



CITY OF KIRKLAND

City Attorney's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3030

www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: Robin Jenkinson, City Attorney
Wm. R. Evans, Assistant City Attorney

Date: March 3, 2011

Subject: Interlocal Agreement between the City of Kirkland, King County Fire Protection District #41 and King County Regarding the Annexation of the Wild Glen Area

RECOMMENDATION:

That the City Council approve the attached resolution authorizing the City Manager to sign the Interlocal Agreement providing for the annexation of the Wild Glen Condominiums to the City of Kirkland.

BACKGROUND DISCUSSION:

Because of conflicting information regarding the boundaries of the City's potential annexation area, the Wild Glen condominiums ("Wild Glen") were not included in the annexation of Juanita, Finn Hill and Kingsgate ("JFK"). However, when it was discovered it was within the City's potential annexation area, the Boundary Review Board determined it was too late to add it to the JFK annexation. This meant another annexation would be needed.

Both King County and King County Fire Protection District #41 were invited to enter into negotiations for the annexation of Wild Glen pursuant to RCW 35A.14.480. This statute provides that a city, county and fire district can enter into an interlocal agreement that annexes fire district territory to a city so long as neither the county or the district object. Both King County and Fire District #41 accepted and negotiations began to draft an interlocal agreement to allow the City to annex Wild Glen. Attached is the final draft of the proposed interlocal agreement that the representatives of the City, County and District have negotiated. Please note this Agreement provides that the transition of services from the County to the City will be handled the same as for the JFK annexation.

If approved by all three governing bodies, as allowed by RCW 35A.14.480, an ordinance effecting the annexation will be presented to the City Council on April 5, 2011. A public hearing will be held at that time. Only the City will need to adopt this ordinance. If that is adopted, the Wild Glen annexation will occur on the same day as the JFK annexation, which is set for June 1, 2011.

RESOLUTION R-4873

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF KIRKLAND, KING COUNTY FIRE PROTECTION DISTRICT #41 AND KING COUNTY REGARDING THE ANNEXATION OF THE WILD GLEN AREA.

WHEREAS, in 2009 the City of Kirkland ("City") annexed the Juanita/Finn Hill/Kingsgate territory ("JFK Annexation") and provided an effective date for that annexation, which is currently set for June 1, 2011; and

WHEREAS, the Wild Glen condominium complex area ("Wild Glen") would be the only territory remaining to be serviced by King County Fire Protection District #41 ("District") after the City's annexation of the rest of the District's territory and the City, District and King County ("County") therefore believe Wild Glen should be annexed to the City; and

WHEREAS, RCW 35A.14.480 authorizes the City, District and County to enter into an interlocal agreement to effect annexation of unincorporated areas within a fire district to a city on the terms therein contained; and

WHEREAS, to initiate the process of negotiating such an interlocal agreement, the City gave notice to the District and the County of its interest in doing so, which occurred on October 26, 2010; and

WHEREAS, the County and District each agreed negotiations for the annexation of Wild Glen by interlocal agreement should begin by letters dated November 12, 2010, and December 2, 2010, respectively; and

WHEREAS, the City, District and County have concluded those negotiations and are now seeking authorization from their respective governing bodies to sign the attached Interlocal Agreement between the City of Kirkland, King County Fire Protection District #41 and King County Regarding the Annexation of the Wild Glen Area; and

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City of Kirkland an interlocal agreement substantially similar to that attached as Attachment "A", which is entitled "Interlocal Agreement Between The City of Kirkland, King

County Fire Protection District #41 and King County Regarding the Annexation of the Wild Glen Area.”

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2011.

Signed in authentication thereof this ____ day of _____, 2011.

MAYOR

Attest:

City Clerk

INTERLOCAL AGREEMENT BETWEEN THE CITY OF KIRKLAND, KING COUNTY FIRE PROTECTION DISTRICT #41 AND KING COUNTY REGARDING THE ANNEXATION OF THE WILD GLEN AREA

This Interlocal Agreement ("Agreement") is made and entered into this ____ day of _____, 2011, by and between the City of Kirkland ("City"), King County Fire Protection District #41 ("District") and King County ("County"), collectively known as the Parties.

