



INFORMATIONAL MEMORANDUM

TO: Community Services and Safety Committee

FROM: Tracy Gallaway, Parks and Recreation Director

BY: Stephanie Gardner-Brown, Parks and Recreation Analyst

CC: Mayor Ekberg

DATE: November 9, 2021

SUBJECT: Tukwila School District – City of Tukwila Lease Agreements

ISSUE

Renew and update property lease agreements with the Tukwila School District (TSD).

BACKGROUND

Staff originally brought this item to the Community Services and Safety Committee on 7/19/2021, that memo (not including attachments) is presented for reference as Attachment D. Due to multiple updates to the lease agreements, staff are reviewing the changes with Committee members.

DISCUSSION

Throughout the past year staff have been in discussions with TSD to update property lease agreements for three established parks within the City's park system: Duwamish Park, Joseph Foster Park, and Riverton Park. This memo describes changes to the lease agreements originally presented on 7/12/2021, as follows:

- All three lease agreements will be for a period of 30 years.
- The City shall pay rent, in the amount of \$1 per year for each property. To facilitate this, the City will pay TSD a lump sum of \$30 for each site to pay for each lease in its entirety.
- TSD will invoice the City for any other taxes, together with costs, fees, and assessments, imposed against the property during the term of each lease. Note, it is estimated this will cost \$80 per year for all three properties.

FINANCIAL IMPACT

The rent for each park is \$1 per year, which will be paid in one lump sum of \$30 for each property. Additionally, the District will invoice the City annually for any other taxes, fees, assessments.

RECOMMENDATION

The Community Services and Safety Committee is being asked to recommend entering into new lease agreements with the Tukwila School District at the 12/6/2021 Regular Council Meeting by authorizing the Mayor to sign the agreements for Duwamish Park, Foster Park, and Riverton Park. Staff request this item be placed on the consent agenda.

ATTACHMENTS

- A. Duwamish Park Lease
- B. Foster Park Lease
- C. Riverton Park Lease
- D. July 12, 2021 Info Memo (reference)

LEASE AGREEMENT

Tukwila School District
And
City of Tukwila

Duwamish Park

This Lease Agreement (“Agreement”) is made by and between the City of Tukwila, a Washington municipal corporation (“City”), and the Tukwila School District, a Washington municipal corporation (“District”). The City and the District may be referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

- A. The District is the owner of the real property situated at 11646 42nd Avenue South, Tukwila, Washington, known as King County Parcel No. 3347400175 and Parcel No. 3347400580 legally described and depicted on Attachment A (the “Property”).
- B. The City desires to lease from the District, and the District agrees to lease, the Property subject to the terms and conditions more specifically set forth below in this Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants, conditions, duties and obligations set forth below, the Parties agree as follows:

AGREEMENT

1. **Incorporation.** The Recitals set forth above are incorporated in this Agreement by this reference as binding commitments and representations of the Parties.
2. **Term.** The term of this Agreement shall commence on the date this Agreement is signed by the last party signing the same, and extend to December 31, 2051, unless sooner terminated as provided in this Agreement.
3. **Rent.** The City shall pay rent to the District for the use of the Property at the rate of \$1.00 per year, due and payable in a lump sum thirty dollar and zero cents (\$30.00) payment within thirty (30) days of the Effective Date of this Agreement.
4. **Costs.** The District will annually invoice the City for any taxes, together with costs, fees and assessments, imposed against Property during term of lease. The City will reimburse the District all undisputed amounts of the invoice within forty-five days of receipt of the invoice.
5. **Use of premises.** The City shall use the Property for recreational and park purposes only. No other use of the Property shall be permitted unless the District’s prior written consent is obtained.

