

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 26th 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
21
22
23
24
25
26
27
28
29
30
31
32

**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.
32

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
22
23
24
25
26
27
28
29
30
31
32

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: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32