

MOTION NO. 9598

1  
2 A MOTION authorizing an interlocal agreement  
3 between King County and the City of Renton  
4 ("Renton"), collectively referred to as the  
5 "Parties", for the purposes of restoring the  
6 Upper Elliot Park Levee and enhancing the fish  
7 and wildlife habitat near the levee.

8 WHEREAS, the Parties are interested in restoration of the Upper  
9 Elliot Park Levee, which was damaged during the November 1990 flood, to  
10 protect nearby property from damage due to erosion during flooding of the  
11 Cedar River, and

12 WHEREAS, King County constructed, owns, and has periodically made  
13 maintenance repairs to the levee and is proposing to restore the levee in a  
14 manner which will minimize the potential for damage to the facility in the  
15 future due to flooding while incorporating fisheries habitat features in  
16 the design, and

17 WHEREAS, the Cedar River Basin has historically supported the largest  
18 run of sockeye salmon in the contiguous United States and still contains  
19 some of the best salmonid habitat remaining in King County, but has  
20 experienced dramatic declines in salmonid runs in recent years, and

21 WHEREAS, the Parties have determined that habitat enhancement in the  
22 levee reach will improve fish and wildlife habitat, provide water quality  
23 benefits, and support the continued ecological functioning of the Cedar  
24 River Basin, and

25 WHEREAS, King County is working with Renton and other federal, state,  
26 and tribal agencies in developing the Cedar River Basin Plan to address  
27 flooding, fish habitat, and other environmental issues related to surface  
28 water management in the Cedar River Basin, and

29 WHEREAS, the Upper Elliot Park Levee Restoration and Habitat  
30 Enhancement Project is consistent with the goals and objectives of the  
31 Cedar River Basin Plan, and

32 WHEREAS, the Parties desire to share in the costs and  
responsibilities of the Upper Elliot Park Levee Restoration and Habitat  
Enhancement Project, and

1 WHEREAS, pursuant to RCW 39.34, the Interlocal Cooperation Act, the  
2 Parties are each authorized to enter into an agreement for cooperative  
3 action;

4 NOW, THEREFORE, BE IT MOVED by the Council of King County:

5 The county executive is hereby authorized to enter into an interlocal  
6 agreement in substantially the same form as attached hereto as Exhibit A  
7 with the City of Renton to restore the Upper Elliot Park Levee and enhance  
8 the fish and wildlife habitat near the levee.

9 PASSED by a vote of 13 to 0 this 26<sup>th</sup> day  
10 of June, 1995.

11 KING COUNTY COUNCIL  
12 KING COUNTY, WASHINGTON

13 Kent Pullen  
14 Chair

15 ATTEST:

16 Gerald A. Peterson  
17 Clerk of the Council

18 Attachment:

19 A. Upper Elliot Park Levee Restoration and Habitat  
20 Enhancement Project Interlocal Agreement  
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**Interlocal Agreement Between King County and City of Renton  
for the Upper Elliot Park Levee Restoration and  
Habitat Enhancement Project**

1           This agreement is made and entered into by King County, Washington, hereinafter  
2 referred to as "King County," and the City of Renton, hereinafter referred to as  
3 "Renton," collectively known as the "Parties," for the purposes of restoring the Upper  
4 Elliot Park Levee, located on the Cedar River, and enhancing the fish and wildlife habitat  
5 near the levee through the construction of a Cedar River Legacy project.

6           WHEREAS, the Upper Elliot Park Levee is located on the Cedar River in Renton  
7 and was extensively damaged during the November 1990 flood, and

8           WHEREAS, Renton is interested in restoration of the levee to protect the  
9 Maplewood Golf Course, which it owns, from damage due to erosion during flooding of  
10 the Cedar River, and

11           WHEREAS, King County constructed, owns, and has periodically made  
12 maintenance repairs to the levee, and

13           WHEREAS, King County is interested in restoration of the levee to provide  
14 equivalent flood and erosion protection as the previous levee that was damaged, and

