Council Meeting Date: April 14, 2003 **Agenda Item: 7(g)**

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Approval of an Interlocal Cooperation Agreement Between King County and the City of Shoreline for the Acquisition of Open Space Through the Conservation Futures Tax Levy Collections Grant Program
DEPARTMENT:	Parks, Recreation and Cultural Services
PRESENTED BY:	Wendy Barry, Director

PROBLEM/ISSUE STATEMENT:

In April of 2002, the City of Shoreline applied for a grant to purchase 0.4 acre of additional open space adjacent to Paramount Park Open Space through the King County Department of Natural Resources and Parks Conservation Futures Tax (CFT) Program. The King County Council subsequently approved the project for $50,000. In order to access these funds, the City of Shoreline must enter into an interlocal agreement with King County.

FINANCIAL IMPACT:

$50,000 in General Capital Funds was included as part of the 2002 Reappropriation Ordinance that Shoreline Council approved on February 24, 2003. Paramount Open Space was slotted as an "to be completed in 2002" project in the 2003-2008 Capital Improvement Plan (CIP). However, the project could not be completed in 2002 because of the delay in King County providing the Interlocal Cooperation Agreement.

RECOMMENDATION

Staff recommends that Council approve a motion to enter into an Interlocal Cooperation Agreement with King County for the acquisition of open space through the Conservation Futures Tax Levy Collections Grant Program.

Approved By: City Manager City Attorney

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INTRODUCTION

In April of 2002, the City of Shoreline applied for a grant to purchase 0.4 acres of additional open space adjacent to Paramount Park Open Space through the King County Department of Natural Resources and Parks Conservation Tax Futures Program. The King County Council approved funding in the amount of $50,000 for this project. The attached Interlocal Agreement (Attachment A) must be approved by Council in order to access these funds.

BACKGROUND

Conservation Futures Tax (CFT) funds are King County tax levy funds of which approximately $7.8 million is available through this funding process to projects in cities and towns as well as the unincorporated areas of King County. This program was created in the late 1980s with the goal to maintain, preserve, conserve and otherwise continue in existence adequate open space lands. Typically, applications for funding are taken in March of each year. CFT funding may only be requested for 50% of the appraised value for the property and related project costs and the project sponsors are responsible for obtaining the remaining 50%. The City of Shoreline applied to the CFT program in 2001 and 2002 to purchase additional open space adjacent to Paramount Park Open Space, and was successful as part of the 2002 program.

Acquiring additional property to supplement the current Paramount Park Open Space is listed as a high priority in the Park, Open Space, and Recreation Services Plan. As defined by this plan, natural open spaces and greenways are areas that are preserved in their natural state with development, if any, limited to natural trails and other passive uses. Currently, within the City of Shoreline there are five City owned open space sites consisting of approximately 83.92 acres. The Parks, Recreation, and Cultural Services Advisory Committee recommended that the City expand in this category, where possible. However, considering the level of development in the City, there are few opportunities for acquiring additional open space.

The parcel identified in the grant application is adjacent to the right-of-way access from the neighborhood entrance to the park at N 148th and 12th Avenue NE (see Attachment B). The acquisition of this property will greatly enhance this neighborhood entrance to the park. It is not fenced or signed and park visitors appear to be using the uplands area of this property. There is evidence of social trails on the property. It is currently adding passive recreation value to the park. The owners of the parcel have indicated their willingness to discuss the sale of the property, but there has been no agreement on appraised value or sale price. There may also be the opportunity of a partial land donation.

By entering into this Interlocal Agreement, the City is not then required to purchase this or any other parcel. Before any offers are made, a complete biological assessment on the property will be completed, as will an MAI appraisal. Both costs are eligible grant costs.

The estimated project costs are as follows:

ESTIMATED PROJECT COSTS	
Total property interest value	$91,210
Title and appraisal work	$795
Closing, fees, taxes	$995
Hazardous waste reports	$2,000
Directly related staff, administration and legal costs	$5,000
Total Project Costs (CFT and other funds)	**$100,000**

The main condition of the Interlocal Agreement is regarding the use of the acquired parcel. By using CFT funds for the purchase of open space, the City of Shoreline agrees to maintain the property as open space in perpetuity. If the City changes the status or the use of the property, the City is required to repay King County as defined by the Interlocal Agreement. The City has no plans to develop this land when added to Paramount Open Space.