WHEREAS, because of conflicting information regarding the boundaries of the City's potential annexation area, the Wild Glen condominium complex territory ("Wild Glen") within the District and County, described in Section 2 below, was not scheduled to be annexed by the City at the time of the City's annexation of the Juanita, Finn Hill and Kingsgate areas ("JFK annexation"); and

WHEREAS, the City, District and County believe Wild Glen, which is adjacent to the JFK annexation area and would be the sole remaining territory to be serviced by the District if this Wild Glen annexation did not occur, should therefore be annexed to the City; and

WHEREAS, RCW 35A.14.480 authorizes a city, fire district and county to enter into an interlocal agreement to effect annexation of unincorporated areas within a fire district to a city on the terms therein contained; and

WHEREAS, to initiate the process of negotiating such an interlocal agreement, the City was required to give notice to the District and the County of its interest in doing so, which occurred on October 26, 2010; and

WHEREAS, the County and District each agreed negotiations for the annexation of Wild Glen by interlocal agreement should begin by letters dated November 12, 2010 and December 2, 2010, respectively; and

WHEREAS, the Parties have concluded these negotiations and are ready to enter into this Agreement; and

WHEREAS, the governing bodies of each of the Parties hereto have determined to enter into this Agreement as authorized and provided for by the Interlocal Cooperation Act, codified at Chapter 39.34 RCW,

NOW, THEREFORE, by their signatures below, the Parties hereby enter into this Agreement regarding the annexation of Wild Glen by the City.

1. Effective date for this annexation. The Parties agree the ordinance effecting this annexation, attached as Exhibit A and herein incorporated by reference,

shall provide an effective date for the Wild Glen annexation on the same day as the effective date for the JFK annexation but immediately thereafter, which is currently set for June 1, 2011 ("Effective Date").

2. Boundaries of the area proposed for annexation. The boundaries of the Wild Glen territory proposed for annexation, consistent with the boundaries as set forth in Exhibit A, are described as follows:

That portion of Section 19, Township 26 North, Range 5 East W.M. in King County, Washington described as follows:

Beginning at the northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 19; Thence east along the north line of said Section 19 and the south limits of the City of Bothell as established by City of Bothell Ordinance Number 225 to the west margin of 100th Avenue NE; Thence south along the west margin of 100th Avenue NE to the northerly margin of Simonds Road Northeast; Thence northwesterly along the northerly margin of Simonds Road Northeast to the west line of said Northeast Quarter of the Northeast Quarter of Section 19 and the limits of the City of Bothell as established by City of Bothell Ordinance Number 960; Thence north along said west line to the Point of Beginning.

3. Public hearing on the Annexation Ordinance. As required by RCW 35A.14.480(1)(c), the public hearing on the ordinance effecting the annexation of Wild Glen is hereby set to occur at the regular meeting of the Kirkland City Council on April 5, 2011
4. Notice of Intention to be filed with the Boundary Review Board. After the Parties have all signed this Agreement, the City will file the Notice of Intent required by RCW 35A.14.480(1)(c) with the Boundary Review Board. However, as further provided therein, the jurisdiction of the Board may not be invoked for this annexation.
5. The goals of this Agreement are as follows:
 - a. For the District to transfer all of its revenues and assets to the City on dates as required by law or on the Effective Date for revenues or assets not addressed by law. The City will not transfer any of its assets or revenues to the District because, after this annexation and the JFK annexation, the District will no longer have any area where it is responsible for providing fire protection or emergency medical services and, therefore, will no longer need any assets or revenues. The City will be responsible for all District debt payments as of the Effective Date and

- intends to leave a proportionate share of the District's levy in place until the debt is retired.
- b. As required by RCW 35A.14.480(2)(a)(ii), there will be no negative impacts to service in Wild Glen at least through the budget cycle in which the annexation occurs. The City already provides fire protection and emergency medical services in Wild Glen pursuant to a contract between the City and District and the City will continue to provide service at the same level as there required.
 - c. The City and District have discussed a division of assets and agree that all of the assets will be transferred to the City in accordance with Subsection 5(a) above. Further, that there will be no impact on fire and emergency medical services to citizens inside or outside Wild Glen because the City currently provides service in both areas and will continue to do so.
 - d. Capitalizing on the existence of the Wild Glen Condominium Homeowner's Association, to which every resident of Wild Glen belongs, the City has been able to communicate with those affected by this annexation through this organization and has held informational public meetings regarding this annexation. The City will schedule an additional informational public meeting after this Agreement is approved.
 - e. The City will fulfill the capital facilities obligations of the District within the District after the Effective Date in the same manner as they are fulfilled in the rest of the City outside Wild Glen. The County's capital facilities obligations within Wild Glen, if any, will remain unchanged.
 - f. All of the City's current development regulations will apply and be enforced in Wild Glen on and after the Effective Date as provided in Ordinance 4196. To the extent the County has development regulations that remain in effect after the Effective Date, these regulations will apply and be enforced by the County. The District will have no development regulations applicable in Wild Glen after the Effective Date.
 - g. On and after the Effective Date, the City will be responsible in Wild Glen for roads and traffic impact mitigation, surface and storm water management, coordination and timing of comprehensive plan and development regulation updates, outstanding bonds and special or improvement district assessments, annexation procedures, distribution of debt and revenue sharing for annexation proposals, code enforcement,

