



King County

1200 King County
Courthouse
516 Third Avenue
Seattle, WA 98104

Meeting Agenda

King County Flood Control District

Boardmembers: Dave Upthegrove, Chair; Reagan Dunn, Vice Chair; Claudia Balducci, Rod Dembowski, Jeanne Kohl-Welles, Kathy Lambert, Joe McDermott, Pete von Reichbauer, Girmay Zahilay

1:00 PM

Tuesday, April 14, 2020

Virtual Meeting

PUBLIC NOTICE: The King County Flood Control Board's April 14, 2020 Regular Meeting will be held virtually. To help prevent the spread of the COVID 19 virus the chambers will be closed and all Boardmembers and staff will be participating in the meeting remotely. The live feed of the video conference will be streaming on the Council's website and on KCTV channel 22.

HOW TO LISTEN TO THE MEETING: There are three ways to listen in to the meeting:

- 1) Stream online via the link below
To Watch Online Live Streaming Video of the Meeting input the web address below in your web browser:
<https://livestream.com/accounts/15175343/events/4485487>
- 2) Call in to the LISTEN ONLY phone number 206.205.5900
- 3) Watch King County TV Channel 22

1. **Call to Order**

To show a PDF of the written materials for an agenda item, click on the agenda item below.

2. **Roll Call**

3. **Approval of Minutes of March 10, 2020** **pg 3**



*Sign language and communication material in alternate formats can be arranged given sufficient notice (206-1000).
TDD Number 206-1024.*

ASSISTIVE LISTENING DEVICES AVAILABLE IN THE COUNCIL CHAMBERS.



Discussion and Possible Action

4. FCD Resolution No. FCD2020-08 **pg 5**

A RESOLUTION of the Board of Supervisors of the King County Flood Control District, King County, Washington, Declaring an Emergency Related to the COVID-19 Virus, Authorizing Action Consistent with this Declaration, and Ratifying the Finding of Emergency by the Chair.

5. FCD Resolution No. FCD2020-09 **pg 15**

A RESOLUTION authorizing the use of digital and electronic signature use and ratifying emergency electronic signature use per chapter 19.360 RCW.

6. FCD Resolution No. FCD2020-10 **pg 31**

A RESOLUTION authorizing membership with Enduris for the purpose of providing liability and property insurance for the King County Flood Control District; and approving a Master Agreement and authorizing execution thereof.

7. FCD Motion No. FCD20-05 **pg 55**

A MOTION authorizing the chair to enter into an amendment to the agreement for advisory committee facilitation services.

8. **Other Business**

9. **Adjournment**



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King County Flood Control District

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1:00 PM

Tuesday, March 10, 2020

Room 1001

DRAFT MINUTES

1. Call to Order
2. Roll Call
3. Approval of Minutes of February 24, 2020

Discussion and Possible Action

4. FCD Motion No. FCD20-04

A MOTION reaffirming the King County Flood Control Zone District's commitment to a countywide multibenefit approach to flood risk reduction; creating three new grant programs addressing the countywide flood issues of urban streams, coastal erosion/coastal flooding and culvert replacement/fish passage restoration.

5. FCD Resolution No. FCD2020-05

A RESOLUTION relating to the operations and finances of the King County Flood Control Zone District; adopting a revised 2020 budget, district oversight budget, capital budget, six-year capital improvement program for 2020-2025; and amending Resolution FCD2019-13.2

Public Hearing Required



*Sign language and communication material in alternate formats can be arranged given sufficient notice (206-1000).
FDD Number 206-1024.*

ASSISTIVE LISTENING DEVICES AVAILABLE IN THE COUNCIL CHAMBERS.



6. Substitute FCD Resolution No. FCD2020-07.2

A RESOLUTION amending the interlocal agreement between King County and the King County Flood Control Zone District to extend its term.

Executive Session

Executive Session under RCW 42.30.110(1)(i), to discuss with legal counsel representing the District litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency.

7. **Other Business**

8. **Adjournment**



Signature Report

FCD Resolution

Proposed No. FCD2020-08.1

Sponsors

1 A RESOLUTION of the Board of Supervisors of the King
 2 County Flood Control District, King County, Washington,
 3 Declaring an Emergency Related to the COVID-19 Virus,
 4 Authorizing Action Consistent with this Declaration, and
 5 Ratifying the Finding of Emergency by the Chair.

6 WHEREAS, as a result of the global pandemic caused by the spread of the novel
 7 coronavirus known as COVID-19, the President of the United States, Governor Jay
 8 Inslee, and the King County Executive Dow Constantine have declared a state of
 9 emergency in King County, to aid state and local health departments' efforts to curb the
 10 spread of the novel coronavirus known as COVID-19, and

11 WHEREAS, in response to the above referenced proclamations of emergency, the
 12 Chair of the King County Flood Control Zone District (the “District”) entered a finding
 13 of an emergency for the District on March 19, 2020, pursuant to FCD Resolution No.
 14 2009-06.2, attached hereto as Exhibit A and adopted herein by this reference, and

15 WHEREAS, consistent with that finding, the Chair authorized the Executive
 16 Director and staff of the District to take actions necessary to ensure the operation of the
 17 District during this crisis in furtherance of the public health and welfare, and

18 WHEREAS, the District provides critical flood prevention services to the
 19 residents of King County, which serves are essential for public health and safety, and

20 WHEREAS, the District Board of Supervisors desires to formally declare an
21 emergency so appropriate measures may be taken as determined appropriate by the
22 District to protect the health, safety and welfare of the District's employees and the
23 general public residing within King County, and

24 WHEREAS, the District Board of Supervisors desires to ratify the Chair's finding
25 of an emergency dated March 19, 2020, and the actions authorized by the Chair pursuant
26 to that finding;

27 NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE KING
28 COUNTY FLOOD CONTROL ZONE DISTRICT:

29 SECTION 1. The Board of Supervisors for the King County Flood Control Zone
30 District hereby declares that a local emergency now exists due to the COVID-19 virus.
31 The District's Executive Director and staff, in consultation with the Chair, may take such
32 actions as are deemed appropriate to respond to the emergency, including but not limited
33 to developing and implementing mitigation measures for staff related to COVID-19. The
34 Executive Director or designee is directed to provide regular reports regarding actions
35 taken during this declared emergency to the Chair and Executive Committee, and at each
36 special and regular meeting of the Board, throughout the duration of this emergency.

37 SECTION 2. The Board of Supervisors ratifies the Chair's finding of an
38 emergency for the District, dated March 19, 2020. Pursuant to that finding and Chapter
39 38.52 RCW and RCW 39.04.280, the Executive Director is authorized to waive the
40 competitive bidding requirements for the purchase of essential materials, supplies and
41 services to operate the District during this crisis. All contracts entered into pursuant to
42 this authorization shall be submitted to the Chair, Executive Committee or Board,

43 pursuant to the District's procurement policies, for ratification when practicable.

44 SECTION 3. The Board of Supervisors ratifies the following actions taken by the

45 Chair and Executive Director in accordance with the finding of an emergency:

46 A. Authorization of four Special District Journal Entry Form authorizing
47 payment to King County in the amount of \$16,611,445.30 for services rendered, dated
48 March 25, 2020;

49 B. Authorization of four Warrants authorizing payment to Parametrix, Lund
50 Consulting, Bill Clarke, Attorney at Law & Government Affairs, and the Washington
51 State Auditor in the aggregate amount of \$61,872.45; and

52 C. Execution of a Letter of Intent to Bind Coverage as of April 1, 2020, dated
53 March 30, 2020, stating the District's intent to contract with Enduris for property and
54 liability insurance.

55 SECTION 4. This declaration shall remain in effect until rescinded by action of
56 the Board.

57 SECTION 5. If any section, subsection, paragraph, sentence, clause, or phrase of

58 this resolution is declared unconstitutional or invalid for any reason, such decision shall
59 not affect the validity of the remaining parts of this resolution.

60

KING COUNTY FLOOD CONTROL ZONE
DISTRICT
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the District

Attachments: A. Proclamation of Emergency E-Signed 03/24/20



**KING COUNTY
FLOOD CONTROL
DISTRICT**

516 Third Avenue • Room 1200 • Seattle, WA 98104
206.296.1020 • info@kingcountyfloodcontrol.org
www.kingcountyfloodcontrol.org

**FINDING OF AN EMERGENCY BY THE CHAIR OF
THE KING COUNTY FLOOD CONTROL ZONE
DISTRICT FOR KING COUNTY, WASHINGTON,
PERTAINING TO AN EMERGENCY RELATING TO
THE COVID-19 VIRUS**

WHEREAS, on January 31, 2020, the Secretary of the United States Department of Public Health and Human Services, Alex Azar, declared a public health emergency to aid state health departments' efforts to curb the spread of the novel coronavirus known as COVID-19; and

WHEREAS, on February 29, 2020, Governor Jay Inslee signed a Proclamation declaring that a state of emergency exists in all counties in the State of Washington due to the number of confirmed cases of COVID-19 in the State, and directed that the plans and procedures of the Washington State Comprehensive Emergency Management Plan be implemented; and

WHEREAS, on March 1, 2020, King County Executive Dow Constantine signed a Proclamation of Emergency due to the number of confirmed cases of COVID-19 in King County, thereby enabling the government of King County to take extraordinary measures in response to the presence of COVID-19 in King County; and

WHEREAS, the District provides critical flood prevention infrastructure and services to the residents of King County, which are essential for public health and safety; and

WHEREAS, pursuant to the District's Procurement Policies, FCD Resolution No. 2009-06.2, at Section 6, the District's Chair desires to formally find an emergency exists so appropriate measures may be taken as determined appropriate by the District's Executive Director to protect the health, safety and welfare of the general public residing within King County.