ALTERNATIVES ANALYSIS

- The preferred alternative is to enter into the Interlocal Agreement. The potential acquisition of the parcel adjacent to Paramount Open Space follows recommendations from the Parks, Recreation and Open Space Plan as well as the Capital Improvement Plan. The matching funds are identified in the CIP and annual budget.
- The second alternative is to not enter into the Interlocal Agreement.

RECOMMENDATION

Staff recommends that Council approve a motion to enter into an Interlocal Cooperation Agreement with King County for the acquisition of open space through the Conservation Futures Tax Levy Collections Grant Program.

ATTACHMENTS

Attachment A: Interlocal Cooperation Agreement
Attachment B: Map of Parcel to be Acquired

ATTACHMENT A

INTERLOCAL COOPERATION AGREEMENT BETWEEN KING COUNTY AND THE CITY OF SHORELINE FOR OPEN SPACE ACQUISITION PROJECTS

THIS INTERLOCAL COOPERATION AGREEMENT is entered into between the CITY OF SHORELINE ("City") and KING COUNTY ("County").

Article I. Recitals

On February 27, 1989, the King County Council passed Ordinance 8867, which established a process to allocate the proceeds of the Conservation Futures Fund, including matching contribution requirements for jurisdiction receiving funds.

On September 21, 1989, the King County Council passed Ordinance 9128, which established a Conservation Futures Levy Fund to provide for the receipt and disbursement of Conservation Futures tax levy proceeds and established conditions for use of the Fund, including conditions covering allowable costs and expenses.

On May 12, 2000, the King County Council passed Ordinance 13717, authorizing funding allocation procedures for King County Conservation Futures tax levy collections and amending Ordinance 8867, Section 2, as amended, and K.C.C. 26.12.020, adding new sections to K.C.C. chapter 26.12 and recodifying K.C.C. 26.12.020.

The Open Space Citizens Advisory Committee has recommended an allocation of Conservation Futures funds to specific projects from the Conservation Futures Levy fund following notification to the suburban cities that funds were available, provision of an

opportunity for the suburban cities to respond and receipt by the committee of requests for funding, all pursuant to Ordinance 8867, as amended by Ordinance 13717.

The King County Council, by ordinance 14485, has approved the recommendation for the allocation of Conservation Future Levy funds to specific suburban city projects, and by Ordinance 14486 authorized the King County Executive to enter into interlocal cooperation agreements with the suburban cities in order to initiate the approved projects.

Pursuant to King County Ordinances 8867, 9128, 13717, Washington Statute Chapter 84.34 RCW and Washington Statute Chapter 39.34, the parties agree to follows:

Article II. Definitions

1. Open Space

The term "open space" or "open space land" means: (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly; or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply; or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife reserves, natural reservations or sanctuaries or other open space, or (v) enhance recreational activities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land of not less than one acre situated in an urban area and open to public use on such conditions as may be

reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farms and agricultural conservation under subsection (8) of RCW 84..34.020. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b) (iii) of this subsection for the purpose of promoting conservation of wetlands.

2. Project

The term "Project" means specific projects which meet open space criteria as described in King County Ordinance 8867, as amended by Ordinance 13717, and RCW 84.34.020 and which are attached to and incorporated by reference in King County Ordinance 14485 or added to the list of approved projects by the County.

3. Conservation Futures

The term "Conservation Futures" means developmental rights which may be acquired by purchase, gift, grant, bequest, devise, lease or otherwise, except by eminent domain, and may consist of fee simple or any lesser interest, development right, easement, covenant, or other contractual right necessary to protect, preserve, maintain, improve restore, limit future use of, or otherwise converse open space land, all in accordance with the provisions of Washington Statute Chapter 84.34 RCW and King County Ordinance 8867.

Article III. Purpose of the Agreement

The purpose of this agreement is to create a cooperative arrangement between the City and the County relating to the Projects and to define the terms and conditions governing both parties' obligations created by this agreement.

Article IV. Term of Agreement

This agreement shall be continued in full force and effect and binding upon the parties hereto upon execution of the agreement by both parties. The terms of the agreement shall be indefinite. The agreement will be terminated if the City is unable or unwilling: 1) to expend the funds provided through this agreement; 2) to satisfy the matching requirements contained in this agreement; and 3) upon reimbursement by the City to the County of all unexpended funds provided by the County pursuant to this agreement in the manner and amounts described below.

