

April 1, 2022

MEMORANDUM

To: Public Assets and Homelessness Committee
From: Traci Ratzliff, Ann Gorman, Lish Whitson, Analysts
Subject: Proposed legislation authorizing transfer of City Hall Park to King County in exchange for County-owned properties

On November 19, 2021, the Executive transmitted proposed legislation authorizing the transfer of City Hall Park to King County in exchange for the City receiving 13 County-owned properties. The City Council chose not to take up this legislation before the end of the year, given the timing of its submittal. The Public Assets and Homelessness Committee will be briefed on this legislation by the King County Executive on Wednesday, April 6 at 2 p.m.

This memorandum provides (1) history of King County's action on the proposed legislation, (2) background on the proposed legislation, (3) a summary of the bill, and (4) next steps for consideration of the proposed legislation.

History of King County's Action

On October 19, 2021, the Metropolitan King County Council adopted [Motion 15955](#) that, among other things, requested the County Executive to transmit a report to the King County Council by January 15, 2022. The motion requested that the report include:

- A description of the key factors driving violence and disorder around the courthouse and prior efforts to address the problem;
- A plan to address safety concerns in and around the courthouse, including City Hall Park; and
- If an agreement between the City of Seattle and King County to acquire City Hall Park has not been reached by December 31, 2021, an assessment of options for the County to acquire City Hall Park from the City of Seattle including the financial, operational, legal and land use considerations associated with the acquisition of the property.

The County executive transmitted [this report](#) on January 14, 2021. The report describes possible tactics for addressing safety and security concerns at City Hall Park assuming the County takes ownership of the park, and states that prior to taking actions to open the park, the County would engage with community stakeholders and employees to develop a comprehensive plan for activating the park and vicinity. The report also states that resources would be required to support the successful reactivation of the park. The report did not provide an estimate of the costs associated with such efforts.

In addition, the report did not provide the requested information concerning options for the park property, including the financial, operational, legal and land use considerations associated

with the transfer of the property from the City, implying that such information could not be provided because the City had not yet approved the transfer, despite specific language in the motion requesting this information be provided if an agreement between the City and County had not been reached. King County Council staff indicate they do not expect to receive any further information from the County Executive regarding this requested information until/if the City approves the transfer.

On December 14, the King County Council adopted [Ordinance 19379](#) authorizing the transfer of 13 County properties in exchange for City Hall Park. The County Council made two amendments to the legislation, one to the ordinance and one to Attachment A to the ordinance (the Intergovernmental Land Transfer Agreement that was, prior to the amendment, identical to what was transmitted to the City Council). The amendment to the ordinance requires the County Executive (1) to facilitate a public process to help determine how the park will be used; and (2) to transmit a report including results and recommendations from that process to the County Council. The amendment to the Intergovernmental Land Transfer Agreement (Attachment A to the ordinance) modifies the covenant for City Hall Park to clarify its intended use by the County as public open space, a park, a recreation and community facility, or for the expansion of existing County facilities or other public benefit purpose.

Background

The City purchased the old King County Courthouse from the County in 1891. It was used as a City office building until 1909 when it was demolished, and the property was redeveloped into City Hall Park. The park has been managed by Seattle Parks and Recreation (SPR) since that time.

In response to concerns about public health and safety at City Hall Park and the surrounding areas (Dilling Way, Prefontaine Plaza, Fortson Square), the Courthouse Vicinity Improvement (CVI) working group -- consisting of representatives from King County, City of Seattle, Sound Transit, Metropolitan Improvement District, and Pioneer Square businesses and organizations -- began meeting in January 2017. Over the next three years, this group worked collaboratively to increase public safety services, sanitation, site activation activities, and to make site improvements at City Hall Park and the surrounding Yesler Crescent area that includes Prefontaine Plaza and Fortson Square. The City appropriated \$970,000 in the 2019 Adopted Budget to support operating costs associated with the aforementioned activities, excluding public safety costs: capital planning and design work focused on how to enhance circulation, encourage park activation and preservation (\$470,000); and the refurbishment of the Prefontaine Fountain (\$500,000). To date, \$541,000 has been spent. The remaining \$429,000 will be used for the Prefontaine Fountain. With the arrival of the pandemic, SPR paused efforts focused on this area as the department was called on to participate in the City's broader efforts to respond to the pandemic. A homeless encampment formed in the park in 2020 and remained there until its removal by the City and County in August 2021. The park is currently entirely fenced off and closed to the public.