NOW, THEREFORE, BE IT RESOLVED:

1. **Finding of Emergency.** The District's Chair hereby finds that, as of March 1, 2020, a local emergency exists due to the COVID-19 virus. The District Executive Director and staff shall take such actions as are deemed appropriate in consultation with the District's Chair.

2. **Additional Powers and Authority.** In light of the evolving nature of the COVID-19 outbreak, and pursuant to the authority granted by Chapter 86.15 RCW, RCW 38.52.070, the District's Executive Director is authorized to exercise the powers vested

under this Declaration of Emergency without regard to time consuming procedures and the formalities prescribed by law (excepting mandatory constitutional requirements), including not limited to budget law limitations, requirements for competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the rental of equipment, the purchase of supplies and materials, and the appropriation and expenditure of public funds.

This Finding and all contracts executed and policies implemented pursuant to this Finding shall be brought back to the Executive Committee or Board of Supervisors, depending on the value of the contract, for formal ratification after the conclusion of this emergency.

ADOPTED BY THE CHAIR of King County Flood Control Zone District, King County, Washington, this 24th day of March 2020.

KING COUNTY FLOOD CONTROL
ZONE DISTRICT, CHAIR

A handwritten signature in black ink, appearing to read "Dave Upthegrove", written over a horizontal line.

Dave Upthegrove



Staff Report

Agenda Item:	4	Name:	Charlotte Archer
Proposed No.:	FCD Resolution No 2020-08	Date:	April 14, 2020

Proposed Resolution FCD2020-08: A Resolution of the Board of Supervisors of the King County Flood Control District, King County, Washington, Declaring an Emergency Related to the COVID-19 Virus, Authorizing Actions Consistent with this Declaration, and Ratifying the Finding of Emergency by the Chair.

On January 31, 2020 declaration of a nationwide public health emergency by Secretary of the U.S. Department of Public Health and Human Services relating to the spread of the novel coronavirus known as COVID-19. Since that date, the U.S. President, Governor Jay Inslee, King County Executive Dow Constantine and leaders across the county, state and country have proclaimed a state of emergency arising from this public health pandemic.

As a quasi-municipal corporation, the King County Flood Control District has limited authority to take action in the event of an emergency, unlike its County counter-part. However, the King County Flood Control Zone District's Procurement Policy, FCD 2009-06.2 echoes the provisions of Chapter 38.52 RCW and RCW 39.04.280 by allowing the waiver of competitive bidding in the event of a finding of an emergency. The relevant provision is as follows:

SECTION 6: Emergency. When in the opinion of the Executive Director any emergency shall require the immediate execution of a District contract for acquisition of materials, equipment, supplies or services, the Executive Director shall prepare for the chair of the Executive Committee a finding of the existence of such emergency. Based on the finding, the chair of the Executive Committee may execute any contracts or purchases necessary to respond to the emergency; provided that the chair of the Executive Committee shall, at the first Executive Committee meeting if the contract was for less than \$100,000, or at the first Board meeting if the contract was for \$100,000 or more, request Executive Committee or Board ratification, as applicable, of the finding of emergency and any purchases or contracts awarded and/or executed pursuant to that finding.

Pursuant to this provision of the procurement policies, the Executive Director prepared and the Chair executed a finding of an emergency on March 19, 2020. Consistent with that finding, the Chair and Executive Director took the following actions:

- (1) Execution of the Special District Journal Entry Form authorizing payment to King County in the amount of \$16,611,445.30 for services rendered by King County. These payments were for the invoices submitted by King County for work performed for the District. Absent this payment during the pendency of this emergency, the District may have been in violation of the terms of the Interlocal Agreement between the District and King County for services.
- (2) Authorization of Warrants to District Contractors in the aggregate amount of \$61,872.45 for services rendered. Absent these payments during the pendency of this emergency, the District may have been in violation of the terms of the consultant contracts for these services. The warrants were issued to the following contractors:
 - a. \$39,282.10 to Parametrix for the Lower Green River Corridor Flood Hazard Management Plan Programmatic EIS;
 - b. \$12,360.00 to Lund Consulting as project manager for the Lower Green River Corridor Flood Hazard Management Plan Programmatic EIS;
 - c. \$9,677.00 to Bill Clarke, Attorney at Law & Government Affairs as District lobbyists during the 2020 Washington State legislative session; and
 - d. \$3,553.55 to the Washington State Auditor for the 2018 financial and accountability audits of the District.
- (3) Execution of a Letter of Intent to Bind Coverage as of April 1, 2020. King County gave the District notice that the District's insurance coverage through the County's self-insurance program would terminate on April 1, 2020, due to a concern raised by the State Auditor's Office regarding the unintended creation of a joint-insurance pool. The District performed a competitive process to procure new insurance, and as a result of that process, the Chair and Executive Director recommended Enduris. Due to the public health crisis, and the need to procure insurance for the District prior to the deadline of April 1, 2020, on March 30, 2020 the Chair authorized the Executive Director to execute a letter of intent to bind coverage with Enduris, pending the approval of Enduris by the full Board. By ratifying this signature, the Board does not ratify the selection of Enduris. Rather, absent the Board's approval on the separate Resolution Authorizing the Chair to Execute a Master Agreement for Insurance Services (also for review at this meeting), the District is not bound to Enduris for insurance coverage moving forward. If the Board does not elect to contract with Enduris, the District would be obligated to pay pro-rated premium for the time period Enduris has provided coverage (April 2020, and any subsequent months, until a second procurement process can take place). That amount would fall within the Chair's authority.

By this Resolution the District Board of Supervisors would declare a state of emergency consistent with the intent of Chapter 38.52 RCW. Pursuant to Resolution FCD2009-06.2 at Section 6, this Resolution would ratify the Chair's finding of emergency, and ratify the actions taken by the Chair and Executive Director pursuant thereto (described above).

This declaration and related authority would be in place until lifted by action of the Board. All actions taken by the Executive Director would be later submitted to the Chair, Executive Committee or Board (pursuant to the District's Rules and Operating Procedures, and Resolution FCD2009-06.2) for ratification or rejection.

Attachments

FCD Resolution FCD2020-08

Chair's Finding of Emergency, dated March 19, 2020

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Signature Report

FCD Resolution

Proposed No. FCD2020-09.1

Sponsors

1 A RESOLUTION authorizing the use of digital and
2 electronic signature use and ratifying emergency electronic
3 signature use per chapter 19.360 RCW.

4 WHEREAS, as a result of the global pandemic caused by the spread of the novel
5 coronavirus known as COVID-19, the U.S. President, the Governor of the state of
6 Washington, and the King County Executive have declared a state of emergency in King
7 County, and ordered the use of policies and procedures to limit in-person contact so as to
8 avoid the spread of the disease, and

9 WHEREAS, on March 19, 2020, the Chair of the King County Flood Control
10 Zone District ("the District") echoed the proclamations of the aforementioned leaders,
11 and entered a finding of an emergency for the District, pursuant to FCD Resolution 2009-
12 06.2, and

13 WHEREAS, consistent with that finding, the Chair authorized the Executive
14 Director and staff of the District to take actions necessary to ensure the operation of the
15 District during this crisis in furtherance of the public health and welfare, including the
16 need to utilize remote work and electronic records maintenance, and

17 WHEREAS, as an emergency measure, the Chair and staff utilized electronic
18 signatures for the purposes of executing records necessary to the continued operation of
19 the District identified herein, so as to ensure the federal, state and county directives for

20 social distancing were honored, and

21 WHEREAS, pursuant to chapter 19.360 RCW, the District may determine
22 whether and to what extent it will authorize by policy the use of electronic signatures in
23 lieu of hand-written signatures on legislation, financial records and other documents, and

24 WHEREAS, RCW 19.360.020 authorizes the District to utilize electronic
25 signatures in the conduct of its affairs and other transactions and to establish a method
26 and process for such use by ordinance, resolution, policy, or rule, and

27 WHEREAS, the use of electronic signature technologies can benefit the District
28 by decreasing the District's reliance on paper transactions and physical documents,
29 lessening administrative demands, improving efficiency and aiding the conduct of
30 business during an public health emergency, and

31 WHEREAS, the District desires to ratify the use of electronic signature described
32 herein, and authorize the continued use of electronic signatures during a declared
33 emergency, subject to policies that create reasonable safeguards;

34 NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE KING
35 COUNTY FLOOD CONTROL ZONE DISTRICT:

36 SECTION 1. The Board of Supervisors for the King County Flood Control Zone
37 District finds it to be in the public interest to allow the use of electronic records and
38 electronic signatures for District business to the fullest extent allowed by law.