15           WHEREAS, King County proposes to restore the levee in a manner which will  
16 minimize the potential for damage to the facility in the future due to flooding while  
17 incorporating fisheries habitat features in the design, and

18           WHEREAS, the Federal Emergency Management Agency (FEMA) and the  
19 Washington State Department of Community Trade and Economic Development  
20 (DCTED) have made a determination of eligibility for federal and state funds to restore  
21 the levee, and

22           WHEREAS, eligibility for the FEMA/DCTED funds is dependent upon a local  
23 funding match equivalent to 12.5 percent of the approved design, construction,  
24 permitting, and project management costs, and

25           WHEREAS, DCTED will reimburse King County for 12.5 percent of approved  
26 design, construction, permitting, and project management costs, and

27           WHEREAS, FEMA will reimburse King County for 75 percent of approved  
28 design, construction, permitting, and project management costs and 100 percent of  
29 approved National Environmental Policy Act-Environmental Assessment (NEPA-EA)  
30 costs, and

31           WHEREAS, King County has appropriated in its 1995 River Improvement Fund  
32 sufficient funds to design and construct the levee restoration project, and

1           WHEREAS, the Cedar River Basin has historically supported the largest run of  
2 sockeye salmon in the contiguous United States and still contains some of the best  
3 salmonid habitat remaining in King County, and

4           WHEREAS, the run of Cedar River sockeye has dramatically declined in recent  
5 years, as have runs of Cedar River coho and chinook salmon and steelhead trout, due to  
6 causes that are not now known with certainty, and

7           WHEREAS, the Parties have determined that habitat enhancement in the levee  
8 reach will improve fish and wildlife habitat, provide water quality benefits, and support  
9 the continued ecological functioning of the Cedar River Basin, and

10           WHEREAS, the Metropolitan King County Council established the Cedar River  
11 Legacy Fund, a capital improvement project (CIP) fund, to support fish habitat  
12 enhancement projects on the Cedar River, and

13           WHEREAS, King County is working with Renton and other federal, state, and  
14 tribal agencies in developing the Cedar River Basin Plan to address flooding, fish habitat,  
15 and other environmental issues related to surface water management in the Cedar River  
16 Basin, and

17           WHEREAS, the Upper Elliot Park Levee Restoration and Habitat Enhancement  
18 Project is consistent with the goals and objectives of the Cedar River Basin Plan, and

19           WHEREAS, the Parties desire to share in the costs and responsibilities of the  
20 Upper Elliot Park Levee Restoration and Habitat Enhancement Project, and

21           WHEREAS, pursuant to RCW 39.34, the Interlocal Cooperation Act, the Parties  
22 are each authorized to enter into an agreement for cooperative action;

23           NOW THEREFORE, the Parties agree to the following:

24           I.    Purpose:

25           The purpose of this agreement is to allow the Parties to share in the costs and  
26 responsibilities of the Upper Elliot Park Levee Restoration and Habitat  
27 Enhancement Project. The project consists of two components. The first is the  
28 restoration of the Upper Elliot Park Levee to provide flood and erosion protection  
29 in the lower Cedar River near the Maplewood Golf Course, and the second is the  
30 enhancement of habitat near the levee to improve fish and wildlife habitat and to  
31 provide water quality benefits.  
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1     **II.    Project Management:**

2           The Upper Elliot Levee Restoration and Habitat Enhancement Project will be  
3           managed by a management team composed of one King County staff member  
4           designated by the King County Surface Water Management Division Manager and  
5           one Renton staff member designated by the Renton Surface Water Utility  
6           Engineering Supervisor. The management team will use consensus to reach  
7           agreement. In the event that the designated staff members cannot reach consensus  
8           on an issue, the issue will be forwarded to the managers for resolution.