Summary of Proposed Legislation

Property Exchange

The proposed ordinance authorizes the Superintendent of Seattle Parks and Recreation to execute an Intergovernmental Land Transfer Agreement, which details the transfer of the City Hall Park property in exchange for 13 King County-owned properties at no cost.

The legislation states that the requirements of [Ordinance 118477](#) (1997), which adopted Initiative 42, are superseded and that the property is no longer needed for municipal purposes and is surplus to the City's needs. Ordinance 118477 requires "that all properties designated as park, park boulevard, or open space, are to be preserved for such use and cannot be sold, transferred, or changed from park use to another use, unless the City holds a public hearing regarding the transaction and enacts an ordinance finding that the transaction is necessary because there is no reasonable and practical alternative." In addition, the City must receive in exchange for such property "land or a facility of equivalent or better size, value, location and usefulness in the vicinity, serving the same community and the same park purposes." Under the terms of Ordinance 118477, a transfer of property to the County without need for replacement property would be permissible if the property were going to be used for park and recreation purposes.

Although the proposed legislation specifically exempts the transaction from the provisions of Ordinance 118477, it is also governed by two state statutes, [RCW 39.33.010](#) and [RCW 43.09.210](#). Under the terms of RCW 39.33.010, the City and the County may exchange property "on such terms and conditions as may be mutually agreed upon. . . ." Under the terms of RCW 43.09.210, the City and County must be paid "true and full" value for the property transfers. When transmitting the proposed legislation, the Executive indicated it believed that state law was more flexible than requiring that "fair market value" be paid for the properties. The Executive cited a [1997 Attorney General's Opinion \(AGO\)](#) as providing support for this approach to value. This AGO opinion seems to support the ability of two governments to negotiate a transfer of property in exchange for "some consideration which could be a monetary payment, other property, services performed for the transferring government, or perhaps even relief from a burden."

The proposed legislation affirmatively states that the exchange of City Hall Park for the County properties is consistent with the provisions of the two statutes. The proposed covenants on the deeds of the properties will restrict the type of use that can occur on each property, and these restrictions will impact the fair market value of each of them (see below for descriptions of the covenants).

City Hall Park totals 24,500 square feet (0.56 acres). The County-owned properties total 57,956 square feet (1.33 acres). All but one of the County-owned properties are in the City of Seattle. The one property located outside the city limits is in South Park. This property is the largest of the properties proposed for transfer (17,268 square feet). It is across the street from the South

Park Plaza property that is being developed as a new park by SPR. The acquisition of the property would allow it to be incorporated into the planning and development of the planned park. In total, the City would secure legal ownership of more property than it would give up in this transaction. Several of the parcels proposed for transfer are in existing City-maintained parks (Cesar Chavez, Sunset Hill) and P-Patch space (Greg's P-Patch), and their transfer arguably would not add net park land to the City given existing uses of these parcels (see Attachment 1 and Attachment 2 for description and location map of transfer properties). However, because King County could try to sell all or some of the parcels to other parties or to the City, the proposed transaction does have the effect of securing them in City ownership without cost.

While the total area that would be exchanged to the City is approximately 2.5 times the size of City Hall Park, the relative value of the properties that would be exchanged has not been determined. An appraisal has not been performed on these properties and is not anticipated to be performed. City Hall Park is zoned Pioneer Square Mixed 100/100-120, a zone that allows lot-line to lot-line development up to 120 feet (approximately 12 stories). The other properties are predominantly zoned single-family and allow significantly less development. Given the difference in development potential and the central location of City Hall Park, it may be worth more than the other properties.

Covenants

The deeds for each of the City and County properties involved in the property exchange will contain specific covenants concerning the allowable uses of the properties. These covenants are as follows:

- *For the 13 County-owned properties* - The City commits to continued use of such properties as either public open space, park, or recreation and community facility purposes or that other equivalent facilities within the city shall be conveyed in exchange.
- *For City Hall Park* - The County commits that City Hall Park will continue to be used for public open space, a park, a recreation and community facility, the expansion of existing County facilities, or other public benefit purpose, provided that any such purpose shall be for use by the general public and primarily noncommercial in nature.