39 SECTION 2. The Board adopts the King County Flood Control Zone District
40 Rules and Operating Procedures as amended, and as attached hereto as Exhibit A and
41 incorporated herein as referenced.

42 SECTION 3. The Board authorizes the Chair, Vice Chair and Executive Director,

43 and their designees to affix electronic signatures to electronic records consistent with the
44 policies adopted herein.

45 SECTION 4. The Board finds that the Chair's use of an electronic signature to
46 execute the following documents during the declared COVID-19 emergency met the
47 intent and requirements of this Resolution, and the Chair's use of the electronic signature
48 is hereby ratified for these documents: A. Finding of Emergency by the Chair of the
49 King County Flood Control Zone District, Pertaining to an Emergency Relating to the
50 COVID-19 Virus, dated March 19, 2020; B. the four Special District Journal Entry Form

- 51 authorizing payment to King County for services rendered, dated March 25, 2020; and C.
52 Master Agreement for Insurance Coverage, dated March 30, 2020.
53

KING COUNTY FLOOD CONTROL ZONE
DISTRICT
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the District

Attachments: A. Exhibit A - King County Flood Control Zone District Rules and Operating Procedures, as amended April 14, 2020.

**KING COUNTY FLOOD CONTROL ZONE DISTRICT
RULES AND OPERATING PROCEDURES**

Section 1 Purpose.

The purpose of this resolution is to establish rules and operating procedures for the King County Flood Control Zone District (the "District").

Section 2 Definitions.

A. "Advisory Committee" means the advisory committee for the King County Flood Control Zone District as established by King County Ordinance 15278.

B. " Board" means the Board of Supervisors of the King County Flood Control Zone District ("FCZD"), who as King County Councilmembers are ex officio members of the Board.

C. "Executive Committee" means the executive committee of the King County Flood Control Zone District, consisting of four members of the Board who are appointed by the chair of the Board.

D. "Legislation" means a "motion" or "resolution".

E. "Motion" means legislation that organizes and administers the Flood Control Zone District or that contains declarations of policy which do not have the force of law.

F. "Resolution" means legislation that has the force of law.

Section 3 Officers.

A. The chair of the Board shall be elected by the members of the Board. The chair of the Board may appoint another member of the Board to preside at a Board meeting.

B. The chair of the Board shall preside at Board meetings, sign resolutions and other documents on behalf of the Board and perform such other duties as are commonly associated with that office.

C. The vice-chair of the Board shall be elected by the members of the Board. The vice-chair shall act in the absence of the chair.

D. The chair and the vice-chair shall serve at the pleasure of the Board for a term of one year, unless decided otherwise by the Board and until successors are chosen.

Section 4 Executive Committee.

A. The Executive Committee shall consist of four members of the Board, elected by the members of the Board.

B. The Executive Committee members shall serve at the pleasure of the Board for a term of one year, unless decided otherwise by the Board and until successors are chosen.

C. On behalf of the Board, the Executive Committee may take the following actions and perform the following functions, in addition to those identified elsewhere in these rules:

1. Approve contracts for goods and services up to \$100,000;
2. Review and recommend capital projects to the Board;
3. Develop and approve staffing and personnel policies related to the administration of the District; and
4. Oversee and administer the daily administration of the District.

D. At the first meeting in January, the Executive Committee shall elect a chair and vice-chair of the Committee, who shall serve for a term of one year and until their successors are elected.

E. The chair of the Executive Committee:

1. Shall preside at Committee meetings and perform such other duties as are commonly associated with that office, and
2. May approve contracts for goods and services that are up to \$20,000 in an amount and that are included in the District's budget and work program. After approval of such a contract, the agenda for the next Executive Committee meeting shall contain an agenda item for the contract and at the meeting the chair of the Executive Committee or designee shall give a report regarding the contract.

F. The Executive Committee shall reflect the geographic diversity of the District.

G. The vice-chair shall perform the duties of the chair in the chair's absence.

H. The chair or the vice-chair of the Executive Committee may be removed by simple majority vote of the total membership of the Committee. If the chair or vice-chair of the Committee is removed, the Committee shall elect a successor as provided herein.

I. If any decision of the Executive Committee is not unanimous, the decision shall be forwarded to the Board for final decision at the request of any member who voted against the decision.

Section 5 Advisory Committee.

A. The Advisory Committee shall consist of fifteen members, consisting of permanent seats and two-year seats, as follows:

1. Ten permanent seats shall be held by:

a. each mayor, or a council member alternate designated by the mayor, of the following cities: Tukwila, Auburn, Kent, Renton, Snoqualmie, North Bend, Carnation, Seattle and Bellevue; and

b. the King County executive;

2. Four two-year seats shall be held by either mayors or city council members, or mayor or council member alternates, as nominated by the Suburban Cities Association or its successor, from the remaining cities in King County to ensure the goal of diversity in the geographic location and size of jurisdictions on the advisory committee; and

3. One two-year seat shall be held by an individual chosen from lists of no more than three nominees submitted to the Board by each of the King County Unincorporated Area Councils, alternating between a resident of the urban unincorporated area and the rural unincorporated area.

4. The members for two-year seats allocated to representatives of the Unincorporated Area Councils and the Suburban Cities Association or its successor shall be subject to confirmation by the Board.

B. The Advisory Committee shall review and recommend to the Board an annual work program and budget for the district, including capital improvement program projects and funding levels, subject to approval or approval and modification by the board of supervisors.

C. Each seat on the advisory committee shall have one vote, unless rules adopted by the Advisory Committee provide otherwise.

D. The Advisory Committee shall elect a chair of the Committee, whose term shall be of indefinite duration.

E. The chair of the Advisory Committee shall preside at Committee meetings, and perform such other duties as are commonly associated with that office.

F. The Advisory Committee shall elect or remove a vice-chair in the same manner as the chair. The vice-chair's term shall be of indefinite duration. The vice-chair shall perform the duties of the chair in the chair's absence.

G. The chair of the Advisory Committee or the vice-chair may be removed by simple majority vote of the total membership of the Committee. If the chair or the vice-chair of the Committee is removed, the Committee shall elect a successor as provided herein.

H. Each seat on the Advisory Committee shall have one vote, unless rules adopted by the advisory committee provide otherwise.

I. The Advisory Committee shall adopt other rules governing its operations, at or promptly after its first meeting.

Section 6 Meetings.

A. The regular meetings of the Board shall be held at 2:00 p.m. on the second Tuesday of each month. The regular location of Board meetings shall be the King County Council Chambers, 10th floor King County Courthouse, Seattle, Washington 98104.

B. The regular meetings of the Executive Committee shall be held at 11:30 a.m. on the first and third Wednesday of each month. The regular location of the Executive Committee meetings shall be the King County Council Chambers, 10th floor King County Courthouse, Seattle, Washington 98104.

C. Special meetings of the Board or Executive Committee may be called by their respective chairs or as provided in RCW 42.30.080.

C. The Board, the Executive Committee and the Advisory Committee shall comply with the Open Public Meetings Act, Chapter 42.30 RCW. Any member of the Board may attend a meeting of the Executive or Advisory Committees.

Section 7 Executive Committee and Board Action.

A. A quorum of the Board shall consist of four members. A quorum of the Executive Committee shall consist of three members of the Committee.

B. All actions of the Board or Executive Committee shall be by simple majority vote of those present. All actions of the Executive Committee shall be simple majority vote of those present; provided that if only two members of the Executive Committee are present, the Executive Committee may act by unanimous vote of the two members and written concurrence in that vote by a third member of the Executive Committee, which concurrence shall be filed with the Clerk of the Board by the close of the second business day after the vote.

C. Members of the Board and Executive Committee must be present to vote on a matter before the Board or Executive Committee, except as provided in subsections B and D of this section. Members of the Board or Executive Committee participating by telephone or other electronic means as allowed under subsection D of this section are present for quorum purposes.

D. The clerk of the Board, in consultation with the chair, shall establish authentication and operating procedures, which must comply with all state and county laws regarding open public meetings. It shall be noted in the minutes when members participate by telephone or other electronic means.

1. Members may participate and vote in meetings of the Executive Committee of which they are members and in meetings of the Board by telephone or other electronic means under the following circumstances:

a. under any circumstances up to five times per calendar year per supervisor; and

b. under circumstances constituting good cause, which include:

i. an emergency, as defined in K.C.C. 12.52.010;

ii. special meetings when the regular meetings of the Board shall not take place; or

iii. urgent circumstances as defined in subsection D.5 of this section, if the member's attendance is approved in accordance with subsection D.2. of this section.

2. A member wishing to participate and vote in a Board or Executive Committee meeting by telephone or other electronic means under subsection D.1.b.iii. of this section shall use the following process:

a. The member shall declare orally or in writing to the chair of the meeting that the member requests to participate and vote by telephone or other electronic means because of urgent circumstances;

b. After receiving the request from the member, the chair shall promptly approve or deny the request and so inform the member, who may accept the chair's ruling or appeal the chair's ruling to the members present at the meeting; and

c. Reversal of the chair's ruling requires an affirmative vote of a two-thirds majority of the members present at the meeting. For a Board meeting, reversal of the chair's ruling also requires that a quorum be present.