6. Improvements. The City shall be entitled to make any improvements for recreation purposes to the Property. Construction of any improvements shall be at the City's sole cost and expense. At the termination of this Agreement, and provided that the first right of refusal is not exercised subject to Section 9, all improvements made by the City shall become the property of the District.
7. Utilities and maintenance. The City shall maintain, at its sole cost and expense, all improvements on the Property, and the Property itself in a state of good repair and safe for use and occupancy. The City shall repair or replace as necessary underground utility lines, water pipes, storm and sanitary sewer systems on the Property during the term of this Agreement; provided that if the District requests or makes any upgrades to any physical improvements on the Property, or utility infrastructure, the Parties shall meet and confer to determine which Party shall be responsible for the maintenance of such improvements or infrastructure. The City shall pay any and all utility charges levied or accrued against the Property during the term of this Agreement.
8. Use of premises by District. Upon two weeks prior written notice to the City, the District may use the Property, so long as the Property is not previously reserved for use by the City or a third-party.
9. Assignment and sublease. The City shall not assign, sublet, or transfer any interest in this Agreement without the prior written consent of the District which shall not be unreasonably withheld.
10. Right of First Refusal. In the event that the District shall ever desire to sell the Property, and receives a written offer therefor which the District intends to accept, the District, before accepting the offer, shall first notify the City in writing in accordance with Section 16 of this Agreement, and provide the City with a copy of the offer. The copy of the offer must contain all material terms relating to the purchase and sale. After receiving a copy of the offer, the City shall have sixty (60) days within which to the purchase the Property upon the terms and conditions set forth in the offer.
11. Property Condition. The City hereby agrees and acknowledges that it accepts the Property in AS-IS, WHERE-IS condition without any representation or warranty of any kind made by the District.
12. Indemnification. The City shall indemnify, defend and hold the District harmless from and against any and all claims, losses or liability arising from injury or death to persons, including employees of the City, or damage to the Property in relation to the City's occupation or use of the Property except for injuries and damages caused by the negligence or willful misconduct of the District.
13. Insurance. The Parties acknowledge that the City is a member of Washington Cities Insurance Authority (WCIA), a self-insurance risk pool. The City shall maintain its membership with WCIA or shall obtain and maintain other adequate liability insurance necessary to protect the public with limits of liability of not less than One Million

Dollars (\$1,000,000) combined single limit for both bodily injury and property damage liability.

14. Lawful activity. The City agrees that all activities conducted by the City on the premises shall be in accordance with any applicable state or local law.
15. Nondiscrimination. No person shall be denied, or subjected to discrimination in receipt of the benefit of, any services or activities made possible by or resulting from this Agreement on the grounds of race, religion, creed, color, national origin, age, veteran status, sex, sexual orientation, gender identity, marital status, political affiliation or the presence of any disability.
16. Early termination upon default. In the event of any material default by the City in the performance of any of the terms or conditions of this Agreement, the District may terminate this Agreement prior to expiration of the thirty (30) year period by giving thirty (30) days' advance written notice to the City in accordance with Section 17 specifically stating the reason for such termination, provided, however, that no such termination shall be effective if, within thirty (30) days after such notice, the City has cured the default.
17. Early termination for convenience. Either Party may terminate this Agreement upon sixty (60) days written notice to the non-moving Party. The Parties acknowledge the District's right under RCW 28A.335.040 to recapture the Property and to terminate the Lease for school purposes in accordance with this section.
18. Non-Appropriation of Funds. If sufficient funds are not appropriated or allocated for the City's performance under the terms of this Agreement for any future fiscal period, the City shall not be obligated to make payments, and this Agreement shall terminate upon the completion of the last remaining time period for which funds are allocated. No penalty or expense shall accrue to the City in the event this provision applies.
19. Notices. Any notice or other communications given hereunder shall be deemed sufficient if in writing and delivered personally to the addressee, or sent by certified or registered mail, return receipt requested, addressed as follows, or to such other address as may be designated by the addressee by written notice to the other party:

TO CITY: Director of Parks & Recreation
 CITY OF TUKWILA
 6200 Southcenter Boulevard
 Tukwila, Washington 98188

TO DISTRICT: Superintendent of Schools
 4640 South 144th Street
 Seattle, Washington 98168

20. Applicable Law; Venue, Attorney's Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any

suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit.

21. Entire Agreement; Modification. This Agreement, together with any attachments or addenda, represents the entire and integrated Agreement between the City and the District and supersedes all prior negotiations, representations, or agreements written or oral. No amendment or modification of this Agreement shall be of any force or effect unless it is in writing and signed by the parties.
22. Severability and Survival. If any term, condition, or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.
23. Binding Covenant and Recording. This Agreement shall constitute a covenant running with the land, and shall be binding upon the parties, their heirs, successors, and assigns. The City may record this Agreement with the King County Auditor.
24. Counterpart/Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which, without production of the others, will be deemed to be an original.
25. Effective Date. This Agreement shall become effective on the latest date it is executed by both Parties.

[The remainder of this page is left intentionally blank]

CITY OF TUKWILA

By _____

Allan Ekberg, Mayor

DATE: _____

STATE OF WASHINGTON)
 : ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Allan Ekberg is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Tukwila to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year in the certificate above written.

NOTARY PUBLIC in and for the State of
Washington, residing at _____ My Commission
Expires _____

APPROVED AS TO FORM:
OGDEN, MURPHY & WALLACE

By _____
Office of the City Attorney

TUKWILA SCHOOL DISTRICT

By _____

_____ Title:

DATE: _____

STATE OF WASHINGTON)
 : ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the _____ of the Tukwila School District to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

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ATTACHMENT A

[Legal Description]

Parcel number	Legal Description
334740-0175	HILLMANS MEADOW GARDENS DIV # 1 PLat Block: 2 Plat Lot: 27-28-29
334740-0580	HILLMANS MEADOW GARDENS DIV # 1 PLat Block: 2 Plat Lot: 108 THRU 113

King County iMap



The information contained on this map has been compiled by King County and from a variety of sources and is subject to change without notice. King County makes no representation or warranty, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use as an advisory product. King County is not liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost business or lost profits resulting from the use or misuse of the information contained on this map. Any use of this map or information on this map is prohibited except by written permission of King County.