- inspection services, financial and administrative services, consultation with other service providers, including water sewer district all as addressed by the laws and policies and procedures of the City. The County will be responsible for all of the foregoing subject areas that fall within the purview of the County's jurisdiction, if any, after that date. The District, having no further territory to serve, will have none of these obligations.
- h. To the extent applicable, the transition to services being provided to Wild Glen by the City instead of the County will be done in accordance with the Interlocal Agreement between the City of Kirkland and King County Relating to the Annexation of the Juanita-Finn Hill-Kingsgate Annexation Area now being negotiated by the City and County. To the extent there is any conflict between this Agreement and the Interlocal Agreement between the City of Kirkland and King County Relating to the Annexation of the Juanita-Finn Hill-Kingsgate Annexation Area, the latter shall control.
6. Term. The term of this Agreement is in perpetuity from the date first written above.
7. Effect of this Agreement. Because the Parties have reached agreement on the enumerated goals addressed herein, pursuant to RCW 35A.14.480(3), this Agreement is not subject to referendum. Consequently, not sooner than forty-five days after passage of the annexation ordinance (Exhibit A), not including the day of passage, Wild Glen will become a part of the City on the date fixed in that ordinance, which is currently June 1, 2011.
8. Indemnification. Each of the Parties shall defend, indemnify and hold the other Parties, their officers, officials, employees and agents harmless from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from that other party's negligent acts or omissions in performing under this Agreement. No party will be required to defend, indemnify or hold the other party harmless if the claim, suit or action for injuries, death or damages is caused by the sole negligence of that party. Where such claims, suits or actions result from the concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each party's own negligence. Each party agrees that its obligations under this subparagraph include, but are not limited to, any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this reason, each of the Parties, by mutual negotiation, hereby waives, with respect to the other Parties only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.

9. Compliance with laws. The Parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein. However, to the extent allowed by law, the Parties agree the provisions of this Agreement shall supersede such provisions.
10. Assignment. The Parties shall not assign this Agreement or any interest, obligation or duty therein without the express written consent of the other Parties. However, the District and County agree their consent is not required if the City assigns the Agreement to any regional fire authority created by the City.
11. Notices. All notices and payments hereunder may be delivered or mailed. If mailed, they shall be sent to the following respective addresses:

To the City:
City of Kirkland

123 Fifth Avenue
Kirkland, WA 98033
Attn: Kurt Triplett

To the District:
Fire District #41
P.O Box 817
520 Kirkland Way, Suite 400
Kirkland, WA 98083-0817
Attn: Ken Davidson

To the County:
King County
Office of Performance, Strategy
and Budget
401 Fifth Avenue, Suite 810
Seattle, WA 98104
Attn: Dwight Dively, Director

or to such other respective addresses as the Parties hereafter from time to time designate in writing. All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the third business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

12. Miscellaneous.
- a. All of the terms in this Agreement shall extend to and bind the legal successors and assigns of the Parties.

- b. This Agreement is made and shall be construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any action arising out of this Agreement shall be in King County, Washington.
- c. No separate legal entity is hereby created.
- d. Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the Parties and their successors and assigns to rely upon the terms herein contained nor to give any such third party a cause of action on account of any nonperformance hereunder.
- e. No joint oversight and administration board is created hereby.
- f. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a final decision of any court having jurisdiction on the matter, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect, unless either party determines that such invalidity or unenforceability materially interferes with or defeats the purposes hereof, at which time the Parties shall substitute a provision that most closely approximates that which was invalidated without being invalid itself.
- g. This Agreement constitutes the final and completely integrated agreement between the Parties on its subject matter.
- h. No modifications or amendments of this Agreement shall be valid or effective unless evidenced by an agreement in writing signed by all Parties.
- i. Copies of this Agreement shall be filed with the King County Auditor's Office by the City.
- j. Each party has had the opportunity to consult with counsel in connection with this Agreement. Each of the provisions of this Agreement represents the combined work product of all Parties. Therefore, 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.
- k. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument

13. RCW 39.34 Required Clauses.

- a. Purpose. See Sections 1, 5, and 7 above.
- b. Duration. See Section 6 above.
- c. Organization of separate entity and its powers. See Sections 12(c) and 12(e) above.

d. Responsibilities of the Parties. See provisions above.

e. Agreement to be filed. See Section 12(i) above.

f. Financing. Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.