3. In notifying the meeting chair of the member's intent or request to participate and vote by telephone or other electronic means under this subsection C., the member shall specify the specific provision of this subsection C. on which the member is relying.

4. To facilitate connection to the broadcasting system, notices or requests for participation by telephone or other electronic means should be made half an hour in advance of the meeting when possible, and the member should promptly inform the clerk of the meeting of the notice or request. When participating by telephone or other electronic means, the member shall speak audibly so that the public can hear the discussion and voting process.

5. For the purposes of this subsection D., "urgent circumstances" means when a member experiences one or more of the following:

a. inclement weather, such as a flood alert or snow in the member's district, that results in circumstances that make it unsafe for the member to attend the meeting; and

b. the member or an immediate family member, as "immediate family" is defined in K.C.C. 3.12.010, has a medically-related issue or other urgent need for assistance, including without limitation the death of an immediate family member, that makes it difficult for the member to attend the meeting.

E. All actions of the Board or Executive Committee shall be recorded in the minutes, copies of which shall be distributed to each member of the Board or Committee.

Section 8 Board Resources.

A. The Board shall determine and provide for staff and other resources required to assist the Board and the Executive Committee in performing their duties.

B. Hiring and staffing decisions. The Executive Committee shall oversee employment-related issues for the Board in consultation with the Executive Director, as follows:

1. Prepare and adopt administrative and personnel-related policies (see Section 4.C. above).

2. Job descriptions, classifications, and an organizational chart of employees of the District shall be reviewed and recommended by the Executive Committee, and authorized by motion of the Board.

3. The Executive Committee shall establish and be responsible for outreach, recruitment and hiring for the Executive Director, provided:

a. Hiring of the Executive Director shall be subject to appointment by motion of the Board; and

b. The Executive Director shall report to the Chair of the Board, and shall be accountable and responsive to the supervisors on the Board; and

c. The Executive Director is responsible for the efficient overall management and administration of the King County Flood Control District; and

d. The Executive Director is subject to the policies and procedures of the District; and

e. The Executive Committee shall annually evaluate the performance of the Executive Director, using a process established by the Executive Committee; and

f. The Executive Director is subject to disciplinary actions as determined by the Executive Committee. The Executive Director, if either suspended without pay for two weeks or more or terminated, may appeal the decision to the Board. The appeal must be filed within ten calendar days of written notice of the suspension or termination being sent to the employee. An appeal is filed by delivering a notice of appeal to the clerk of the Board.

4. The Executive Director shall:

a. consult with the Board chair and vice chair about the hiring decision before extending an offer of employment for Deputy Executive Director; and

b. shall make hiring decisions for all positions that report to the Executive Director as they appear in the organization chart adopted by the Board.

Section 9 Electronic Signature Authorized.

A. Authorization. The Chair, Vice Chair, and Executive Director, or designees, are authorized to utilize electronic signatures during an emergency, as defined at RCW 38.52.010, for the execution of records, except as indicated in this section. An electronic signature may be used with the same force and effect as a signature affixed by hand, subject to the limitations in this section and under state and federal law.

B. Definitions. Except where specifically defined in this section, all words in this section shall have the meaning commonly associated therewith.

1. Record. A record is defined as any paper, machine-readable material, completed form, or other document, regardless of physical format, made or received by the District in connection with the transaction of public business.

2. Electronic Signature. An electronic sound, symbol or process, attached to or logically associated with an electronic record, and executed or adopted by a person with the intent to sign the record.

C. Requirements for Use of Electronic Signature. Consistent with the Board's authorization, an electronic signature may be utilized during a

declared emergency in lieu of a handwritten signature, when the following requirements are met:

1. The electronic signature shall be in the form of either a digitized graphical image of a handwritten signature or a digital signature using a private user signing key and public validation key.
2. The electronic signature shall be accompanied on the record by the date and time of the signature, unless the electronic signature technology is self-auditing.
3. The identification and authentication of the signer shall be possible based on the e-signature;
4. The signer shall intend to sign;
5. The electronic signature shall be reliably associated with the record;
6. The signed record shall have integrity (e.g., legibility, no indication of alteration, secure and reliable storage process, access limited to authorized persons), which shall be ensured by using an integrity control measure, including but not limited to encrypted transport protocols, message encryption, or multifactor authentication methods.

D. Restrictions on use of Electronic Signature. An electronic signature may be used on any record other than:

1. Promissory notes;
2. Real property title documents;
3. Sureties and guarantees of payment from a third party;
4. Transactions which require a notarized signature, sworn signature, or witnessed signature ; and
5. Any other record that shall not be executed by electronic signature pursuant to a federal, state or local law.

Section 109 Miscellaneous.

A. The rules of the Metropolitan King County Council as contained in K.C.C. chapter 1.24 or, where those rules are silent, the rules contained in the 2000 edition of Robert's Rules of Order Newly Revised 10th edition shall govern the Board and Executive Committee in all cases in which they are reasonably applicable and not inconsistent with this resolution.

B. The Board may revise these rules and operating procedures at any regular or special meeting by majority vote.

ADOPTED by the King County Flood Control Zone District on the 6th day of November, 2007.

AMENDED by the King County Flood Control Zone District on the 22nd day of September, 2008.

AMENDED by the King County Flood Control Zone District on the 4th day of March, 2009.

AMENDED by the King County Flood Control Zone District on the 12th day of October, 2009.

AMENDED by the King County Flood Control Zone District on the 21st day of March, 2011.

AMENDED by the King County Flood Control Zone District on the 26th day of February, 2013.

AMENDED by the King County Flood Control Zone District on the 26th day of February, 2014.

AMENDED by the King County Flood Control Zone District on the 8th day of January, 2018.

AMENDED by the King County Flood Control Zone District on the 6th day of March, 2019.

AMENDED by the King County Flood Control Zone District on the 8th day of January, 2020.

AMENDED by the King County Flood Control Zone District on the 14th day of April, 2020.

Chair of the Board

ATTEST:

Clerk

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Staff Report

Agenda Item:	5	Name:	Charlotte Archer
Proposed No.:	FCD Motion No 2020-09	Date:	April 14, 2020

Proposed FCD Resolution 2020-09: A RESOLUTION authorizing the use of digital and electronic signature use and ratifying emergency electronic signature use per Chapter 19.360 RCW.

Overview:

By this Resolution, the Board of the King County Flood Control Zone District would take the following actions:

- Authorize the use and receipt of electronic signatures in lieu of handwritten signatures;
- Ratify the use of an electronic signature on documents executed during the pendency of the current public health emergency; and
- Amend the District's Rules and Operating Procedures to set out requirements for the use and electronic signatures by the District's officers and staff.

Background:

In 2015, the Washington legislature enacted Chapter 19.360 RCW, adopting regulations for the use, acceptance and removal of barriers to the use and acceptance of electronic signatures by public agencies. The legislation further authorized electronic dealings for governmental affairs and transactions via electronic signature rather than a more traditional handwritten signature on documents necessary for certain governmental transactions.

During its most recent session, the legislature enacted Engrossed Substitute Senate Bill 6028 (2020 Reg. Sess.), effective June 2020, which adopts the provisions of the Uniform Electronic Transactions Act, an act proffered by the Uniform Law Commission to establish standards for electronic signatures and electronic records nationwide. In 2000, the Electronic Signatures in Global and National Commerce Act (ESIGN) was enacted at the federal level to establish that non-UETA state enactments were federally preempted unless they were consistent with ESIGN and UETA. During the 2020 session, the legislature responded to that preemption by adopting UETA provisions, including that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

Importantly, the directive to local agencies under Ch. 19.360 RCW (which has been repealed and replaced by ESSB 6028) remains the same under the new law:

Each governmental agency of this state shall determine whether, and the extent to which, a governmental agency will create and retain electronic records and convert written records to electronic records.

Both Ch. 19.360 and the new law effective June 2020 authorize public agencies to adopt policies as to the manner and format in which electronic records must be created, generated, sent and stored, and the manner and format in which the electronic signature must be affixed to an electronic record.

The King County Council is currently studying this issue and is considering the adoption of policies pertaining to the use and receipt of electronic signatures and documents. The policy amendments submitted for consideration by the Board of Supervisors for the District are intended to serve as interim regulations that may be modified to compliment those adopted by the Council at a later date.

Impact of Resolution:

This Resolution would do three things.

First, it would authorize the use of an electronic signature under RCW Ch. 19.360.

Second, it would ratify the use of an electronic signature by the Chair on certain documents separately submitted to the Board for ratification, and signed electronically due to the COVID public health crisis.

Third, by this Resolution and related policy amendments, District staff would be authorized to use and receive electronic signatures – defined as an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record – subject to ensuring certain safeguards are met:

- Signature must be verifiable as part of the underlying record; and
- Signature must have been executed or adopted by an authorized person with the intent to sign.

Attachments

FCD Resolution FCD2020-09

Exhibit A – King County Flood Control Zone District Rules and Operating Procedures, as amended



Signature Report

FCD Resolution

Proposed No. FCD2020-10.1

Sponsors

1 A RESOLUTION authorizing membership with Enduris
2 for the purpose of providing liability and property
3 insurance for the King County Flood Control District; and
4 approving a Master Agreement and authorizing execution
5 thereof.