Date: 2/24/2021

Notes:



King County

LEASE AGREEMENT

Tukwila School District
And
City of Tukwila

Joseph Foster Memorial Park

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RECITALS

- A. The District is the owner of the real property situated at 13919 53rd Ave. S, Tukwila, Washington, known as King County Parcel Numbers: 0003000010, 0003000011, 0003000012, 1670400007, 1670400020, 1670400026, 1670400037, 1670400100, and 1670400115, legally described and depicted on Attachment A (the “Property”).
- B. The City desires to lease from the District, and the District agrees to lease, the Property subject to the terms and conditions more specifically set forth below in this Agreement.

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 CITY OF TUKWILA
 6200 Southcenter Boulevard
 Tukwila, Washington 98188

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 4640 South 144th Street
 Seattle, Washington 98168

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suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit.

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24. Counterpart/Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which, without production of the others, will be deemed to be an original.
25. Effective Date. This Agreement shall become effective on the latest date it is executed by both Parties.

[The remainder of this page is left intentionally blank]

CITY OF TUKWILA

By _____

Allan Ekberg, Mayor

DATE: _____

STATE OF WASHINGTON)
 :
COUNTY OF KING) ss.

I certify that I know or have satisfactory evidence that Allan Ekberg is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Tukwila to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year in the certificate above written.

NOTARY PUBLIC in and for the State of
Washington, residing at _____ My Commission
Expires _____

APPROVED AS TO FORM:
OGDEN, MURPHY & WALLACE

By _____
Office of the City Attorney

TUKWILA SCHOOL DISTRICT

By _____

Title:

DATE: _____

STATE OF WASHINGTON)
 : ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the _____ of the Tukwila School District to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year in the certificate above written.

NOTARY PUBLIC in and for the State of
Washington, residing at _____ My Commission
Expires _____

ATTACHMENT A

[Legal Description]

Parcel number	Legal Description
0003000010	FOSTER STEPHEN-D C # 38 TRACT OF LAND BOUNDED ON N BY S 137TH ST ON E BY 53RD AVE S ON W BY COLLEGE ST & ON S BY HELD AVE
0003000011	FOSTER STEPHEN-D C # 38 TRACT OF LAND BOUNDED ON N BY HELD AVE-ON E BY 53RD AVE S-ON W BY COLLEGE ST & ON S BY S 139TH ST
0003000012	FOSTER STEPHEN-D C # 38 A BLOCK OF LAND BOUNDED ON N BY FOSTER ST ON E BY COLLEGE AVE ON S BY ORCHARD AVE & ON W BY CHARLES AVE
1670400007	COLEGROVES ACRE TRS E 74 FT PLat Block: 1 Plat Lot: 1
1670400020	COLEGROVES ACRE TRS E 1/2 OF 2 LESS W 55 FT & 11 LESS E 100 FT OF N 127.4 FT PLat Block: 1 Plat Lot: 2 & 11
1670400026	COLEGROVES ACRE TRS E 64 FT OF LOT 3 - AKA LOT B OF KC LOT LN ADJ NO 1285034 APPROVED JANUARY 23, 1986 PLat Block: 1 Plat Lot: 3
1670400037	COLGROVES ACRE TRS E 74 FT OF N 77.40 FT OF LOT 4 TGW LOT 9 LESS S 70 FT TGW ALL OF LOT 10 PLat Block: 1 Plat Lot: 4 & 9-10
1670400100	COLEGROVES ACRE TRS E 100 FT OF N 127.4 FT PLat Block: 1 Plat Lot: 11
1670400115	COLEGROVES ACRE TRS PLat Block: 1 Plat Lot: 12

The following shows park and coordinating parcels associated with the site. The last four digits of the parcel number are shown on the map parcel and match the last four digits in the table above.