g. Termination. This Agreement shall become effective following the approval of the Agreement by the official governing bodies of each of the Parties hereto and the signing of the Agreement by the duly authorized representative of each of the Parties hereto, and shall remain in effect unless terminated.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF KIRKLAND

KING COUNTY FIRE PROTECTION DISTRICT #41

By: _____
Kurt Triplett, City Manager
Board

By: _____
James Lloyd, Chairman of the

Approved as to form:

Approved as to form:

City Attorney

District Counsel

KING COUNTY

By: _____

Approved as to form:

Jennifer Stacy
Senior Deputy Prosecuting Attorney

ORDINANCE _____

AN ORDINANCE OF THE CITY OF KIRKLAND ANNEXING CERTAIN TERRITORY PURSUANT TO RCW 35A.14.480 ON THE TERMS PROVIDED IN THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF KIRKLAND, KING COUNTY FIRE PROTECTION DISTRICT #41 AND KING COUNTY REGARDING THE ANNEXATION OF THE WILD GLEN AREA; AND FIXING THE EFFECTIVE DATE OF THE ANNEXATION.

WHEREAS, in 2009 the City of Kirkland ("City") annexed the Juanita/Finn Hill/Kingsgate territory ("JFK Annexation") and provided an effective date for that annexation, which is currently set for June 1, 2011; and

WHEREAS, the Wild Glen condominium complex area ("Wild Glen") would be the only territory remaining to be serviced by King County Fire Protection District #41 ("District") after the City's annexation of the rest of the District's territory and the City, District and King County ("County") therefore believe Wild Glen should be annexed to the City; and

WHEREAS, RCW 35A.14.480 authorizes the City, District and County to enter into an interlocal agreement to effect annexation of unincorporated areas within a fire district to a city on the terms therein contained; and

WHEREAS, to initiate the process of negotiating such an interlocal agreement, the City gave notice to the District and the County of its interest in doing so, which occurred on October 26, 2010; and

WHEREAS, the County and District each agreed negotiations for the annexation of Wild Glen by interlocal agreement should begin by letters dated November 12, 2010, and December 2, 2010, respectively; and

WHEREAS, the City, District and County concluded those negotiations and presented the Interlocal Agreement between the City of Kirkland, King County Fire Protection District #41 and King County Regarding the Annexation of the Wild Glen Area ("Agreement") to their governing bodies for approval; and

WHEREAS, those governing bodies approved the Agreement and authorized the signing thereof by their respective representatives,

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. Annexation of Property. All property within Wild Glen, the boundaries of which are described below, is annexed to and made a part of the City.

That portion of Section 19, Township 26 North, Range 5 East W.M. in King County, Washington described as follows:

Beginning at the northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 19; Thence east along the north line of said Section 19 and the south limits of the City of Bothell as established by City of Bothell Ordinance Number 225 to the west margin of 100th Avenue NE; Thence south along the west margin of 100th Avenue NE to the northerly margin of Simonds Road Northeast; Thence northwesterly along the northerly margin of Simonds Road Northeast to the west line of said Northeast Quarter of the Northeast Quarter of Section 19 and the limits of the City of Bothell as established by City of Bothell Ordinance Number 960; Thence north along said west line to the Point of Beginning.

Section 2. Taxation. All property within Wild Glen annexed by this Ordinance shall be assessed and taxed at the same regular property tax rate and on the same basis as other property within the City. Voter-approved indebtedness of the City outstanding as of the effective date of the annexation shall not be assumed by the property within Wild Glen by this Ordinance, nor shall excess property taxes for payment of any such indebtedness be levied against property within that annexed area. However, consistent with Ordinance 4229, a portion of the District levy associated with outstanding debt of the District will remain in place until that debt is retired.

Section 3. Zoning. The property within Wild Glen shall be subject to the zoning regulations and zoning map established in Ordinance 4196.

Section 4. Transition. To the extent applicable, the transition to services being provided to Wild Glen by the City instead of the County will be done in accordance with the Interlocal Agreement between the City of Kirkland and King County relating to the Annexation of the Juanita-Finn Hill-Kingsgate Annexation Area now being negotiated by the City and County.

Section 5. Effective date of annexation. The effective date of this Wild Glen annexation shall be on the same day as the effective date of the JFK annexation but immediately thereafter, which is currently set for June 1, 2011.

Section 6. The City Clerk shall file a certified copy of this Ordinance and other documentation as required by law with the King County Council, Treasurer and Assessor; the state Office of Financial Management and Department of Revenue, and as otherwise required by law.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. Effective date of ordinance. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2011.

Signed in authentication thereof this ____ day of _____, 2011.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney