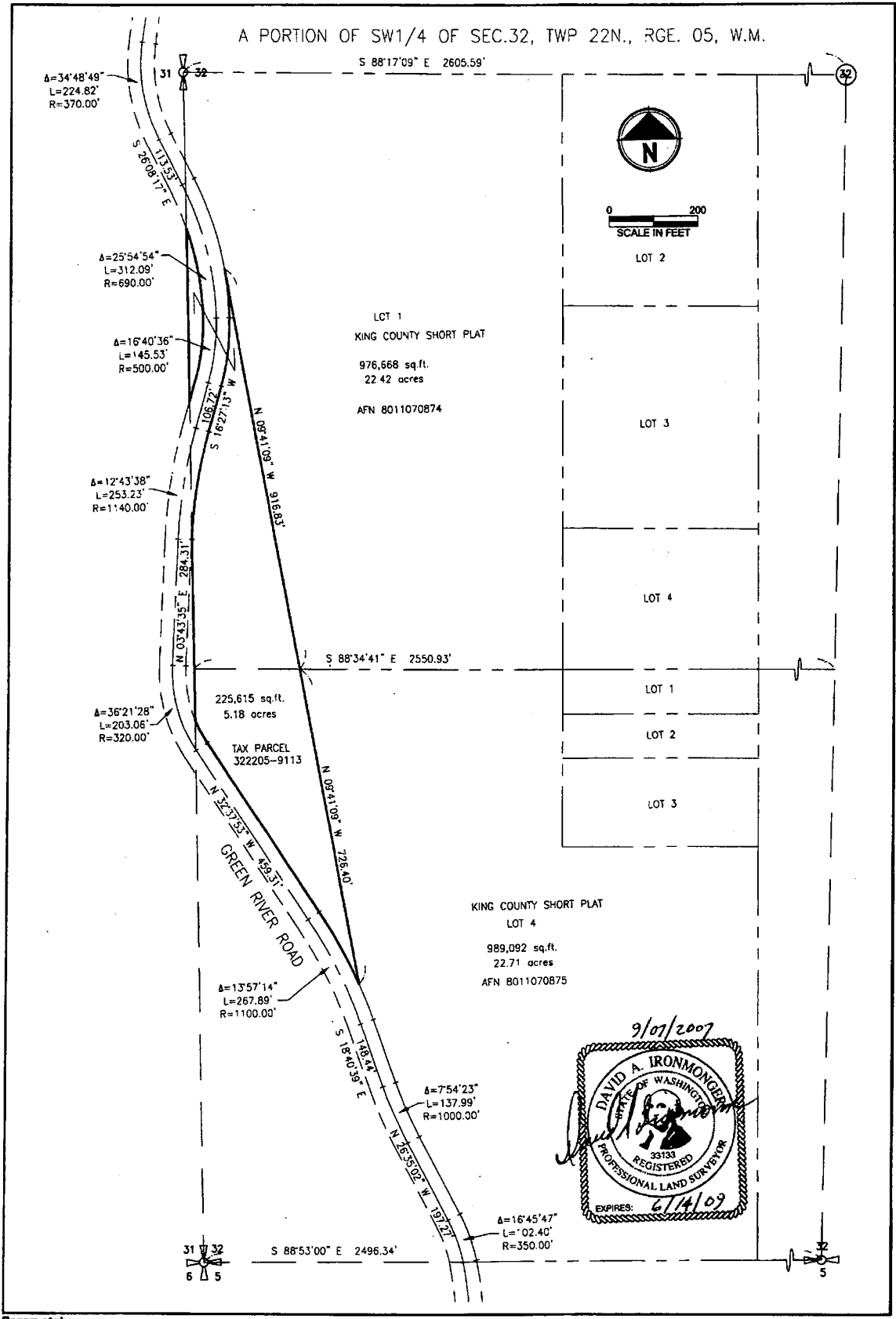
\_\_\_\_\_  
Date



**EXHIBIT A**  
**Legal Descriptions**

A portion of SW  $\frac{1}{4}$  of Section 32, TWP 22 N, RGE. 05, W.M.

A PORTION OF SW1/4 OF SEC.32, TWP 22N., RGE. 05, W.M.





**King County**

**Division of Parks and Recreation**

Property Management

King Street Center Building

KSC-NR-0700

201 South Jackson Street, Suite 700

Seattle, WA 98104-3856

206-263-6216

Fax 206-296-6217

RECEIVED  
08 JUN 17 AM 10:15  
REAL ESTATE SERVICES  
SECTION

June 12, 2008

TO: Doug Williams, Supervisor, Franchise and Permit Section

FM: Robert Nunnenkamp, Property Agent 

RE: NORTH GREEN RIVER PARK – River Protection Permit

Attached is the River Protection Special Use Permit for North Green River Park parcel 322205 9113. As we've discussed previously, Parks will be transferring this parcel to the City of Auburn and a permit is our preferred instrument to grant this protection to the King County Flood Control District.

