16032

INTERGOVERNMENTAL LAND TRANSFER AGREEMENT BY AND BETWEEN KING COUNTY AND CITY OF SAMMAMISH

Soaring Eagle Park
Dated 3-10-08

This Agreement is made and entered into this 13th day of June, 2008, by and between the City of Sammamish, Washington, hereafter referred to as the "City", and King County, Washington, hereafter referred to as the "County".

WHEREAS, in 1993 the County purchased Soaring Eagle Park from the State with the proceeds of bonds to be repaid by revenue from the County's real estate excise tax no. 1, conservation futures funds, interagency committee for outdoor recreation (now known as recreation and conservation); and

WHEREAS, in 1999 the City incorporated, and assumed jurisdiction over all of the land and neighborhoods located directly south and west of Soaring Eagle Park, all of which had been under the County's jurisdiction when the County purchased Soaring Eagle Park; and

WHEREAS, the County developed a master plan for Soaring Eagle Park, with the intent to improve 80 acres of it for public active recreation, including soccer fields, baseball and softball fields, multi-use meadows, a play area, and picnic shelters; and

WHEREAS, the County subsequently did not execute the master planned improvements due to County-wide funding shortfalls; and

WHEREAS, King County Code section 4.56.140 authorizes the County to dispose of real property to another governmental agency by negotiation and upon such terms as may be agreed upon and for such consideration as may be deemed by the County to be adequate; and

WHEREAS, the City is ready, willing, and able to develop a 30-acre portion of Soaring Eagle Park for use by the general public, subject to and following a thorough public review process, and consistent with and pursuant to the terms and conditions set forth herein; and,

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 the satisfaction of all contingencies in this Agreement, King County shall convey to the City by deed all its ownership interest in the 30-acre portion of the property ("Property") known as Soaring

Eagle Park, which is more particularly described in Exhibit "A" and as depicted in Exhibit "B," attached hereto and incorporated herein, with the exception of the easement referenced in Section 1.5 below.

1.2 RCO Deed of Right. The City has reviewed Project Agreement for Project No. 91-210A as amended between King County and the Washington State Recreation and Conservation Office ("RCO") for funding for the development of the Property and the corresponding RCO Deed of Right recorded under Instrument No. 20000614001958. The County shall within sixty (60) days of the effective date of this Agreement solicit approval from the RCO (or its successor agency) to remove the Property from the Project Agreement and the RCO Deed of Right. Conveyance of the Property is contingent on the Project Agreement and the RCO Deed of Right being amended to remove the Property from the Project Agreement and RCO Deed of Right.

1.3 The deed shall contain the following specific covenants pertaining to use, which covenants shall run with the land for the benefit of the County and the County public park, recreation and open space system. The County and City agree that the County shall have standing to enforce these covenants, which shall be set forth as follows:

(a) The City, as required by RCW 36.89.050 covenants that the Property shall be continued to be used for open space, park, or recreation facility purposes or that other equivalent facilities within the County shall be conveyed to the County in exchange therefore.

(b) Any maintenance support facility to be built on the Property by the City shall be limited to supporting recreational activities on the Property only and shall not be used to support other parks or general municipal functions.

(c) 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 if it charges any entrance or parking fee to use the Property, such fee shall be the same for non-city residents as for city residents. The City covenants that if it imposes differential fees for non-city residents to use any capital improvements that the City may construct on the Property for parks and recreation purposes, then those differential use fees will be reasonably related to the cost borne by city taxpayers to construct and maintain such capital improvements.

(d) The City agrees and covenants that the rights granted it shall not allow the construction of any through road across the Property,

consistent with the King County policy prohibiting through roads in parks as contained in Ordinance 12003 and Motion 9714. The City and County agree that the restrictions on the construction of any through road do not preclude County access as granted in Section 1.5.