6 WHEREAS, the King County Flood Control Zone District ("District") is
7 authorized, pursuant to chapters 48.62 and 39.34 RCW, to join with other governmental
8 entities of the State of Washington through an interlocal cooperation agreement for the
9 purpose of providing property and liability insurance coverage for the District, and

10 WHEREAS, the King County Flood Control District hereby finds and determines
11 that the most effective means for securing such insurance that offers lower costs for
12 broader coverage and comprehensive loss control programs is to become a member of
13 Enduris;

14 NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE KING
15 COUNTY FLOOD CONTROL ZONE DISTRICT:

16 SECTION 1. Master Agreement. The form of Master Agreement attached
17 hereto as Appendix A is hereby approved: and the Chair of the Board is hereby
18 authorized and directed to execute the Master Agreement on behalf of the District.

19 SECTION 2. Severability. If any provision of this Resolution or the agreements

20 authorized herein on behalf of the District is declared by any court of competent
21 jurisdiction to be contrary to law, such provision shall be null and void and deemed
22 separable from the remaining provisions to assure continuous insurance coverage for the
23 District.
24

KING COUNTY FLOOD CONTROL ZONE
DISTRICT
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the District

Attachments: A. Enduris Master Agreement

MASTER AGREEMENT



**MASTER AGREEMENT
ENDURIS**

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MASTER AGREEMENT ENDURIS

This Agreement is made and entered into by the undersigned Entities who, upon execution of this Agreement, will become Members of Enduris.

WHEREAS, the laws of the state of Washington, specifically Chapter 48.62 RCW, permit various local entities to form together into a pool pursuant to the Interlocal Cooperation Act (Chapter 39.34 RCW) for joint self-insuring and/or for the joint purchase of insurance;

NOW, THEREFORE, the undersigned executes this Agreement in consideration for other Entities executing this Agreement for the purpose of joining and establishing a risk pool known as Enduris. The undersigned agrees to abide by the terms and conditions of this Agreement and all actions taken pursuant to this Agreement. In consideration of the mutual covenants of all signatories to this Agreement it is agreed as follows:

ARTICLE 1. NAME OF ENTITY. The name of the entity created herewith shall be Enduris.

The signatories hereto, together with future signatories, establish a risk pool as authorized by Chapter 48.62 RCW as a separate legal and administrative entity for the purpose of effectuating this Agreement; which pool shall have a perpetual duration and shall continue until terminated pursuant to the terms and conditions of this Agreement.

ARTICLE 2. PURPOSE. The purposes of the pool are: to serve as a risk sharing pool of entities defined in Chapter 48.62 RCW operated and controlled by its members, and to provide stability through financial risk sharing and risk management services responsive to members' needs.

The purpose of this Agreement is to enter into a Master Agreement to form a local government risk pool, to provide for joint or cooperative action by Members relative to their financial and administrative resources for the purpose of providing risk management services and risk sharing facilities to the Members and to the Members' employees, and to defend and protect, in accordance with this Agreement, any Member of the Pool against liability pursuant to the Memorandum of Coverage issued to each Member.

This Agreement shall constitute a contract among those Entities, which shall now or at any time enter into this Agreement and become Members of the Pool.

In no event shall a Member be responsible, jointly or severally, for the liabilities of any other Member.

ARTICLE 3. DEFINITIONS. In the interpretation of this Agreement the following definitions shall apply unless the context requires another interpretation:

- | | | |
|----|--------------------|--|
| 1. | Act | "Act" shall mean such Acts of the state of Washington, pursuant to which this Pool is organized, as the same may be amended from time to time. |
| 2. | Executive Director | "Executive Director" shall mean the individual or entity designated by the Board to supervise the administration of the Pool and to perform such additional duties as shall be delegated by the Board. |

- | | | |
|----|------------------------|--|
| 3. | Agreement | "Agreement" shall mean this Master Agreement for Enduris and all of the counterparts subsequently executed. |
| 4. | Board | "Board" shall mean the Board of Directors of Enduris. |
| 5. | Contribution | "Contribution" shall mean that amount necessary to provide coverage to a Member for a one (1) year period including those amounts necessary to operate and manage the Pool as determined by the Board. |
| 6. | Member | "Member" shall mean an Entity participating in Enduris by executing this Agreement. |
| 7. | Memorandum of Coverage | "Memorandum of Coverage" shall mean the coverage limits and deductibles as outlined in the Appendix and subsequent amendments thereto. |
| 8. | Pool | "Pool" shall mean Enduris, an unincorporated association of all of its Members. |

ARTICLE 4. MEMBERSHIP. The membership of the Pool shall consist of Entities who have entered into this Agreement or its counterpart by the governing body duly authorized by law to execute this Agreement, and who have agreed to make their Contributions pursuant to the further provisions hereof. Members agree to the admission of future Members and acknowledge that they shall have no right to object to the addition of such Members provided they are admitted in accordance with the terms hereof. This Agreement shall be automatically renewed unless provisions for withdrawal or termination are applied.

Each Member shall appoint an individual and an alternate to represent the Member with the Pool. That individual shall act as liaison between the Member and the Pool for purposes of relating risk reduction and loss control information, and any other information or instructions concerning the obligations of the Member imposed by this Agreement and the rules and regulations established hereunder. The individual or alternate shall cast, on behalf of the Member, any vote to which the Member is required or permitted to cast.

The obligations of Members of the Pool shall be as follows:

1. To promptly report to the Pool any incident which could result in a claim being made by or against the Member within the Memorandum of Coverage.
2. To cooperate with and institute to the degree possible all loss prevention procedures established by the Board or the Executive Director pursuant to this Agreement.
3. To provide to the Pool such information as needed for rating purposes, including but not limited to a budget legally adopted by the Member for any fiscal year of the Member requested by the Pool.
4. To provide representatives of the Pool access to all records, including financial records and/or properties of the Member provided the Pool or the Executive Director determines the information or access is necessary.

5. To cooperate with the Pool's attorneys, claims adjusters, the Executive Director and any employee, officer or subcontractor relating to the purpose and powers of the Pool.
6. To allow attorneys and others employed by the Pool to represent the Member in investigation, settlement and all levels of litigation arising out of any claims made against the Member within the Memorandum of Coverage furnished by the Pool.
7. To pay when due all Contributions, deductibles and/or co-payments due or required pursuant to this Agreement.

ARTICLE 5. BOARD OF DIRECTORS.

1. Administration and Management of the Pool. The administration and management of the Pool shall be governed by a Board of seven (7) directors; however, the Pool's Executive Director shall be a nonvoting member of the Board.
2. Directors' Qualifications. Directors shall be either:
 - a. Elected or appointed officials of a Pool Member;
 - b. Employees of a Pool Member; or
 - c. Volunteer of a pool member.
3. Eligibility and Vacancies. Should the number of directors become less than seven (7) due to disqualification, death, incompetence, resignation or other cause, the remaining directors shall appoint a person or persons to fill such vacancy or vacancies for the unexpired term(s) thereof so that a Board of seven (7) persons shall be maintained. Any director may resign by sending a notice of his resignation to the Chair of the Board.
4. Election and Term of Directors. Directors shall be elected in accordance with the terms of the Bylaws. Directors so elected shall serve for a three (3) year term or until such new directors are elected. Members may nominate candidates for the terms to be filled according to rules to be promulgated by the Board. Each Member shall have one (1) vote which shall be cast either in person or by mail. There shall be no prohibition on election to successive terms, and election shall be by a majority of those Members voting.
5. Meetings of the Board of Directors. Meetings of the Board shall be held at least four times per year at such time as it shall prescribe. Any item of Pool business may be considered at such meetings. Special meetings may be called in the manner set forth in the Bylaws of Enduris as promulgated by the Board.
6. Executive Committee. The Executive Committee shall consist of the Chair, Vice-Chair, and the Secretary/Treasurer. The Executive Committee shall inform and direct the Executive Director on Board policy and shall exercise powers for and on behalf of the Board as it deems necessary for the prudent operation and management of the Pool until matters requiring Board action are considered at the next Board meeting.
7. Directors' Reimbursement. The directors shall be entitled to reimbursement of actual expenses incurred in the pursuit of Pool business.
8. Officers. By majority vote, the Board, shall select from the directors a chair, vice-chair, secretary/treasurer as prescribed in the Bylaws.