9     **III.   Responsibilities:**

10          The Parties agree to the division of responsibilities for the Upper Elliot Park Levee  
11          Restoration and Habitat Enhancement Project as set forth below:

12         **A.    Upper Elliot Park Levee Restoration**

13            The following are the Parties' responsibilities for the Upper Elliot Park Levee  
14            Restoration:

15            **1.   King County shall:**

- 16            a.    Prepare all required engineering designs and construction plans.  
17            b.    Prepare and coordinate all required permits and environmental  
18            determinations, provided that Renton shall be a joint applicant on all  
19            permit applications and environmental determinations.  
20            c.    Provide to Renton, FEMA and DCTED, and other agencies any  
21            required documentation, including construction plans, regular  
22            reports, permits and environmental determinations.  
23            d.    Schedule and manage the construction of the levee restoration  
24            project.  
25            e.    Schedule and manage inspection of the levee, including final  
26            inspection by Renton, FEMA and DCTED.  
27            f.    Perform any required post-construction monitoring and reporting.  
28            g.    Maintain the levee subject to the availability of and competing  
29            priorities for King County river facility maintenance funds. Such  
30            priorities shall be established by methodologies described in the  
31            King County Flood Hazard Reduction Plan and subject to funds  
32            made available through annual river maintenance budget approval.

- 1 h. Retain ownership of the Upper Elliot Park Levee facility within its  
2 existing easement as granted by Renton.
- 3 2. Renton shall:
- 4 a. Review design drawings and construction plans.
- 5 b. Provide to King County existing Renton engineering and  
6 environmental information prepared by Renton for the site, such as  
7 topographic survey, wetland delineation, and preliminary levee  
8 design and hydraulic analyses.
- 9 c. Serve as a joint applicant with King County on any necessary  
10 permits or environmental determinations required by Renton.
- 11 d. Issue any necessary construction permits required by Renton.
- 12 e. Provide to King County any necessary access to the levee  
13 restoration project area with prior approval from Renton.
- 14 f. Participate in any required inspection of the levee.
- 15 3. In the event that prior to the start of construction FEMA or DCTED  
16 informs King County that the levee restoration will not be eligible for  
17 reimbursement, neither the levee restoration nor the habitat enhancement  
18 will be undertaken.

19 **B. Habitat Enhancement**

20 The following are the Parties' responsibilities for the Habitat Enhancement:

- 21 1. King County shall:
- 22 a. Prepare all required engineering designs and construction plans.
- 23 b. Construct the habitat enhancement.
- 24 c. Perform any necessary post-construction monitoring.
- 25 d. Maintain the habitat enhancement subject to the availability of and  
26 competing priorities for King County SWM Division funds derived  
27 from county-wide sources (i.e., non-service charge funds).
- 28 e. Pay for all costs related to completion of the habitat enhancement,  
29 except for those costs incurred by Renton.
- 30 2. Renton shall:
- 31 a. Review and approve engineering design and construction plans.
- 32

- 1                   b. Provide to King County existing Renton engineering and  
2                   environmental information prepared by Renton for the site, such as  
3                   topographic survey, wetland delineation, and hydraulic analysis.  
4                   c. Serve as a joint applicant with King County on any permits or  
5                   environmental determinations required by Renton.  
6                   d. Issue any necessary construction permits required by Renton.  
7                   e. Provide to King County any necessary access to the habitat  
8                   enhancement project area with prior approval from Renton.  
9                   f. Assist King County in collecting hydrologic data, including  
10                  installing ground water monitoring wells.  
11                  g. Inspect the habitat enhancement when completed for compliance  
12                  with Renton permit requirements.  
13                  h. Pay for all costs incurred by Renton related to completion of the  
14                  habitat enhancement project.

15   IV. Costs:

16       The Parties agree to the division of costs as set forth below:

17   A. Upper Elliot Park Levee Restoration

18       The cost of the levee restoration is estimated at \$282,000 and shall be paid as  
19       follows:

20   1. King County shall:

- 21       a. Coordinate with FEMA and DCTED to secure funding for the levee  
22       restoration by doing the following:  
23           i) Submit a Statement of Documentation summarizing the costs of  
24           the NEPA-EA and project design, construction, permitting,  
25           and management;  
26           ii) Coordinate reimbursement from FEMA and DCTED for their  
27           respective shares of the NEPA-EA and project design,  
28           construction, permitting, and management costs;  
29           iii) Pay one-half of the local funding match required by  
30           FEMA/DCTED (equal to 6.25 percent of the total project  
31           design, construction, permitting, and management costs),  
32           which is estimated to be \$18,000.