Article V. Conditions of Agreement

Section 5.1 -- Project Descriptions. Funds available pursuant to this agreement may be used only for Projects listed in Attachment A, which is incorporated herein by reference, or such substituted Projects as may be approved by the County as set forth below. All County funded Projects must meet open space criteria as described in King County Ordinance 8867, as amended by Ordinance 13717, and Washington Statute Chapter 84.34.020 RCW.

Section 5.2 -- Use of Funds. Funds provided to the City pursuant to this agreement as well as funds provided by the City as match pursuant to this agreement may be used only for expenses related to property acquisition. Those expenses include appraisals, title searches, negotiations, administrative overhead, and the cost of actual acquisition or purchase options, all in accordance with the provisions of Section 3 of Ordinance 9128. Funds utilized pursuant to this agreement may not be used to purchase land obtained through the exercise of eminent domain.

Section 5.3 -- Substitution/Deletion of Projects. If the City does not proceed with the Projects described in Section 5.1 of this agreement, the City may reimburse the County all funds provided in good faith to acquire the property for open space, plus accrued interest earnings on the unexpended balance. Alternatively, the City may submit specific requests for project reprogramming to the County for its approval. All projects proposed for reprogramming must meet open space criteria as described in King County Ordinance 8867, Section 1, as amended by Ordinance 13717, and Washington Statute Chapter 84.34.020 RCW, be submitted for recommendation by the County's Citizens Oversight Committee or its successor and be approved by action of the King County Council. All reprogramming requests shall be submitted to the County's Department of Natural Resources, Capital Projects and Open Space Acquisition Section, or its successor.

Section 5.4 -- Eminent Domain. If any Project requires the exercise of eminent domain to acquire the property, all funds provided pursuant to this agreement plus accrued

interest on such funds shall be reprogrammed as provided in this agreement or repaid to the County.

Article VI. Responsibilities of the City

Section 6.1 -- Matching Requirements. Any Project funded by Conservation Futures Levy proceeds shall be supported by the City in which the Project is located with a matching contribution which is no less than the amount of Conservation Futures Levy funds allocated to the Project. This contribution may be in the form of cash, land trades with a valuation verified by an appraisal conducted by a MIA certified appraiser, or credits for other qualifying open space acquired on or after January 1, 1989. Any City match, other than cash, shall require County approval. County approval and County acceptance of the City's match will be transmitted in writing to the City by the County's Manager of the Capital Projects and Open Space Acquisition Section or their successor in functions.

If the Project involves two or more suburban cities, those cities shall determine the allocation of the contributions to the matching requirements of this agreement, so long as the total match is no less than the amount of Conservation Futures Levy funds provided by the County.

Such matching contribution must be available within two years of the City's application for County funds to support Projects identified herein or approved substitute Projects.

If such commitment is not timely made, the County shall be released from any obligation to fund the Project in question, and the City shall reimburse the County all funds provided to the City pursuant to this agreement plus accrued interest on such funds. All such moneys will be available to the County to reallocate to other approved Projects. By appropriate legislature action taken not more than 60 days following the effective date of this agreement, the City shall commit to contribute its required match.

Section 6.2 -- Project Description. As part of the application to receive Conservation Futures Levy funds from the County, the City shall submit the following information concerning each project: 1) a narrative description of the project; 2) a description of the specific uses for Conservation Futures Levy funds in the Project; and 3) a description of the means by which the City will satisfy the matching requirements contained in this agreement.

Section 6.3 -- Reporting. All funds received pursuant to this agreement and accrued interest therefrom will be accounted for separately from all other City funds, accounts and moneys. Until the property described in the Project is acquired and all funds provided pursuant to this agreement expended, the City shall provide semi-annual written reports to the County within 30 days of the end of each relevant time period. The semi-annual report shall contain the following information: a) an accounting of all cash expenditures and encumbrances for support of the Project; b) the status of each Project and any changes to the approved time line; and c) other relevant information requested by the County for the purpose of determining compliance with this agreement.

Following acquisition of the property and expenditure of all funds provided pursuant to this agreement, the City shall provide the County with a final report, within 90 days of the end of the calendar year in which all funds were expended. Said report shall contain a summary of all project expenditures, a description of the project status and accomplishments and other relevant information requested by the County for the purpose of verifying compliance with this agreement.