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

1.4 Application for Subdivision. Prior to conveyance of the Property, the City shall apply for public agency subdivision approval, consistent with the exemption contained in King County Code 19A.08.040, to create the parcel described in Exhibit "A," and depicted in Exhibit "B." The County Executive shall provide a memo, letter or other communication to the appropriate King County Department indicating the support of the County Executive to the subdivision exemption application by the City, consistent with law or regulation.

1.5 The County shall reserve an easement for ingress and egress, public access, and utilities across the Property in a location shown in Exhibit "C," which easement shall be aligned with the Southern access road onto the Property.

1.6 The City agrees to establish and maintain a 100 foot vegetated buffer between recreational facilities on the Property and any adjacent residential development existing as of the date the Property is developed with such recreational facilities.

1.7 The City agrees that until January 1, 2040, it will not pursue the additional transfer of the County's portion of Soaring Eagle Park for the purposes of developing active recreation and will support the preservation of this land as open space.

1.8 The City would not oppose the County should the County solicit approval from the RCO (or its successor agency) to increase the overall acreage in the Project Agreement for Project No. 91-210A and encumbered by the RCO Deed of Right to include additional acreage in the remainder of the County's interest in Section 36.

1.9 The City agrees to follow a master planning process for the development of the Property. The master planning process will include solicitation of input from current local and regional user groups and organizations of the Property and Soaring Eagle Park. The master planning process will include accessibility of the Property to the natural areas of Soaring Eagle Park.

1.10 The City recognizes the County's interest in maintaining the rural character around the Property. As such, the City agrees to comply with the 2004 King County Comprehensive Plan policy F-247, which stipulates that the provision of public sewers to city-owned parks, redesignated from rural to urban to allow for future annexation to the city, shall be tightlined.

2. **Existing Restrictions, Agreements, Contracts or Permits:** The City shall abide by and enforce all terms, conditions, reservations, restrictions and covenants of title at the time of conveyance and in the deed of conveyance.

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 Section 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. After notice is provided the parties shall make their best efforts to reach agreement as to which party is responsible for remediation under the terms of this Agreement. If the City fails to provide timely notice as provided for herein it shall be prohibited from bringing a statutory claim for contribution against the County.

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, (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 4 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, 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 King County's

decision to enact and implement proposed ordinance 2007-0353 to convey the Property, from those occurrences related to the Property that occurred on or after the effective date of conveyance of the Property to the City, subject to the limitations in Section 4, or from the use of the Property on or after the effective date of conveyance of the Property to the City. 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. Each party shall cooperate with the other party in the defense of any claim or action that is subject to the provisions of Section 5.

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 Section 5 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:** Until December 31, 2012, 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:** 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:** This Intergovernmental Agreement and its Exhibits set 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:** 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**: Any notice provided for herein shall be sent to the respective parties at:

KING COUNTY
Director, Department of
Natural Resources and Parks
King Street Center
201 S. Jackson Street, Ste 700
Seattle, WA 98104

CITY OF SAMMAMISH
Attn: City Manager
801 - 228th Ave SE
Sammamish, WA 98075

IN WITNESS WHEREOF, the parties have executed this Agreement.

KING COUNTY

King County Executive

CITY OF SAMMAMISH

City Manager

Approved as to form:

Deputy Prosecuting Attorney

Approved as to form:

City Attorney

PSE
Pacific Surveying & Engineering

Bellingham • Bothell

22122 20th Avenue SE, Suite 159
Bothell, WA 98021-4417
Phone 425-205-2035 ^ Fax 425-205-2038
www.psesurvey.com

"EXHIBIT A"

CITY OF SAMMAMISH PARK

A parcel of land situate in the south one-half of Section 36, Township 25 North, Range 6 East, Willamette Meridian, in King County, Washington, described as follows:

Beginning at the south ¼ corner of said section, being a 4-inch by 4-inch concrete monument with a 1-1/2 inch brass disc with punch mark, basis of bearing per plat Trossachs Division No. 7, as recorded under King County Recording number 9812160308; thence along the south line of the southwest quarter of said Section 36, North 88°24'44" West, 1096.77 feet; thence perpendicular to said south line North 01°35'16" East, 747.46 feet; thence parallel to the south line of said southwest quarter South 88°24'44" East, 1092.13 feet; thence perpendicular to said south line North 01°35'16" East, 254.45 feet; thence parallel to the south line of the southeast quarter of said Section 36, South 88°13'33" East, 553.42 feet; thence South 10°41'37" West, 153.36 feet to the beginning of a curve concave to the west, from which the radius point bears North 79°18'23" West, 1461.83 feet; thence along said curve southerly 72.44 feet through a central angle of 02°50'22" to the end of curve; thence South 13°31'59" West, 179.83 feet to the beginning of a curve concave to the west, from which the radius point bears North 76°28'01" West, 1464.00 feet; thence along said curve southerly 72.48 feet through a central angle of 02°50'12" to a reverse curve concave to the east, from which the radius point bears South 73°37'49" East, 379.82 feet; thence along said curve southerly 122.91 feet through a central angle of 18°32'29" to the end of curve; thence South 02°10'18" East, 3.91 feet to the beginning of a curve concave to the west, from which the radius point bears South 87°49'42" West, 1175.36 feet; thence along said curve southerly 80.08 feet through a central angle of 03°54'13" to the end of curve; thence South 01°43'55" West, 24.15 feet to the beginning of a curve concave to the east, from which the radius point bears South 88°16'05" East, 182.77 feet; thence along said curve southerly 20.64 feet, through a central angle of 06°28'17" to the end of curve; thence South 04°44'22" East, 84.55 feet to the beginning of a curve concave to the east, from which the radius point bears North 85°15'38" East, 182.77 feet; thence along said curve southerly 64.35 feet, through a central angle of 20°10'23" to the end of curve; thence South 24°54'45" East, 36.86 feet to the beginning of a curve concave southwesterly, from which the radius point bears South 65°05'15" West, 176.35 feet; thence along said curve southerly 77.77 feet, through a central angle of 25°16'03" to the end of curve; thence South 00°21'18" West, 28.88 feet to the south line of said Section 36; thence along said south line North 88°13'33" West, 512.33 feet to the Point of Beginning, containing 1,306,344 sq ft, (29.99 acres) more or less.

KENNETH W. SWINDAMAN
STATE OF WASHINGTON
34130
REGISTERED
PROFESSIONAL LAND SURVEYOR

Exhibit "B"

SOARING EAGLE PARK
PROPOSED PROPERTY LINES
PREPARED: AUGUST 9, 2006

EXHIBIT MAP

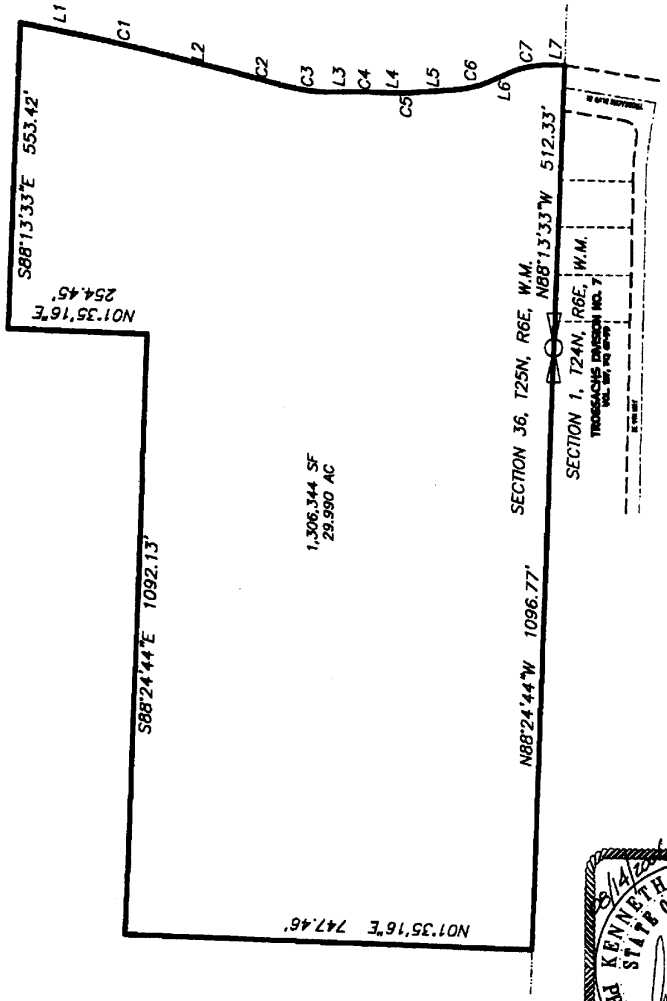
PSE

PACIFIC SURVEYING & ENGINEERING, INC.
22122 20TH AVE. SE, SUITE 159
BOTHELL, WA 98021
425-205-2035

SITUATE IN THE SOUTH 1/2 SECTION 36, TOWNSHIP 25 NORTH, RANGE 6 EAST, W.M., KING COUNTY, WASHINGTON

LINE TABLE		
LINE	BEARING	LENGTH
L1	S 10°41'37" W	153.36
L2	S 13°31'59" W	179.83
L3	S 02°10'18" E	3.91
L4	S 01°43'55" W	24.15
L5	S 04°44'22" E	84.55
L6	S 24°54'45" E	36.86
L7	S 00°21'18" W	28.88

CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	1461.83	2°50'22"	72.44
C2	1464.00	2°50'22"	72.48
C3	379.82	18°32'29"	122.91
C4	1175.36	3°54'13"	80.08
C5	182.77	6°28'17"	20.64
C6	182.77	20°10'23"	64.35
C7	176.35	25°16'03"	77.77



NTS

KENNETH M. SWINDAMAN
STATE OF WASHINGTON
34130
REGISTERED PROFESSIONAL LAND SURVEYOR
EXPIRES: 09/30/06

EXHIBIT "C"

COUNTY EASEMENT LOCATION

That portion of the Southeast quarter of Section 36, Township 25 North, Range 6 East, W.M., in King County, Washington, lying within a strip of land 60 feet in width, the Easterly line of which is described as follows:

Beginning at a point on the South line of said Section 36, South 88°13'33" East 512.33 feet East of the South quarter corner of said Section 36, said point being at the intersection of said South line and the Easterly right of way margin of Trossachs Boulevard Northeast;
Thence North 00°21'18" East 28.88 feet to the beginning of a tangent curve concave southwesterly having a radius of 176.35 feet;
Thence along said curve through a central angle of 25°16'03" a distance of 77.77 feet to a point of tangency;
Thence North 24°54'45" West 36.86 feet to the beginning of a tangent curve concave to the East having a radius of 182.77 feet;
Thence along said curve through a central angle of 20°10'23" a distance of 64.35 feet to a point of tangency;
Thence North 4°44'22" West 84.55 feet to the beginning of a tangent curve concave to the east having a radius of 182.77 feet;
Thence along said curve through a central angle of 06°28'17" a distance of 20.64 feet to a point of tangency;
Thence North 1°43'55" East 24.15 feet to the beginning of a tangent curve concave to the West having a radius of 1175.36 feet;
Thence along said curve through a central angle of 03°54'13" a distance of 80.08 feet to a point of tangency;
Thence North 02°10'18" West 3.91 feet to the beginning of a tangent curve concave to the East having a radius of 379.82 feet;
Thence along said curve through a central angle of 18°32'39" a distance of 122.91 feet to the beginning a reverse curve concave to the West having a radius of 1464.00 feet;
Thence along said curve through a central angle of 02°50'12" a distance of 72.48 feet;
Thence North 13°31'59" East 179.83 feet to the beginning of a tangent curve concave to the West having a radius of 1461.83 feet;
Thence along said curve through a central angle of 02°50'22" a distance of 72.44 feet;
Thence North 10°41'37" East 153.36 feet to the terminus of said line