



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

July 10, 2012

Ordinance 17376

Proposed No. 2012-0213.2

Sponsors Phillips

1 AN ORDINANCE authorizing the King County executive
2 to execute an amendment to an interlocal agreement by and
3 between King County and the King Conservation District
4 regarding use of special assessment funds; declaring
5 retroactive application; and repealing Ordinance 16743,
6 Section 7.

7 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

8 **SECTION 1. Findings:**

9 A. The King Conservation District provides important natural resource projects
10 and programs in our region.

11 B. On February 16, 2012, the Washington state Supreme Court issued a ruling in
12 Cary v. Mason County, et al., Case No.83937-9 invalidating a Mason county ordinance
13 that authorized conservation district special assessments. It is unclear what if any impact
14 the ruling will have on the King Conservation District's use of assessment funds being
15 collected in 2012. However, King County and the King Conservation District deem it
16 prudent and appropriate to amend the interlocal agreement to address the use and
17 expenditure of assessment funds collected in 2012, as well as in prior years.

18 C. Due to ongoing litigation regarding the validity and use of special assessments
19 previously collected as authorized by Ordinance 16743, retroactive application of this
20 ordinance is also deemed prudent and appropriate.

21 SECTION 2. Ordinance 16743, Section 7, is hereby repealed.

22 SECTION 3. The provisions of this ordinance are necessary to accomplish the
23 intent of the council in having imposed the natural resource special assessment for the
24 duration of the assessment under Ordinance 16743 from January 1, 2010, through
25 December 31, 2012.

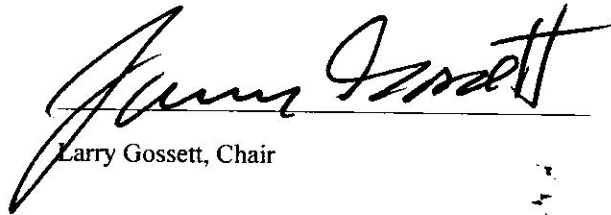
26 SECTION 4. The King County executive is hereby authorized to execute an
27 amendment to the Interlocal Agreement Between King County and the King
28 Conservation District Relating to Natural Resource Conservation authorized by
29 Ordinances 16703 and 16743, substantially in the form of Attachment A to this
30 Ordinance. Use of the assessment funds collected in 2012 and prior years shall be in
31 accordance with the terms of such amendment.

32 SECTION 5. This ordinance applies retroactively from November 1, 2009, and
33 thereafter for assessments imposed by Ordinance 16743.
34

Ordinance 17376 was introduced on 6/11/2012 and passed by the Metropolitan King
County Council on 7/9/2012, by the following vote:

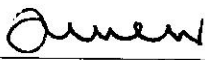
—
Yes: 7 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Patterson,
Ms. Lambert, Mr. Ferguson and Mr. Dunn
No: 0
Excused: 2 - Ms. Hague and Mr. McDermott

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON




Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 18 day of JULY, 2012.



Dow Constantine, County Executive

RECEIVED
2012 JUL 19 AM 9:51
KING COUNTY COUNCIL CLERK

Attachments: A. Amendment to the Interlocal Agreement (Revised June 19, 2012), 2012-0213
Amendment A.doc

1 **REVISED AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN**
2 **KING COUNTY AND THE KING CONSERVATION DISTRICT**
3 **RELATING TO NATURAL RESOURCE CONSERVATION**
4 **REVISED June 19, 2012**

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6
7 THIS AMENDMENT is entered into by and between KING COUNTY, a Washington
8 municipal corporation (hereinafter referred to as the "County"), and the KING
9 CONSERVATION DISTRICT, a governmental subdivision of the state of Washington
10 organized under Chapter 89.08 RCW (hereinafter referred to as the "District").