ARTICLE 6. POWERS AND DUTIES OF THE BOARD. The Board shall be permitted and authorized to perform and carry out, or delegate to others to perform and carry out, on behalf of the Pool, each and every act necessary, convenient or desirable to, and for carrying out the purpose of the Pool, including, but not limited to:

1. Govern the Pool, receive Members' Contributions to the Pool, and settle and pay claims and loss adjustment expenses on behalf of its Members.
2. Make and enter into contracts to conduct and operate the business of the Pool, including, but not limited to, the execution of a management services agreement.
3. Employ agents.
4. Incur debts, liabilities and obligations, but no debt, liability or obligation so incurred shall be the debt, liability or obligation of any Member to this Agreement.
5. Sue or be sued in its own name, and prosecute and defend claims.
6. Acquire, hold or dispose of personal and real property.
7. Advise Members on loss control guidelines and procedures, and provide them with risk management services, loss control and risk reduction information.
8. Purchase reinsurance and/or excess insurance and enter into such excess risk sharing pools as may be available and deemed desirable for the protection of the Members and/or the Pool itself.
9. Invest Pool funds in securities and investments in a prudent and lawful manner.
10. Promulgate policies and regulations for the general operation of the Pool.
11. Take such action as is necessary to terminate the participation of any Member that fails to comply with the reasonable requirements of the Board concerning contractual obligations.
12. Provide surety and/or fidelity bonds, as may be available, for directors, officers and all persons charged with the custody or investment of Pool monies.
13. Appoint an Executive Director who will provide for the management and operation of any joint self-insurance pool established by the organization.
14. Provide insurance coverage for those claims which the organization plans to jointly self-insure, such coverage to be effective only in the event of the exhaustion of the joint self-insurance pool's resources for a given fiscal period.
15. Establish deductibles and/or limits to any coverage that is provided.
16. Provide an annual report of the operations of the organization to the participating entities, the state risk manager and the state auditor's office.
17. Contract or otherwise provide for risk management and loss control services.

18. Contract or otherwise provide legal counsel for the defense of claims and/or other legal services.
19. Consult with the state risk manager.
20. Jointly purchase insurance coverage in such form and amount as the organization's participants may by contract agree.
21. Establish an associate membership program pursuant to guidelines issued by the State Risk Manager and Chapter 48.62 RCW.
22. Possess any other powers and perform all other functions reasonably necessary to carry out the purposes of this Agreement.

ARTICLE 7. EXECUTIVE DIRECTOR. The Board may hire an Executive Director and delegate the day-to-day management of the Pool to said Executive Director.

The Board shall receive, at least quarterly, a report from the Executive Director. The nature and details of the report shall be established by the Board and shall be in addition to or supplemented to any reports that the Executive Director shall be required to file with any regulatory authority having jurisdiction over the Pool.

ARTICLE 8. LIABILITY OF THE BOARD OF DIRECTORS, OFFICERS, EXECUTIVE DIRECTOR, SUBCONTRACTORS OR EMPLOYEES. The directors and officers of the Pool and the Executive Director, its directors, officers, employees and subcontractors shall:

1. Use reasonable and ordinary care in the exercise of their duties hereunder.
2. Be afforded all of the privileges and immunities that attach generally to governmental officers.
3. Not be liable for, and be held harmless and defended by the Pool, for any act of negligence, any mistake of judgment or any other action, made, taken or omitted in good faith unless the same is the result of a willful act done in bad faith.
4. Not be liable for any loss incurred through investment of funds or failure to invest such funds, unless the same is the result of a willful act done in bad faith.

The Pool may purchase, subject to availability and cost, insurance providing coverage for directors, officers and the Executive Director.

The undersigned agrees that the funds of the Pool shall be used to hold harmless and defend any Pool director, officer, Executive Director or employees (including its officers) for any act or omission taken or omitted in good faith by the Board, the Executive Director, or Pool's employees relating to or arising out of the conduct of Pool business. This obligation shall be considered an expense of the Pool.

No covenant or agreement contained herein shall be deemed to be the covenant or agreement of any member of the Board or the Executive Director nor any of its employees (including its officers) and none of such persons shall be subject to any personal liability or accountability by reason of the acceptance of a position or the undertaking of the performance of any of the responsibilities or

obligations or duties contemplated in the carrying out of this Agreement, whether by virtue of any construction, statute or rule of law.

ARTICLE 9. ESTABLISHMENT OF MEMBER CONTRIBUTIONS AND ASSESSMENTS. The Board shall set the Contribution of each Member based on that Member's Memorandum of Coverage taking into account the type and scope of coverage, the experience of that Member, independent actuarial evaluation and reasonable expenses for operation of the Pool including the establishment and maintenance of reserves. In the event that the annual independent financial audit determines there to be an adverse loss in any given year, and the Board determines that insufficient funds are available from the risk surplus account, a Member may be assessed their pro rata share, based on their Contribution, of such loss if they were a Member of the Pool in such year of loss.

ARTICLE 10. MEMBER'S WITHDRAWAL, CANCELLATION OR TERMINATION.

1. Members agree to continue membership for a period of not less than one (1) full policy year. At the conclusion of a policy year, a Member who has given sixty days (60) prior written notice to the Pool may withdraw at policy year-end. All notices received by Enduris stating an intention to withdraw from the program, or notification that the member is exploring the possibility of withdrawal, either conditional or unconditional, will be considered a notice to withdraw from the pool. When any member gives notice to withdraw or intent to withdraw as described in this section, the Member is not eligible to participate in the next policy coverage period and must wait a minimum of one year before making application to re-join the Enduris program. Upon notification of withdrawing from the pool, the withdrawing Member equity is forfeited to the remaining Members of the pool.
2. The Pool may, by an affirmative vote of a two-thirds (2/3) majority of the Board and by providing a Member sixty (60) days prior written notice, cancel that Member's participation in the Pool effective at the end of any year for failure to implement the loss reduction/risk control policies of the Pool and/or failure to continue to meet the underwriting criteria of the Pool or the excess carrier.
3. In the event a Member withdraws under subparagraph 1 above or is canceled under subparagraph 2 above, it shall thereafter be the responsibility of the Pool to defend, settle and pay claims within the scope and limits set forth in the canceled Member's Memorandum of Coverage in effect on the date of the occurrence out of which such claim arose. This provision shall apply solely to claims which occurred during a Member's participation and evidenced by the Member's Memorandum of Coverage.
4. Any Member failing to make Contributions, deductibles and/or co-payments when due as required by this Agreement shall be terminated from the Pool effective on the date the Contribution was due and upon that effective date of termination all coverages and benefits hereunder shall cease. If the Member shall subsequently submit its Contribution, the Board may at its discretion, reinstate such membership.
5. Any Member terminated or withdrawing from the Pool shall be liable pro rata for any assessments levied against Members for any year in which that Member belonged to the Pool as if they were still a Member.
6. If a Member ceases to exist legally, then their obligation to the initial one (1) year commitment ceases. However, the obligation for assessments under subparagraph 4 of this Article shall remain.

7. Organizations that leave Enduris forfeit any and all accumulated assets to the remaining members of the pool.

ARTICLE 11. MEMORANDUM OF COVERAGE.

1. The Pool will provide a Memorandum of Coverage to each Member upon joining the Pool and will make or secure payment on behalf of each Member under criteria and procedures to be established for the payment of claims as provided in the Member's Memorandum of Coverage. A Member may, with the approval of the Executive Director, add additional parties provided it is the Member's obligation or prerogative to provide coverage for such additional named party.
2. The Pool may obtain excess insurance or reinsurance.
3. In the event that a claim or a series of claims exceed the amount of protection provided by the Member's Memorandum of Coverage, or in the event that a claim or a series of claims should exhaust the self-insured retention and the excess limit, then payment of valid claims shall be the sole and separate obligation of the individual Member or Members against whom the claim was made and perfected by litigation or settlement or otherwise.
4. The Board may make changes in the Memorandum of Coverage, the amount of protection or retention by the Pool upon consideration of the needs and requirements of Members, loss experience, the kind and amounts of reinsurance or other excess coverage available and any such changes shall require a two-thirds (2/3) majority of the Board. Where the Board takes such action immediate notice after the taking of such action shall be sent to all Members (or their representatives) together with a replacement or updated Appendix to reflect the changes made.

ARTICLE 12. TERMINATION. The Pool shall terminate at such time as two-thirds (2/3) of the Members vote for such termination. A vote for termination must occur at least ninety (90) days prior to the end of the Pool's fiscal year in which the termination is to take effect. Termination shall take effect on the last day of the applicable fiscal year. After a vote to terminate, the Board shall commence with the orderly liquidation of the Pool's business and shall complete the same as promptly as possible. During such period of liquidation the Pool shall continue to pay claims and losses incurred within the Memorandum of Coverage until all funds of the Pool are exhausted.

After payment of all claims and losses, any remaining funds held by the Pool shall be paid to all Members of the Pool at the time of the vote of termination, pro rata based on Contribution.

No Member shall be responsible for any claim, claims, judgment or judgments against any other Member or Members. However, if upon termination of the Pool the remaining assets of the Pool are insufficient to satisfy indebtedness of the Pool (excluding claims or judgments against the Members), such deficiency shall be made up by assessments against Members of the Pool by a fair and reasonable method established by the Board.

ARTICLE 13. MISCELLANEOUS PROVISIONS.

1. The provisions of this Agreement shall be interpreted pursuant to the laws of the state of Washington.
2. This Agreement may be executed in duplicate originals or counterparts now or at any time in the future.

