



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

July 10, 2012

Ordinance 17371

Proposed No. 2012-0214.2

Sponsors Hague and Ferguson

1 AN ORDINANCE relating to transit oriented
2 development of a portion of the county-owned park-
3 and-ride lot located partially in Kirkland and
4 partially in Bellevue, approving two ground leases
5 of the site to Kirkland Park & Ride, LLC, and two
6 project leases from Kirkland Park & Ride, LLC,
7 back to the county of a new transit facility and a
8 commuter parking garage to be constructed on the
9 site; conveying a surplus portion of the site to
10 Kirkland Park & Ride, LLC, and authorizing the
11 county executive to execute final forms of the
12 ground leases and project leases, and approving
13 certain other provisions of the lease, lease-back
14 transaction; and declaring an emergency.

15 PREAMBLE:

16 By its request for proposals issued in August 2011, the county has sought
17 to promote transit oriented development on a portion of a site located in
18 both Bellevue and Kirkland currently used as a Metro park-and-ride
19 surface lot. The site is comprised of a single lot, bisected by the cities of

20 Bellevue and Kirkland, and shall be subdivided into three legal lots for
21 purposes of development as provided herein. In accordance with the
22 request for proposals, the county accepted the proposal of Polygon
23 Northwest, LLC and Imagine Housing, LLC ("Kirkland Park & Ride,
24 LLC") to construct a new transit center and expand the park-and-ride
25 facility by building a parking garage. The county would then lease back
26 both the new transit center and the parking garage facility upon
27 completion pursuant to two project leases, each providing the county an
28 option to purchase the Lease Agreement (With Option to Purchase -
29 Transit Center) and the Lease Agreement (With Option to Purchase -
30 Parking Garage) ("the project leases"). Both project leases would
31 commit the county to make monthly rent payments over a long-term lease
32 commencing upon satisfactory completion of the transit center and
33 parking garage. The county has grant agreements with the Federal Transit
34 Administration and Washington state Department of Transportation to
35 provide reimbursement for the design and construction costs of the transit
36 center and parking garage, including internal county staff time and legal
37 costs totaling \$7,125,000.00. The county is also including a grant match
38 of \$205,000 from the transit capital account and the value of the surplus
39 portion of the site itself, currently appraised at \$10,000,000.00, which
40 shall be conveyed to Kirkland Park & Ride, LLC as partial payment of the
41 purchase option price should the county elect to exercise its option to
42 purchase the parking garage.

43 To permit timely completion of the new transit center and parking garage
44 projects as set forth in the county's request for proposals, the county
45 wishes to enter into separate lease, lease-back transactions for the
46 acquisition of the new transit center and the parking garage, as authorized
47 by RCW 36.34.205 and K.C.C. 4.56.160, which incorporate by reference
48 RCW 35.42.070 through 35.42.080 ("the Municipal Leasing Act"). The
49 county will ground lease two legal lots ("the ground leases") to Kirkland
50 Park & Ride, LLC, who will construct the new transit center and parking
51 garage on the respective lots in two discrete phases, both to be built in
52 accordance with design criteria agreed to by the county, and lease each
53 back to the county with an option to purchase. In accordance with the
54 Municipal Leasing Act, the county may make no rent payments to
55 Kirkland Park & Ride, LLC under the project leases until each has been
56 completed to the county's satisfaction and is ready for occupancy. After
57 completion of the new transit center and parking garage, the county may,
58 at its option, use money provided by Washington state Department of
59 Transportation, Federal Transit Administration funds and its own funds,
60 plus the current fair market value of the remaining unused lot of the real
61 property and appurtenant easements ("the housing property"), exercise its
62 option to purchase and thereby prepay the rent due under the project leases
63 and acquire fee title to the new transit center and parking garage. The
64 housing property will be conveyed to Kirkland Park & Ride, LLC for the
65 current appraised fair market value of \$10,000,000.00 subject to housing

66 covenants to be recorded upon conveyance, and shall thereafter be used
67 for development of both affordable and market rate housing and other
68 related mixed uses. Terms of the ground leases and project leases have
69 been negotiated, and the county wishes to approve of same.

70 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

71 **SECTION 1. Findings:**

72 A. The county hereby finds that the public interest, welfare and benefit require
73 the county to lease, with an option to purchase, a new transit center and lease, with an
74 option to purchase, a parking garage to provide better transit facilities and to provide
75 expanded park-and-ride facilities, which facilities shall be constructed on part of the
76 South Kirkland Park-and-Ride owned by the county and located at 10610 Northeast 38th
77 Place, Kirkland, WA 98033 in the cities of Bellevue and Kirkland.

78 B. The county further finds that a lease, lease-back transaction, as authorized by
79 the Municipal Leasing Act, would be consistent with the county's request for proposals to
80 develop the site, facilitate transit oriented development of the site consistent with the
81 planning expectations of the cities of Kirkland and Bellevue, and shift the risk of
82 construction cost liability to Kirkland Park & Ride, LLC.

83 C. The county further finds that the proposal is the most efficient proposal for
84 achieving the county's policies. Unless otherwise defined in this ordinance, capitalized
85 terms used in this ordinance have the meanings given such terms in the two attached
86 project leases.

87 D. The county further finds that the monthly rent payable under the project leases
88 in the amount of \$3,417.00 per month for the transit center and \$51,500.00 per month for
89 the parking garage do not exceed prevailing rental rates for comparable space.

90 E. The county further finds that funds expected to be available to the county from
91 the Federal Transit Administration, Washington state Department of Transportation, and
92 its own sources will be sufficient to allow the county to exercise its options to purchase
93 and prepay the rent payable under the project leases and acquire fee title to the new
94 transit center and parking garage.

95 F. The county further finds that federal tax credits valued at approximately \$10
96 million will comprise a majority of the financing for the affordable housing component of
97 this project; the tax credits will require a certificate of occupancy for the affordable
98 housing no later than December 31, 2014 or they will expire. The three phase project
99 construction schedule relies on a July 2012 construction start date for the first phase of
100 the project to accomplish timely completion of the second phase, allowing
101 commencement of the third project phase including the affordable housing project. If the
102 project is not commenced immediately, there is a substantial risk that the affordable
103 housing tax credits will expire and make completion of the project infeasible.

104 G. Enactment of this ordinance as an emergency is necessary to authorize the
105 executive to immediately execute the leases and easement agreements to allow for
106 prompt commencement of construction consistent with project schedule requirements.

107 SECTION 2. Surplus declaration. The county executive is declaring a portion
108 of the South Kirkland Park-and-Ride Lot ("the housing property") surplus to the county's
109 needs. Kirkland Park & Ride, LLC will provide Metro Transit with a new transit center

110 and a five-hundred-thirty-two-stall park-and-ride garage adjacent to the surplus portion
111 and make improvements to the surface lot with a net increase in total parking spaces of
112 two hundred fifty-three, bringing the total number of parking spaces to eight hundred
113 fifty-three. In consideration for the purchase of the transit center, the county intends to
114 use cash from the previously identified sources. In consideration for the purchase of the
115 parking garage, the county intends to use a combination of cash and conveyance to
116 Kirkland Park & Ride, LLC, of the housing property. The current fair market value of
117 the housing property, combined with the aforementioned cash sources, shall not exceed
118 the option price due under the Lease Agreement (With Option to Purchase - Parking
119 Garage) at the time of conveyance.

120 **SECTION 3. Approval of ground leases and project leases.** The county
121 executive is authorized to sign the ground leases, the project leases and related easement
122 agreements in substantially the form set forth as Attachments A through D to this
123 ordinance, respectively; provided, however, that:

124 A. The term of the ground leases shall commence no earlier than the effective
125 date of this ordinance and shall expire no later than twenty-five years thereafter; and

126 B. The term of the project leases shall commence no earlier than the effective
127 date of this ordinance and shall expire commensurate with the ground leases, and the
128 amount of Monthly Rent payable under the Lease Agreement (With Option to Purchase -
129 Transit Center) shall not exceed the monthly rate of \$3,417.00 nor shall the amount of
130 Monthly Rent payable under the Lease Agreement (With Option to Purchase - Parking
131 Garage) exceed the monthly rate of \$51,500.00. When fully executed, copies of the
132 Ground Leases and Project Leases shall be filed with the clerk of the council.

133 **SECTION 4. Pledge of taxation and credit.** The county's obligation to pay rent
134 under the Project Leases will be a limited tax general obligation of the county. The
135 county hereby irrevocably covenants and agrees that it will include in its annual budget
136 and levy taxes annually on all taxable property within the county, within and as part of
137 the tax levy permitted to the county without a vote of the electors, in amounts sufficient,
138 together with all other money legally available and to be used therefore, to pay the _
139 monthly rent and any additional rents due under the project leases as the same shall
140 become due. The full faith, credit and resources of the county are irrevocably pledged for
141 the annual levy and collection of such taxes and the prompt payment of such amounts.

142 **SECTION 5. Disposal of surplus real property.** The county executive is
143 hereby authorized to convey the fee simple interest in the housing land as provided in the
144 Lease Agreement (With Option to Purchase - Parking Garage) as consideration for a
145 portion of the option price of the parking garage as provided therein, after all parties have
146 executed the Housing Covenant and Regulatory Agreement (South Kirkland T.O.D.-
147 Market Rate Housing Project) and the Housing Covenant and Regulatory Agreement
148 (South Kirkland T.O.D.-Affordable Housing Project) substantially in the form of
149 Attachments E and F, attached to this ordinance.

150 **SECTION 6. Severability.** If any one or more of the provisions of this ordinance
151 shall be declared by any court of competent jurisdiction to be contrary to law, then such
152 provision or provisions shall be null and void and shall be deemed separable from the
153 remaining provisions of this ordinance and shall in no way affect the validity of the other
154 provisions of this ordinance, the ground leases or the project leases and related easement
155 agreements.

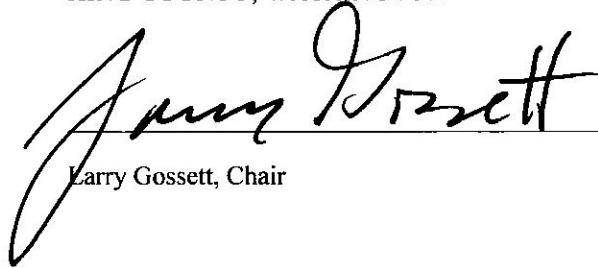
156 SECTION 7. For the reasons set forth in section 1 of this ordinance, the county
157 council finds as a fact and declares that an emergency exists and that this ordinance is

158 necessary for the immediate preservation of public peace, health or safety or for the
159 support of county government and its existing public institutions.
160

Ordinance 17371 was introduced on 6/4/2012 and passed by the Metropolitan King County Council on 7/9/2012, by the following vote:

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

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments: A. Lease Agreement (With Option to Purchase-Parking Garage)-6/26/12, B. Lease Agreement (With Option to Purchase-Transit Center)-6/27/12, C. Garage Ground Lease Agreement-6/27/12, D. Transit Center Ground Lease Agreement-6/27/12, E. Housing Covenant & Regulatory Agreement (South Kirkland TOD-Market Rate Housing Project)-6/27/12, F. Housing Covenant & Regulatory Agreement (South Kirkland TOD-Affordable Housing Project)-6/27/12