The discrete covenant for City Hall Park is intended to prevent the County from using the property other than for the stated public purposes (park, open space, expansion of County facilities) and/or from selling it to a developer for commercial purposes. The above language reflects what the County Council approved when it adopted the transfer legislation. It is preferred to the language that was in the legislation transmitted by the Executive, as it provides greater restriction on potential uses of the property. However, it does not limit the use of the property to that of a public park or open space only. If that is the City Council's intended desire, the covenant language would need to be modified to impose such a restriction.

Financial Obligations

Per the terms of the Intergovernmental Land Transfer Agreement, the County and the City are each responsible for any financial obligations related to their respective properties up until the time of conveyance or transfer. These obligations include any property taxes or any contractual obligations including any fines, as well as any utility charges if any are due or owing. Additionally, each party is responsible for any title insurance it obtains, Real Estate Excise Tax obligation, and all other transaction costs. The City would also bear the costs of petitioning for the vacation of two abutting streets, as discussed below.

Property Condition and Environmental Considerations

Each party agrees to accept each property in as-is condition and assumes responsibility for all operations, maintenance, repairs, and improvements of each property after approval of the transaction.

Each party agrees to waive the Seller's Real Estate Disclosure Statement, the waiver of which is allowed under [RCW 64.06.010](#), except for the section entitled "Environmental." Each party must complete that section for their respective properties.

Importantly, the agreement does not allow the parties to waive statutory claims under state or federal environmental statutes and it requires the parties to provide notice within 60 days of discovering contamination that could give rise to a statutory claim for contribution. Given the number and location of properties the City is acquiring in this transaction and the potential for contamination, the agreement provides the City with the ability to seek payment from the County for clean-up of hazardous materials if such materials were deposited or released on the County properties by the County during its period of ownership of the properties. SPR has ordered Phase I environmental studies on each of the 13 properties to assess them for the presence of contamination. Based on the outcome of these studies further studies may be ordered, as warranted. The information provided from these studies could impact whether further negotiation is needed related to the potential clean-up of sites – or in determining if the City still has interest in acquiring a specific site. Staff await an update on the results of the preliminary studies.

Street Vacation

The legislation further states that the City, through SPR, will seek to vacate Jefferson Street and Dilling Way between Third Avenue and Fourth Avenue adjacent to City Hall Park at its sole cost. The street vacation petition is not currently before the Council. At a later date, King County will have to show the purpose, benefits, and impacts of the street vacations at a public hearing and before the Council in the context of a full street vacation petition as provided in the Council's [Street Vacation Policies](#). As with any street vacation, public benefits would need to be provided outside of those typically provided by the County in its day-to-day functions. In the legislation, the City has agreed to cover the costs of the street vacation, including compensation for the

appraised value of the right-of-way, and to help initiate a petition. The legislation does not require the Council to approve the vacation.

Next Steps

The City Hall Park property is currently in use as a public park, albeit one that is temporarily closed to the public. The disposition of the park is not categorically exempt from State Environmental Policy Act (SEPA) review (See [SMC 25.05.800.E.2](#)). The City must comply with procedural SEPA requirements, which include preparation of a checklist and issuance of a SEPA threshold determination with associated appeal and comment periods. Council action on the proposed legislation transferring the property cannot occur until those SEPA procedural requirements are met (See [SMC 25.05.070.A](#)). The SEPA checklist and issuance of the threshold determination are expected within the next few weeks. A 21-day appeal and comment periods would follow. If the SEPA determination finds that there are probable significant impacts of the transfer or if a SEPA determination of no significant impacts is appealed, the Council would need to wait to take final action until all environmental review steps have been completed.

The legislation could be scheduled for committee at any time but consideration by the full City Council could not occur until all environmental review steps are complete. A public hearing needs to be held on the proposed transfer of property before adoption of the legislation per [RCW 39.33.020](#). A public notice must be issued at least ten days prior to the date of the public hearing. The public hearing can easily be incorporated into the planned Committee meeting on the legislation.