The City shall also provide the County, within 90 days of the end of each calendar, annual reports which specify any change in the status of the Project during the prior year and any change in the status of the Project which the City Reasonably anticipates during the ensuing year. Such reports shall be required only if a change has taken place or is anticipated, except as provided above for ongoing and final project reports. All such reports shall be submitted to the County's Department of Natural Resources, Capital Projects and Open Space Acquisition Section, or its successor.

Section 6.4 -- Disposition of Remaining Funds.

If the City does not expend all funds provided through this agreement and no substitute project is requested or approved as to the excess funds, such funds shall be refunded to the County. For purposes of this section, "funds" shall include all moneys provided by the county plus interest accrued by the City on such moneys.

Section 6.5 -- Maintenance in Perpetuity. The City, and any successor in interest, agree to maintain properties acquired with funds provided pursuant to this agreement as open space in perpetuity. If the City changes the status or use of properties acquired with

funds provided pursuant to this agreement to any purpose, the City shall pay the County an amount in cash to be mutually determined or substitute other property acceptable to the County. In either case, the value of the property shall be established at the time of the change in status or use, based upon the changed status or use and not based on its value as open space.

Upon changes in status and/or use of the property acquired herein, at its own cost, the City will provide the County an independent MIA appraisal in accordance with this section. The value established by the appraisal will not be binding on the County. The City shall provide the County with written notice prior to the change of use and shall reimburse the County within 90 days of such notification. Reimbursement not received within 90 days will accrue interest at the then legal rate.

Article VII. Responsibilities of the County

Subject to the terms of this agreement, the County will provide Conservation Futures Levy funds in the amount shown in Attachment A. The City may request additional funds; however, the County has no obligation to provide funds to the City in excess of the amount shown in Attachment A. The County assumes no obligation for future support of the Projects described herein except as expressly set forth in this agreement.

Article VIII Other Provisions

Section 8.1 -- Hold Harmless and Indemnification.

A. The County assumes no responsibility for the payment of any compensation, fees, wages, benefits or taxes to or on behalf of the City, its employees, contractors or others

by reason of this agreement. The City shall protect, indemnify and save harmless the County, its officers, agents and employees from any and all claims, cost and whatsoever occurring or resulting from: 1) the City's failure to pay any compensation, fees, wages, benefits or taxes; and 2) the supplying to the City of works services, materials or supplies by City employees or agents or other contractors or suppliers in connection with or in support of performance of this agreement.

B. The City further agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception, which occurs due to the negligent or intentional acts of this agreement by the City, its officer, employees, agent or representatives.

C. The City shall protect, indemnify and save harmless the County from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the City, its officers, employees or agents. For purpose of this agreement only, the City agrees to waive the immunity granted it for industrial insurance claims pursuant to Washington Statute Chapter 51 to the extent necessary to extend its obligations under this paragraph to any claim, demand, or cause of action brought by or on behalf of any employee, including judgments, awards and costs arising therefrom including attorney's fees.

Section 8.2 -- Amendment. The parties reserve the right to amend or modify this agreement. Such amendments or modifications must be by written instrument signed by the parties and approved by the respective City and County Councils.

Section 8.3 -- Contract Waiver. No waiver by either party of any term or condition of this agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provision of this agreement. No waiver shall be effective unless made in writing.

Section 8.4 -- Entirety. This agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated are excluded. This agreement merges and supersedes all prior negotiations, representations and agreements between the parties relating to the projects and constitutes the entire agreement between the parties. The parties recognize that time is of the essence in the performance of the provisions of this agreement.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces put forth below:

KING COUNTY	CITY OF SHORELINE
_____	_____
Ron Sims King County Executive	City Manager
Date:_____ Acting under the authority of Ordinance 14486	Date:_____
Approved as to form:	Approved as to form:
_____	_____
NORM MALENG King County Prosecuting Attorney	Shoreline City Attorney