LEASE AGREEMENT

Tukwila School District
And
City of Tukwila

Riverton Park

This Lease Agreement (“Agreement”) is made by and between the City of Tukwila, a Washington municipal corporation (“City”), and the Tukwila School District, a Washington municipal corporation (“District”). The City and the District may be referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

- A. The District is the owner of the real property situated at 4401 S. 133rd Street, Tukwila, Washington, known as King County Parcels Numbered: 7340600084, 7340600884, 7341600005, 7341600010, 7341600015, 7341600020, and 7341600025 legally described and depicted on Attachment A (the “Property”).
- B. The City desires to lease from the District, and the District agrees to lease, the Property subject to the terms and conditions more specifically set forth below in this Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants, conditions, duties and obligations set forth below, the Parties agree as follows:

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CITY OF TUKWILA

By _____

Allan Ekberg, Mayor

DATE: _____

STATE OF WASHINGTON)
 : ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Allan Ekberg is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Tukwila to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year in the certificate above written.

NOTARY PUBLIC in and for the State of
Washington, residing at _____ My Commission
Expires _____

APPROVED AS TO FORM:
OGDEN, MURPHY & WALLACE

By _____
Office of the City Attorney

TUKWILA SCHOOL DISTRICT

By _____

Title: _____

DATE: _____

STATE OF WASHINGTON)
: ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the _____ of the Tukwila School District to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

WITNESS MY HAND AND OFFICIAL SEAL hereto affixed the day and year in the certificate above written.

NOTARY PUBLIC in and for the State of
Washington, residing at _____ My Commission
Expires _____

ATTACHMENT A

[Legal Description]

Parcel number	Legal Description
7340600884	RIVERSIDE INTERURBAN TRS TR 57 LESS N 1/2 OF N 2.96 AC & LESS POR OF S 1/2 OF N 2.96 AC LY ELY OF W 200 FT THOF & LY N OF S 75 FT THOF TGW POR OF TRS 58 & 62 LY ELY OF E MARGINAL WAY S & POR OF TR 63 LY NLY OF S 133RD ST PLat Block: Plat Lot: 57-58-62-63
7341600005	RIVERSIDE INTRURBN TR 55-57 UNREC PLat Block: 1 Plat Lot: 1
7341600010	RIVERSIDE INTRURBN TR 55-57 UNREC PLat Block: 1 Plat Lot: 2
7341600015	RIVERSIDE INTRURBN TR 55-57 UNREC PLat Block: 1 Plat Lot: 3
7341600020	RIVERSIDE INTRURBN TR 55-57 UNREC PLat Block: 1 Plat Lot: 4
7341600025	RIVERSIDE INTRURBN TR 55-57 UNREC PLat Block: 1 Plat Lot: 5

King County iMap



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Date: 2/24/2021

Notes:





INFORMATIONAL MEMORANDUM

TO: Community Services and Safety Committee

FROM: Tracy Gallaway, Acting Parks and Recreation Director

BY: Stephanie Gardner-Brown, Parks and Recreation Analyst

CC: Mayor Ekberg

DATE: July 12, 2021

SUBJECT: Tukwila School District – City of Tukwila Lease Agreements

ISSUE

Renew and update property lease agreements with the Tukwila School District (TSD).

BACKGROUND

The City of Tukwila has leased three different Tukwila School District properties and operated each site as a park for several decades. Throughout this time, the Parks and Recreation Department has maintained and performed various capital improvements at each park. The parks include Duwamish Park, Foster Park, and Riverton Park. Each Park provides recreation access and opportunities for play, wellness, and social interactions to Tukwila residents, and the region. These three parks are each located within residential neighborhoods and provide excellent access to large areas of open space.

DISCUSSION

In April of 2020, the City Council adopted the updated Parks, Recreation, and Open Space Plan. The plan identifies capital improvement projects throughout the Tukwila parks system. As staff plan for future park improvements, property lease agreements with the Tukwila School District will need to be renewed to secure public access and protect the City's investment. Staff have been in conversation with TSD staff and have determined that all three agreements will be renewed and updated. Two of the agreements, Joseph Foster Park and Riverton Park have expired, and the existing Duwamish Park lease is set to expire in 2023.

The new lease agreements will be in effect for a period of thirty years. This will allow the city to make improvements for recreation purposes to the properties. Copies of each new lease agreement is attached. They are identical with the following exceptions:

1. Park location
2. Duwamish Park: the current lease will not expire until 2023, therefore the current lease will end early.

It is expected that the execution of each lease will occur at the same time, therefore the expiration of each lease will also be the same unless one lease should terminate early.

FINANCIAL IMPACT

The rent for each park is \$1 per year. As with all Tukwila parks, continued maintenance and improvements will be performed for the benefit of Tukwila residents and those that work and play in Tukwila.

RECOMMENDATION

The Community Services and Safety Committee is being asked to recommend entering into new lease agreements with the Tukwila School District at the August 16, 2021, Regular Council Meeting Consent Agenda by authorizing the Mayor to sign the agreements for Duwamish Park, Foster Park, and Riverton Park.

ATTACHMENTS

- A. Duwamish Park Lease
- B. Foster Park Lease
- C. Riverton Park Lease