Theresa Jennings has signed on behalf of the District and Tom Koney has signed on Parks' behalf as the custodial agency. We now need a signed and notarized signature from Real Estate Services on page 4, which I assume will be Wayne. After the permit is signed it needs to be recorded. I'm requesting that your office take care of this as well.

Thanks for your assistance, this process is atypical of our normal process and we appreciate your flexibility. Let me know if you have any questions.

CONFORMED COPY

Filed For Record At Request Of

**AFTER RECORDING RETURN TO:**

King County  
Asset Management Section  
ADM-ES-0500  
500 King County Admin. Bldg.  
500 Fourth Avenue  
Seattle, WA 98104

**20080624000905**

KING COUNTY RE MISC 0.00  
PAGE 001 OF 007  
08/24/2008 10:24  
KING COUNTY, WA

**SPECIAL USE PERMIT FOR RIVER PROTECTION**

**Grantor --** King County, a political subdivision of the State of Washington  
**Grantee --** The King County Flood Control Zone District, a quasi-municipal corporation of the State of Washington.

**Legal ----** G.L. 2, Sec. 32, T21N, R5E

**Tax Acct. --** 322205 9113

King County Code Ch. 14.30 authorizes King County to issue special use permits for county real property. K.C.C. 14.30.070 specifies that special use permits issued pursuant to K.C.C. Ch. 14.30 do not convey any vested right of ownership interest in any county property.

NOW, THEREFORE, pursuant to King County Code Chapter 14.30 King County ("Grantor"), owner in fee of that certain parcel of land (the "Property"), legally described as follows:

That portion of the northwest quarter of the southwest quarter of Section 32, Township 22 North, Range 5 East, W.M., in King County, Washington, lying southwesterly of a line described as follows:

Beginning at the northwest corner of said southwest quarter;  
Thence south along the west line of the southwest quarter to the northeasterly line of Howley Road;  
Thence southeasterly along said road to a point 440 feet south of the north line of the southwest quarter;  
Thence southeasterly to a point on the south line of the northwest quarter of the southwest quarter which is 240 feet east of the southwest corner of the northwest quarter of the southwest quarter;  
EXCEPT County Road;

AND ALSO that portion of Government Lot 2, Section 32, Township 22 North, Range 5 East, W.M., in King County, Washington, lying southwesterly of a line described as follows:

Special Use Permit—River Protection  
Grantor: King County  
Grantee: King County Flood Control Zone District  
Parcel: Tax Acct. 322205 9113

Beginning at the northwest corner of said Government Lot 2;  
Thence easterly along the north line thereof 240 feet;  
Thence south 09°30' east to the northeasterly margin of Howley Road;  
Thence southeasterly along said road margin to the south line of said Government Lot 2 and the terminus of said line;  
EXCEPT County Road;  
AND EXCEPTING therefrom any portion lying within the bed or former bed of the Green (White) River.

hereby issues to the King County Flood Control Zone District, a quasi-municipal corporation of the State of Washington ("Grantee"), a perpetual permit to use the Property for the purposes of accessing and constructing, inspecting, monitoring, reconstructing, maintaining, repairing, modifying, and removing river bank protection and/or other flood related works, including installing, inspecting, maintaining and removing all vegetation and any other appurtenances thereto across, in, under, on, over and upon the following portions of the Property (the "Use Area"):

That portion of Government Lot 2, Section 32, Township 22 North, Range 5 East, W.M., in King County, Washington, lying westerly of the westerly margin of Howley Road;

EXCEPTING therefrom any portion lying within the bed or former bed of the Green (White) River.

Grantee shall have the right at such time as may be necessary and at the Grantee's sole discretion, to enter upon the Use Area and to have unimpeded access to, in and through the Use Area for the purposes of exercising the Grantee's privileges as described herein.

Nothing contained herein shall be construed as granting any further license, permit or right as may otherwise be required for Grantee to lawfully conduct the activities contemplated under this Permit upon the Property and the Use Area. Grantee agrees to comply with all other applicable local, state, or federal laws, ordinances, rules, and regulations when performing the activities contemplated under this Permit in, on, or upon the Property or the Use Area.

Grantor agrees not to plant non-native vegetation within the Use Area and not to remove or otherwise alter any improvements installed by Grantee, including any native vegetation that may be planted and any flood protection works that may be constructed, within the Use Area, without the prior approval of Grantee. Grantor further agrees not to use herbicides within the Use Area without the prior approval of Grantee.

For the purposes of this Special Use Permit, the term "native vegetation" shall mean vegetation comprised of plant species, other than noxious weeds (as identified on the State of Washington noxious weed list found at Washington Administrative Code Chapter 16-750,

Special Use Permit—River Protection  
Grantor: King County  
Grantee: King County Flood Control Zone District  
Parcel: Tax Acct. 322205 9113

as amended from time to time), which are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur at the site.