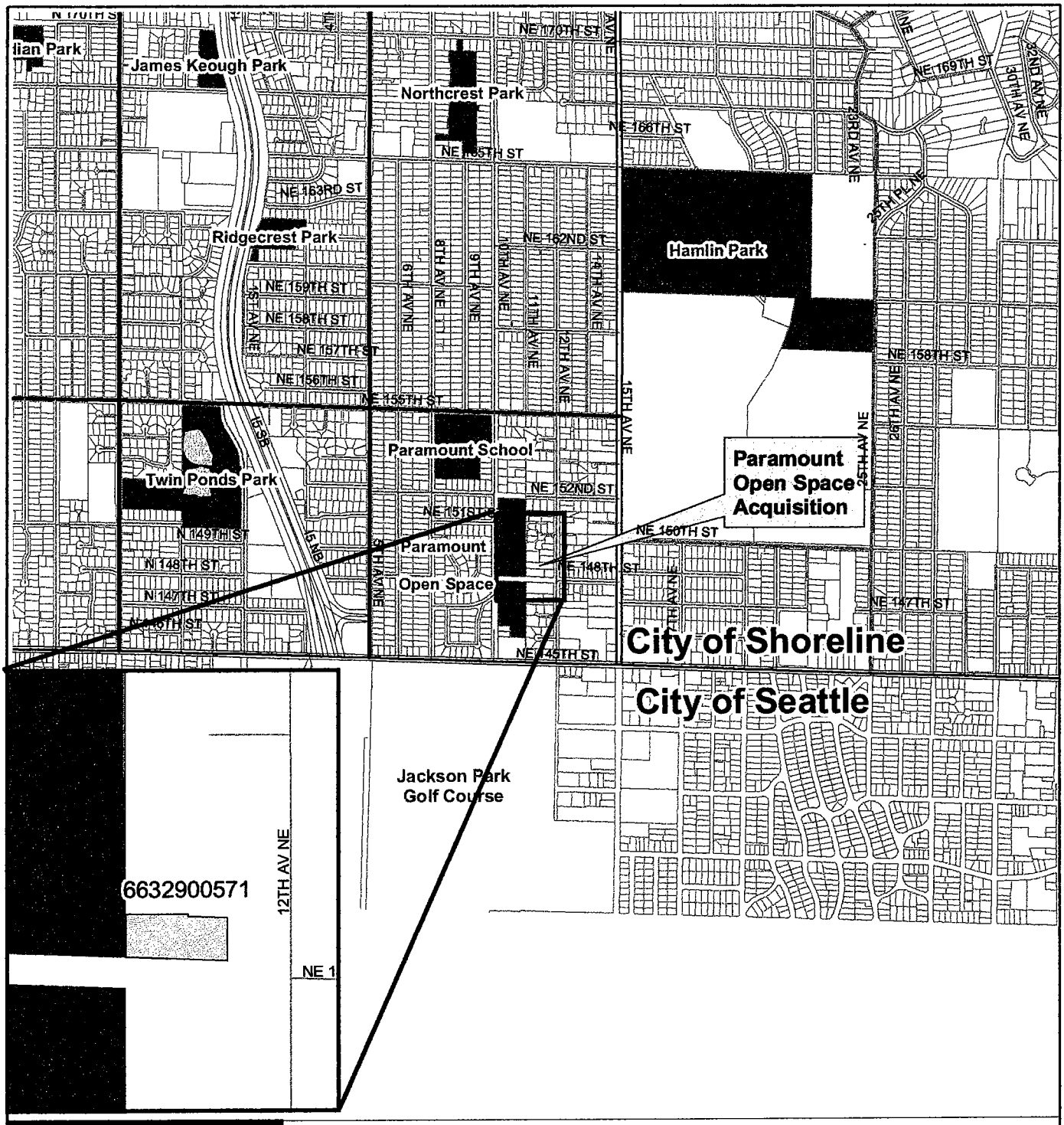
ATTACHMENT A

CITY OF SHORELINE
CONSERVATION FUTURES ALLOCATIONS & PROJECT DESCRIPTION

PROJECT NAME	AMOUNT
Paramount Park Addition	$50,000

PROJECT DESCRIPTION:

Paramount Park Addition: This project consists of a wooded , .4-acre-parcel containing a wetland area that will provide a natural buffer to the eastern edge of Paramount Park, located on 10th Avenue NE in Shoreline. The parcel will buffer a pedestrian entrance into the park on a right of way at NE 148th Street. The area is a headwater for a small tributary of a branch of Thornton Creek, which flows southwards into nearby Seattle and added protection would help maintain water recharge in the stream.



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