Attachments:

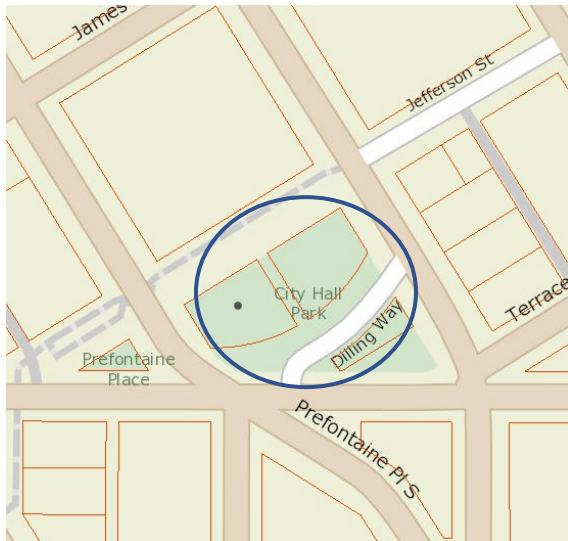
1. List and description of Transfer Properties
2. Map of Property Transfers

cc: Aly Pennucci, Interim Director
Brian Goodnight, Lead Analyst

Attachment 1: List and description of Transfer Properties

City Hall Park

40 3rd Ave, #094200-1145, 24,500 sf:



County-owned Property 1:

1239 S Rose Street, #218500-0895, 17,268 sf:

EAST SOUTH PARK ADD & 22 THRU 25 LESS COM WW # 1 LESS RD PER
ORDINANCE# 16876 REC# 20150413000569; **Plat Block: 12; Plat Lot: 1-6, 47-50**

Attachment 1: List and description of Transfer Properties



County-owned Property 2 and Property 3 (Cesar Chavez Park):

700 S Cloverdale St, #788360-3130, 7,980 sf

LOTS 44 THROUGH 48, INCLUSIVE, BLOCK 15, SOUTH PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 87, RECORDS OF KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONVEYED TO THE CITY OF SEATTLE BY DEEDS RECORDED UNDER KING COUNTY RECORDING NUMBERS 3751997, 3780239 AND 3786361 FOR WEST MARGINAL WAY; AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBER 4827578 FOR PRIMARY STATE HIGHWAY NO. 1 Cesar Chavez Park – 475 sf, #788360-2915

LOTS 1, 2, 3 AND 4, BLOCK 15, SOUTH PARK, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 87, RECORDS OF KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONVEYED TO THE CITY OF SEATTLE BY DEEDS RECORDED UNDER KING COUNTY RECORDING NUMBER 3841312 FOR WEST MARGINAL WAY; AND EXCEPT THAT PORTION THEREOF CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER KING COUNTY RECORDING NUMBERS 4827578 AND 4827579 FOR PRIMARY STATE HIGHWAY NO.

1

Attachment 1: List and description of Transfer Properties



County-owned Property 4:

Sunset Hill Viewpoint Park, #047200-1460, 2,500 sf:

BALLARD WATER-FRONT ADD; Plat Block: 6; Plat Lot: 34



County-owned Property 5:

Inverness Ravine. #342604-9188, 7,208 sf:

**E 136 FT OF W 150 FT OF POR OF N 53 FT OF S 68 FT OF SE 1/4 OF SW 1/4 LY E OF
BLK D BALCHS WEDGEWOOD PARK # 4**

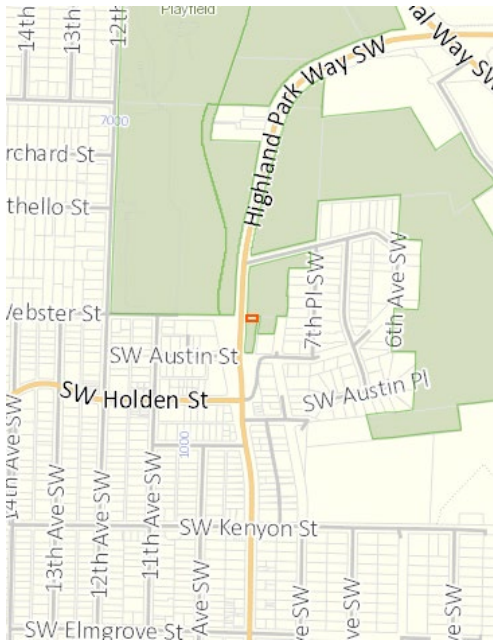
Attachment 1: List and description of Transfer Properties