1                   2. Renton shall:

- 2                   a. Pay one-half of the local funding match required by FEMA/DCTED  
3                   (equal to 6.25 percent of the total project design, construction,  
4                   permitting, and management costs allowed by FEMA and as  
5                   documented by King County under section IV.A.1.a.i. of this  
6                   agreement), which is estimated to be \$18,000.  
7                   b. Pay for all costs incurred by Renton related to completion of the  
8                   levee restoration.  
9                   c. Pay for all Renton permit fees required for the levee restoration.

10                  B. Habitat Enhancement

11                  The costs of the habitat enhancement shall be paid as follows:

12                  1. King County shall:

- 13                  a. Pay for all costs incurred by King County and any contractors  
14                  retained by King County related to completion of the habitat  
15                  enhancement.  
16                  b. The amount paid by King County shall not exceed \$300,000.

17                  2. Renton shall:

- 18                  a. Pay for all costs incurred by Renton related to completion of the  
19                  habitat enhancement.  
20                  b. Pay for all Renton permit fees required for the habitat enhancement.

21                  V. Billing and Payment:

22                  Provisions regarding billing and payment are as follows:

23                  A. King County shall:

- 24                  1. Invoice Renton for its share of the local funding match required by  
25                  FEMA/DCTED for the levee restoration after completion of the project.

26                  B. Renton shall:

- 27                  1. Pay King County for the invoiced amounts within 30 days of receipt.

28                  C. Nothing herein shall be construed as obligating Renton or King County to  
29                  expend money in excess of appropriations authorized by law and  
30                  administratively allocated for this work.

31                  VI. Duration, Termination, and Amendment:

32                  The Parties agree to the following:

- 1           A. This agreement is effective upon signature by the Parties and remains in  
2           effect until December 31, 2000.
- 3           B. This agreement may be terminated by either Party upon 30 days written  
4           notice. In the event of termination, payment will be made for work  
5           performed to the date of termination in the proportion agreed to by the  
6           Parties.
- 7           C. This agreement may be amended, altered, clarified, or extended only by the  
8           written agreement of the Parties hereto. An equitable adjustment in cost or  
9           period of performance or both may be made if required by the change.
- 10          D. This agreement is not assignable by either Party, either in whole or in part.

11   **VII. Indemnification and Hold Harmless**

12           The Parties agree to the following:

13                 Each Party shall protect, defend, indemnify, and save harmless the other  
14                 Party, its officers, officials, employees, and agents while acting within the  
15                 scope of its employment as such, from any and all costs, claims, judgements,  
16                 and/or awards of damages, arising out of or in any way resulting from either  
17                 Party's own negligent acts or omissions. Each Party agrees that its  
18                 obligations under this subparagraph extend to any claim, demand, and/or  
19                 cause of action brought by or on behalf of any employees, or agents. For  
20                 this purpose, each Party, by mutual negotiation, hereby waives, with respect  
21                 to the other Party only, any immunity that would otherwise be available  
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1 against such claims under the Industrial Insurance provisions of Title 51  
2 RCW. In the event that either Party incurs any judgement, award, and/or  
3 cost arising therefrom including attorneys' fees to enforce the provisions of  
4 this Article, all such fees, expenses, and costs shall be recoverable from the  
5 responsible Party to the extent of that Party's culpability.

6 IN WITNESS WHEREOF, the Parties hereto have executed this agreement on the  
7 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

8 Approved as to Form

**KING COUNTY:**

9  
10  
11 By: \_\_\_\_\_  
12 Title: Deputy Prosecuting Attorney

By: \_\_\_\_\_  
Title: King County Executive

**CITY OF RENTON:**

13  
14  
15  
16 By: \_\_\_\_\_  
17  
18 Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_