3. No waiver of any breach of this Agreement or any provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any of the other provisions herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligations or acts.
4. The provisions of this Agreement shall be deemed severable and if any provision or part thereof is held illegal, void or invalid under applicable law, such provision or part may be changed to the extent reasonably necessary to make the provision or part, as so changed, legal, valid or binding. If any provision of this Agreement is held illegal, void, or invalid in its entirety, the remaining provisions of this Agreement shall not in any way be affected or impaired but shall remain binding in accordance with their terms and this Agreement shall be so interpreted.
5. This Agreement and the Memorandum of Coverage contain the complete Agreement between the parties and no representations or oral statements made or heretofore given shall constitute a part of this Agreement.
6. This Agreement may be altered or amended only by amendments duly adopted in accordance with the terms and conditions of this Agreement; provided, however, that the Memorandum of Coverage may be amended from time to time to reflect the exposures of each Member and such changes shall be exempted from the preceding terms of this subparagraph.
7. This Agreement may be amended by the Board with the approval of two-thirds (2/3) of the directors; all Members agree to properly execute and adopt amendments so approved.
8. The Pool shall maintain a fiscal year ending August 31.

ARTICLE 14. AGENT AND OFFICE. The agent of the Pool for service of notice shall be Enduris, attention Executive Director. The office of Enduris shall be 1610 S. Technology Boulevard, Suite 100, Spokane, Washington 99224.

ARTICLE 15. NOTICE. All notices required to be given under this Agreement shall be in writing and sent certified mail return receipt requested with postage prepaid. Notices by a Member to the Pool shall be sent to the address in Article 14 to the attention of the Executive Director. Notices to any Member shall be sent to the representative of the Member at the Member's last known address.

In the event that any party to this Agreement desires to change its address, notice of change of address shall be sent to the other party in accordance with the terms and provisions of this Article.

IN WITNESS WHEREOF, this Agreement was executed on the ____ day of _____, 20____, by the undersigned duly authorized officer of Enduris indicated below.

Name of Entity _____

Authorized Signature _____

Title: _____

Accepted for Enduris

Authorized Signature _____

Executive Director on behalf of all other current and future signatories

ARTICLE 14. AGENT AND OFFICE. The agent of the Pool for service of notice shall be Enduris, attention Executive Director. The office of Enduris shall be 1610 S. Technology Boulevard, Suite 100, Spokane, Washington 99224.

ARTICLE 15. NOTICE. All notices required to be given under this Agreement shall be in writing and sent certified mail return receipt requested with postage prepaid. Notices by a Member to the Pool shall be sent to the address in Article 14 to the attention of the Executive Director. Notices to any Member shall be sent to the representative of the Member at the Member's last known address.

In the event that any party to this Agreement desires to change its address, notice of change of address shall be sent to the other party in accordance with the terms and provisions of this Article.

IN WITNESS WHEREOF, this Agreement was executed on the ____ day of _____, 20____, by the undersigned duly authorized officer of Enduris indicated below.

Name of Entity _____

Authorized Signature _____

Title: _____

Accepted for Enduris

Authorized Signature _____

Executive Director on behalf of all other current and future signatories



Staff Report

Agenda Item:	6	Name:	Kimberly Matej
Proposed No.:	FCD Resolution No 2020-10	Date:	April 14, 2020

Proposed Resolution FCD 2020-10: A Resolution authorizing membership with Enduris for the purpose of providing liability and providing liability and property insurance; and approving a Master Agreement.

FCD Resolution FCD 2020-10 authorizes the chair to enter into a Master Agreement with Enduris for the purpose of providing liability and property insurance for the King County Flood Control District ("District").

Since 2009, the District has secured property and liability insurance through the self-insurance program operated by King County ("County"). In late 2019, the State Auditor's Office ("SAO") conducted a self-insurance audit for the County. The SAO concluded that, since the County and District were both insured for property and liability insurance through the County's program, the program qualified as a joint self-insurance program (risk pool) under RCW 48.62. It was never the intent of the County to form a risk pool by allowing the District to use the program. In response to the SAO's determination, the County provided notice to the District to find alternative coverage by April 1, 2020.

Under the District's procurement policies, FCD 2009-06.2, Section 3 allows for the waiver of competitive bidding requirements set out in the Procurement Policy for the procurement of insurance. Considering the deadline for transitioning, the Board Chair allowed a shortened advertising period for the call for proposals.

The District issued a Request for Proposals (RFP) on February 27, 2020, for property and liability insurances services. The RFP was available on the District's website and was advertised in the print and electronic editions of the Seattle Times and the Daily Journal of Commerce. Two proposals were submitted by the response deadline of 4:00 p.m. March 6, 2020: 1) Association of Washington Cities Risk Management Services Agency; and 2) Enduris Washington. Notably, both proposals' costs were comparable with the annual premium the District paid for coverage with the County.

District staff reviewed and analyzed both submissions. King County Risk Management assisted the District in reviewing the proposals and agrees that both offer reasonable coverage and limits with very low deductibles and provide solid benefits to their members (contract reviews, claims, litigation management, and training opportunities).

After a detailed submission review, including clarifying questions to each entity, District staff, with concurrence of the Board Chair, unanimously recommend membership with

Enduris to provide insurance services to the District for the following distinct reasons: 1) Enduris is the leading risk pool in Washington for special purpose districts; 2) Enduris specializes in insurance coverage for special purpose districts; and 3) with both flood control districts and flood control zone districts as existing members, Enduris understands the scope of the District's statutory authority. The contribution amount for membership/coverage in the risk pool, based on a risk assessment and underwriting evaluation, is \$72,786 per policy year. The prorated amount for April 1, 2020 through August 31, 2020, will be \$30,426. The new policy year begins September 1.

Considering the current public health emergency, Enduris agreed to accept a "Letter of Intent to Bind Coverage as of April 1, 2020," to ensure coverage began April 1, 2020, when the District's County coverage was terminated by the County. That letter, separately submitted to the Board for ratification, did not waive the Board's discretion to authorize (or refuse to authorize) the Chair to execute this Master Agreement for on-going coverage.

By this Resolution, the Board would authorize the execution of an agreement with Enduris for insurance coverage for a minimum of one full policy year, at which time the agreement automatically renews unless provisions for withdrawal or termination are applied. Insurance coverage is retroactive to April 1, 2020, if approved.

Attachments

FCD Resolution FCD2020-10
Enduris Master Agreement
Letter of Intent to Bind Coverage
Proposal Comparisons



516 Third Avenue • Room 1200 • Seattle, WA 98104
206.296.1020 • info@kingcountyfloodcontrol.org
www.kingcountyfloodcontrol.org

March 30, 2020

Ms. Shellie Klink, Marketing and Membership Coordinator
Enduris Washington
1610 S. Technology Blvd., Ste. 100
Spokane, WA 99224

RE: Letter of Intent to Bind Coverage as of April 1, 2020

Dear Ms. Klink:

Please accept this letter of intent for the King County Flood Control District (District) to bind coverage with Enduris Washington (Enduris) as of April 1, 2020.

As you are aware, Enduris responded to the District's Request for Proposals for Insurance Services earlier this month. District staff unanimously recommend joining the Enduris risk pool for property and liability insurance services, and the Chair of the District's Board of Supervisors supports this recommendation.

A draft resolution authorizing the District's membership with Enduris will go before the Board of Supervisors for action at their next meeting. All appropriate legislation will be forwarded to Enduris after the Board takes action.

The District looks forward to our membership with Enduris and working with you and the Enduris team.

Sincerely,

A handwritten signature in blue ink that reads "Michelle Clark". The signature is written in a cursive, flowing style.

Michelle Clark
Executive Director, King County Flood Control District

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King County Flood Control District Insurance Services RFP Proposal Comparisons

REQUIRED RFP INFORMATION	AWC's RMSA*	ENDURIS
Firm Background Provide brief company background information	Yes	Yes
List of Public Agencies Insured	Yes	Yes
Types of Coverage Deductible, premiums and fees for each type, and the applicable coverage limits	Yes	Yes
Comparison to District's Existing Coverage	No	Yes
Timeline to Commence Coverage	Partial	Yes
QUALIFICATIONS		
Adherence to Requirements of RFP Quality, clarity and completeness of the proposal.	Partial	Yes
Public Sector Experience	Yes	Yes
Knowledge of Local Government Operations Including special purpose district, county and District governments; state legislative process, and how that affects local government operations	Partial	Yes
Familiarity with King County Flood Control District	No	Yes

**AWC's RMSA – Association of Washington Cities Risk Management Services Agency*

SIDE BY SIDE COMPARISON

	AWC's RMSA	ENDURIS
Cost	\$34,316 per policy year	\$72,786 per policy year
Membership Requirements	Requires: <ul style="list-style-type: none"> • Vote of RSMA Board • Non-Municipal entities must be sponsor by an existing RMSA member via resolution • FCD Board Resolution • Execute an ILA • Must become a member of AWC - \$300 annual membership 	Requires: <ul style="list-style-type: none"> • FCD Board Resolution • Membership application • Execute Enduris Master Agreement
Formation	Formed under RCW 48.62	Formed under RCW 48.62
Formation Year	Approximately 1987. That is when exploration began	1987 (32 years industry)
Pool Size	102; pool includes public entities – cities, towns, special purpose districts	550; pool includes 550 local government/special purpose districts; 17 different entity types; five flood control districts Leading risk pool for special purpose districts in Washington state
Access	Not provided in RFP	Claims can be reported online or via phone 24/7
Flood Districts Insured	Zero (0) 14 non-city entities	Five (5) <ul style="list-style-type: none"> • Lewis County Flood District 1 (Chehalis) • Marshland Flood Control District (Snohomish) • Silver Lake Flood Control District (Kelso) • Stillaguamish Flood Control District • Whatcom County Flood Control Zone District