County-owned Property 6:

W Duwamish GB – SW Othello, #211520-0100, 3,030 sf:

DUMARS HIGHLAND PARK SUPL LESS ST; **Plat Block: F; Plat Lot: 12**

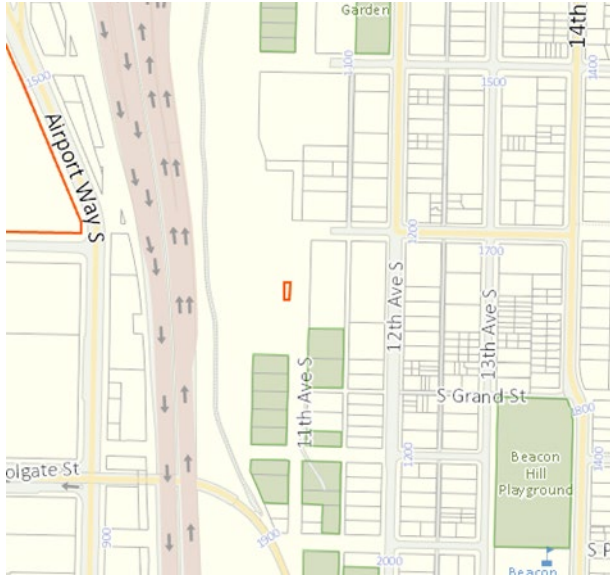


County-owned Property 7

E Duwamish GB - S Massachusetts, #539260-0080, 1,120 sf:

MCNAUGHTS 3RD ADD LESS STATE HWY; **Plat Block: 2; Plat Lot: 7**

Attachment 1: List and description of Transfer Properties



County-owned Property 8

Cheasty Green Space – S Columbian Way, #417460-0014, 2,358 sf:

F W LAMPE HOMESTEAD ADD VOL 1 PG 255, PTN Tract 2



County-owned Property 9

E Duwamish GB – 10th Ave S, #395940-1891, 251 sf:

LADDS 2ND ADD TO S SEATTLE POR SWLY OF LN DRWN MIDWAY BET 10TH AVE S & COLFAX PLACE; **Plat Block: 21; Plat Lot: 11**

Attachment 1: List and description of Transfer Properties



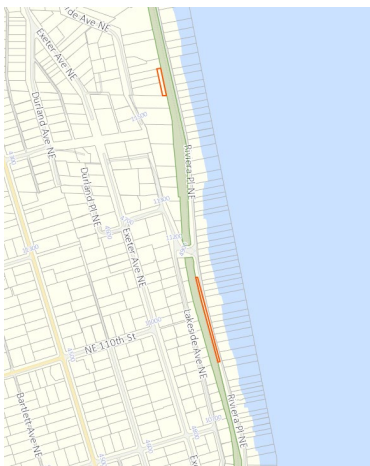
County-owned Property 10 and Property 11

Burke-Gilman Greenway – N, #882090-2280, 5,450 sf:

UNIVERSITY LAKE SHORE DIV # 1-2-3 UNPLATTED STRIP ADJ ALL OF LOT 12 & 13;
Plat Block: 17; Plat Lot: 12-13

Burke-Gilman Greenway – S, #735220-0730, 5,500 sf:

RIVIERA BEACH DIV # 3 POR UNNUMBERED STRIP BET N P R/W & 12 FT RD & N OF
A LN 1563.05 FT N OF S LN OF SEC & SD DIST BEING MEAS ALG E LN OF LAKESIDE
AVE & SD LN BEING DRAWN AT R/A TO SD AVE & S OF N LN OF S 210 FT OF BLK 2
LAKESIDE CITY PRO D E



County-owned Property 12

Duwamish Head GB – SW Walker St, #915160-0735, 291 sf:

WALNUT TERRACE ADD FOUNTAIN TRACT

Attachment 1: List and description of Transfer Properties

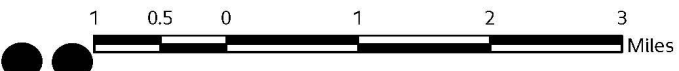
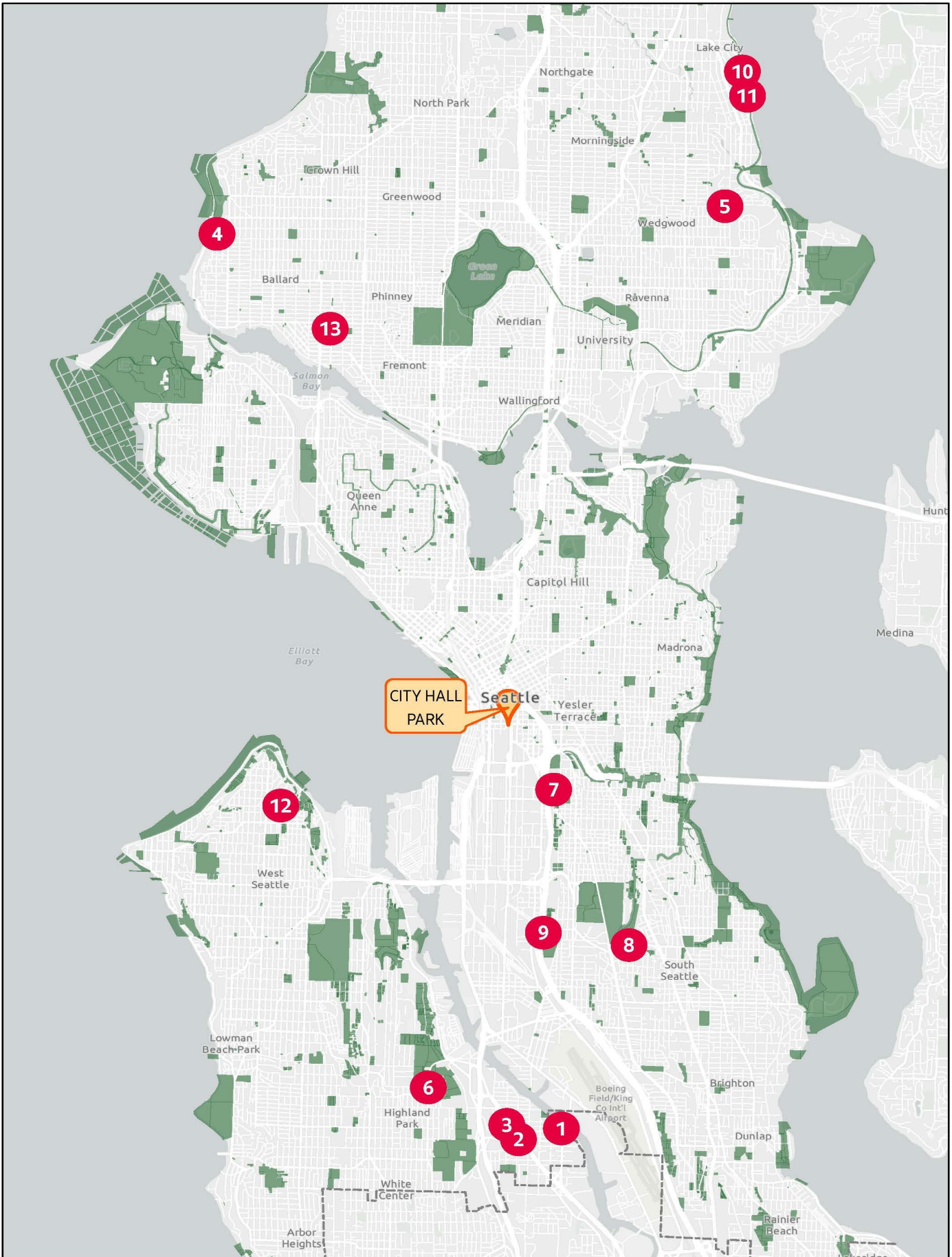


County-owned Property 13

Ballard P-Patch, # 276830-0455, 5,000 sf

Lot 11, Block 135, Gilman Park, according to the plat thereof recorded in Volume 3 of Plats, Page 40, records of King County, Washington.





This map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.

Please refer to **Exhibit 2: Property Listing: Identification of CHP & KC Properties 1-13 with Maps**, for numbered parcel data.

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