Neither Grantor nor Grantee is hereby obligated to perform future maintenance, repair or any other action related to the exercise of privileges granted under this Special Use Permit. This Special Use Permit and/or any flood related works constructed or to be constructed within the Use Area shall not be construed as granting any rights or privileges to any third person or entity, or as a guarantee of any protection from flooding or flood damage, and nothing contained herein shall be construed as waiving any immunity to liability granted to Grantee by any state statute, including Chapter 86.12 of the Revised Code of Washington, or as otherwise granted or provided for by law.

PROVIDED, HOWEVER, that as between Grantor and Grantee, and as required under K.C.C. 14.30.040, Grantee shall be solely responsible for the adequate operation and maintenance of any improvements constructed by Grantee to or on the Property or the Use Area; and as between Grantor and Grantee, Grantee shall assume liability for all injuries to persons or damage to property caused by, arising out of, or resulting from Grantee's activities pursuant to this Special Use Permit.

Grantee expressly agrees to protect, defend, indemnify and hold harmless Grantor, its elected and appointed officials, employees, and agents from and against liability for any claims (including all demands, suits, and judgments) for damages arising out of injury to persons or damage to property where such injury or damage is caused by, arises out of, or is incident to the scope of activities under this Permit. Grantee's obligations shall include, but not be limited to:

- a) The duty to promptly accept tender of defense and provide defense to Grantor at Grantee's own expense.
- b) Indemnification of claims, including those made by Grantee's own employees and/or agents for this purpose.
- c) Grantee, by mutual negotiation, expressly waives, as respects the Grantor only, its statutory immunity under the industrial insurance provisions of Title 51 RCW.
- d) If Grantor incurs any judgment, award and/or cost arising from this Permit, including attorney's fees to enforce the provisions of this article, then all such fees, expenses, and costs shall be recoverable from Grantee.
- e) A hold harmless provision to protect the Grantor similar to this provision shall be included in all contracts or agreements entered into by Grantee and relating to the activities contemplated to occur on the Property or the Use Area under this Permit.

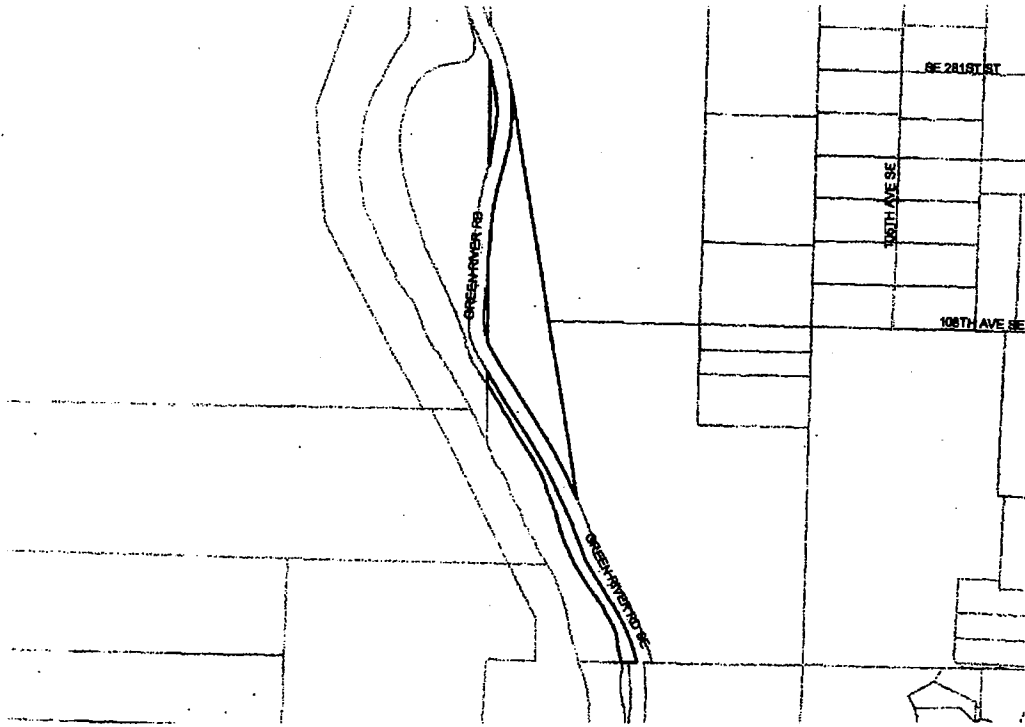






Special Use Permit—River Protection  
Grantor: King County  
Grantee: King County Flood Control Zone District  
Parcel: Tax Acct. 322205 9113

## Exhibit A Map of the Property



Special Use Permit—River Protection  
Grantor: King County  
Grantee: King County Flood Control Zone District  
Parcel: Tax Acct. 322205 9113

# Exhibit B River Protection Use Area