	AWC's RMSA	ENDURIS
Membership	<p>Membership also includes:</p> <ul style="list-style-type: none"> • Claims investigation and processing • Litigation management • Pre-litigation services • Bi-yearly on-site loss control visits • Loss prevention grants • Educational scholarships • Contract review • Enquiron - online employment practices and cyber resources including an employment attorney hotline and cyber risk expert hotline • E-Risk Hub – online cyber liability resource includes model policies • RMSA-U – online training platform • AMP – online asset management platform • In-person trainings • Web resources • RMSA News • Phone/email consultation 	<p>Membership also includes:</p> <ul style="list-style-type: none"> • Risk management services • Claims management • Legal consultations • Training opportunities • Access to Municipal Resources Services Center

AWC's RMSA – COVERAGE as listed in RFP Submission

<u>Type of Coverage</u>	<u>Member Deductible</u>	<u>Coverage Limits</u>
Property	\$0	\$250,000,000
Flood	\$200,000	\$25,000,000 property \$5,000,000 vehicles \$10,000,000 high zones
Earthquake	\$200,000*	\$25,000,000 property \$5,000,000 vehicles
Equipment Breakdown	\$5,000	\$175,000,000
Automobile Physical Damage	\$0	\$13,000,000
General and Automobile liability**	\$0	\$15,000,000
Crime – Employee fidelity	\$0	\$3,000,000
Pollution Property/Liability	\$0	\$2,000,000
Cyber Property/Liability	\$0	\$3,000,000
Aviation Property/Liability***	\$0	\$2,000,000
Unmanned Aircraft System (UAS) Property/Liability****	5% of the loss for physical damage only	\$1,000,000 liability \$5,000 physical damage aggregate

ENDURIS – COVERAGE as listed in RFP Submission Compared to FCD Current Coverage

Coverage Type	Enduris	Current
Liability	\$20,000,000	\$10,000,000
Deductible	\$1,000	
	Per occurrence	Per Occurrence
Property	\$13,265,100	\$13,265,100
Deductible	\$1,000	
	Guaranteed Replacement	Unknown
Crime	\$1,000,000	\$2,500,000
Deductible	\$1,000	
	Per Occurrence	Per Occurrence
Auto Physical Damage	Available	Unknown

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Signature Report

FCD Motion

Proposed No. FCD20-05.1

Sponsors

1 A MOTION authorizing the chair to enter into an
2 amendment to the agreement for advisory committee
3 facilitation services.

4 WHEREAS, King County Flood Control Zone District ("District") Executive
5 Committee Motion FCDECM2017-02 authorized the chair of the District to enter into an
6 agreement for advisory committee facilitation services with Lund Consulting Inc., and

7 WHEREAS, District Executive Committee Motions FCDECM2018-01 and
8 FCDECM2019-02.1 authorized the chair of the District to enter into an amendment for
9 advisory committee facilitation services with Lund Consulting Inc. for 2018 and 2019
10 respectively, and

11 WHEREAS, the District desires to amend the agreement as set forth in
12 Attachment A to this motion;

13 NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS
14 OF THE KING COUNTY FLOOD CONTROL ZONE DISTRICT:

15 SECTION 1. The chair of the King County Flood Control Zone District is

16 authorized to enter into the "2020 Amendment to Contract for Advisory Committee
17 Facilitation Services," Attachment A to this motion.
18

KING COUNTY FLOOD CONTROL ZONE
DISTRICT
KING COUNTY, WASHINGTON

Dave Upthegrove, Chair

ATTEST:

Melani Pedroza, Clerk of the District

Attachments: A. 2020 Amendment to Advisory Committee Facilitation Services Contract Lund Consulting

**2020 AMENDMENT TO
CONTRACT FOR ADVISORY COMMITTEE FACILITATION SERVICES
KING COUNTY FLOOD CONTROL ZONE DISTRICT**

THIS AMENDMENT amends Sections 1, 2 and 3 of the Contract for Advisory Committee Facilitation Services (“Contract”) between the King County Flood Control Zone District, King County, Washington, a municipal corporation of the State of Washington (“District”) and Lund Consulting Inc. (“Consultant”), as follows:

A. Amendment of Section 1. Effective April 14, 2020, Section 1 of the Contract is amended as follows:

1. Scope of Services to be Performed by Consultant. The Consultant shall perform the services described in Exhibit “A” to the 2020 Amendment. In performing the services, the Consultant shall comply with all federal, state and local laws and regulations applicable to the services. The Consultant shall perform the services diligently and completely and in accordance with professional standards of conduct and performance.

B. Amendment of Section 2. Effective April 14, 2020, Section 2 of the Contract is amended as follows:

2. Compensation and Method of Payment. The Consultant shall request payment for work performed using the billing invoice form at Exhibit “B.” The District shall pay the Consultant according to the rates set forth in Exhibit “A” to the 2020 Amendment. The total compensation for services performed in the calendar year 2020 shall not exceed \$40,000.

The Consultant shall complete and return to the District Exhibit “C,” Tax Identification Number,” prior to or along with the first billing invoice.

C. Amendment of Section 3. Section 3 of the Contract is amended as follows:

3. Duration of Contract. This Contract shall be in force and effect for a period commencing on April 14, 2020 and ending December 31, 2020, unless sooner terminated or extended under the provisions of this Contract. Time is of the essence of this Contract in each and all of its provisions in which performance is required.

IN WITNESS WHEREOF, the parties hereto have executed this 2020 Amendment on the dates written below:

LUND CONSULTING INC.

KING COUNTY FLOOD CONTROL
ZONE DISTRICT

By: _____
CEO/Partner

By: _____
Dave Upthegrove, Board Chair

Date: _____

Date: _____

EXHIBIT A

King County Flood Control District Advisory Committee Facilitator Lund Consulting, Inc.
2020 Scope of Work and Budget

Assumptions:

- Five meetings each for Advisory Committee and Joint Basin Technical Committee
- Start up mid April Consultant to prepare and maintain Advisory Committee membership and contact information list and interested parties list
- Deliver final budget recommendation report by August 31, 2020
- Engagement through Flood District Budget process in the fall

Tasks:

Task 1. Start-up – Initial Advisory Committee contact <i>(includes contact lists)</i>	16 hours	4,000
Task 2. Develop meeting calendars <i>(includes doodle-polling)</i>	16 hours	4,000
Task 3. Agenda development <i>(includes work with Executive Director and Chair of Advisory Committee)</i>	14 hours	3,500
Task 4. Meeting facilitation <i>(includes preparation of meeting materials, meeting preparation, follow-up and travel)</i>	\$2,000 per meeting	20,000
Task 5. Meeting summaries <i>(includes draft and final versions)</i>	50 hours	2,500
Task 6. Final budget recommendation <i>(includes draft and final version with hard copies prepared by King County)</i>	14 hours	3,500
Task 7. Brief District <i>(At request of Executive Director)</i>	10 hours	2,500
Total Cost		\$40,000

King County Flood District or King County Rivers Section responsible for the following costs:

Printed copies of agendas and handouts for meeting participants
Copies of large format graphics such as maps, charts, presentation boards
Production costs of name tents for Advisory Committee members and alternates
Room rental
Beverages and snacks
Website posting of materials
Translation and/or ADA accommodation
Technology for on-line meetings

Professional Services Fees:

Kjristine Lund, \$250 per hour for tasks above with a facilitation fee of \$2,000 per meeting.
Anne Noris, \$50 per hour for clerk services

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STAFF REPORT

Agenda Item:	7	Name:	Michelle Clark
Proposed No.:	FCD Motion No 2020-05	Date:	April 14, 2020

SUBJECT

FCD Motion No 2020-05: A Motion authorizing the chair to enter into an amendment to the agreement for advisory committee facilitation services.

The King County Flood Control District's Advisory Committee (Advisory Committee) is a 15 member committee comprised of 14 elected officials and one unincorporated area resident. The Advisory Committee's mission is to recommend an annual budget to the District by the last business day in August. This year, in addition to its annual budget recommendations, the District is seeking policy guidance on the criterion for the three new grant streams the District created at its March 10, 2020.

The District hires a facilitator to coordinate, prepare the necessary documents, conduct, and summarize the Advisory Committee and Joint Basin Technical Committee meetings. Since 2017, the District has contracted with Lund Consulting, Inc. to perform these facilitation services.

Under the proposed contract amendment, Lund Consulting, Inc. will:

1. Facilitate 5 meetings of both the Advisory Committee and the Joint Basin technical committee
2. Prepare and maintain a list of Advisory Committee members, Joint Basin Technical Committee members, and interested parties, including Tribes, WRIAs, and non-profit/advocacy groups
3. Prepare and disseminate materials for both Advisory Committee and Joint Basin Technical Committee meetings
4. Delivery the Advisory Committee 2021 Budget Recommendation to the District by August 31, 2020
5. Engage the District through the fall budget process.

The proposed contract amendment is for an amount not to exceed total of \$40,000.

Attachments:

FCD Proposed Motion 2020-05

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