11
12 **RECITALS**

13
14 WHEREAS, by Ordinance No. 16743, the County imposed a natural resource
15 conservation special assessment pursuant to RCW 89.08.400 for the period 2010-2012 to
16 fund the District's conservation programs and activities; and

17
18 WHEREAS, in connection with Ordinances Nos. 16703 and 16743, the County and
19 the District entered into an Interlocal Agreement dated December 1, 2009 (the "Interlocal
20 Agreement"), which included terms and conditions relating to the District's use of the
21 assessment funds in support of various District conservation programs and activities; and

22
23 WHEREAS, on February 16, 2012, the Washington Supreme Court issued a ruling in
24 *Cary v. Mason County, et al.*, Case No. 83937-9 that invalidated a Mason County ordinance
25 approving special assessments under RCW 89.08.400. It is unclear what, if any, impact the
26 ruling may have on the District's use of assessment funds being collected in 2012; however,
27 the County and the District have determined that it is appropriate to amend the Interlocal
28 Agreement; and

29
30 WHEREAS, the County and the District desire to enter into this Amendment in order
31 to revise certain terms and conditions in the Interlocal Agreement relating to the use and
32 expenditure of assessment funds collected in 2012, as well as in prior years.

33
34 NOW, THEREFORE, in consideration of the mutual promises, benefits and covenants
35 contained herein, the parties hereto agree as follows:

- 36
37 1. The recitals set forth above are incorporated at the end of the Recital Section of
38 the Interlocal Agreement by this reference.
39
40 2. The Interlocal Agreement is amended by adding a new Section X. as follows:

41
42 X. AMENDED TERMS

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44 A. The County and the District understand and acknowledge that the District
45 should have flexibility to prioritize the use of the assessment funds collected prior to
46 2012 to continue important District programs and for the development and
47 implementation of a new system of funding as authorized under Chapter 89.08 RCW,
48 for the period 2013 and beyond.

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1. Notwithstanding anything to the contrary in this Interlocal Agreement, the County and the District agree that all terms and conditions contained in Sections I - IX of the Interlocal Agreement, and in its attachments, which restrict, or otherwise limit, the District's use of assessment funds collected prior to 2012 are hereby rescinded. The District shall be entitled to use all assessment funds collected prior to 2012 in a manner that is deemed necessary and appropriate by the District's Board of Supervisors to support the District's core conservation programs and activities and to support the development of a new system of rates and charges.

2. Unless this Agreement is further amended, the WRIA Grant Program will not be implemented with assessment funds collected in 2012. The District will use its reserve and unallocated funds to fund core district programs, to conduct new — unanticipated outreach to its stakeholders and partners regarding changes to be implemented in light of any proposed changes to the funding system, and to develop a new system of rates and charges to fund a robust financial plan and work program for submittal to the County prior to August 1, 2012.

3. The District and the County agree that grant agreements approved by the District prior to January 1, 2012, which would use funds collected prior to January 1, 2012, will continue to be funded by the District as is reasonably possible given the funding shortages and delays.

4. The District will work together with the County, city jurisdictions and other partners to develop a collaborative plan to address allocation of funds collected prior to 2012 that takes all interests into account by August 1, 2012. This plan will address funds from 2012 collections and from existing pre-2012 WRIA Grant Program accounts and existing pre-2012 Member Jurisdiction Grant Program accounts that may be utilized by the District during 2012 and/or 2013. This plan will also address the costs of funding core district programs, costs associated with the development of a new system of rates and charges with accompanying public outreach, and related legal costs in 2012 and the first half of 2013.

B. The County and the District agree to cooperate with each other in good faith in the development and implementation of a new system of "rates and charges," in order to provide the District with a source of funding to support the District's conservation and grant programs and activities in 2013 and beyond.

C. The District agrees to hold any 2012 assessment funds that are collected by the County and transferred to the District in a separate bank account. The District agrees that it will not utilize these funds until such time as the court approves of the settlement of the pending Hammond litigation and enters a final order disposing of the Hammond case. Once the settlement is approved and a final order entered by the court, the District may use the 2012 assessment funds to: (1) pay any amounts required by the court-approved Hammond settlement, (2) fund the District's 2012 operating budget in an amount not to exceed \$2,400,000, (3) reimburse and pay for the costs and expenses incurred by the District in the Hammond litigation and in establishing and implementing a new system of rates and charges, (4) fund the

97 District's jurisdictional grant program up to \$1,200,000 if available with 2012
98 assessment funds, and (5) use any remaining balance of 2012 assessment funds for a
99 competitive grants program. The County Treasurer will continue to collect the special
100 assessments for 2012 and may deduct up to 1% of the collected assessments, not to
101 exceed the actual costs incurred by the County Treasurer and County Assessor in
102 spreading and collecting the special assessments.
103

104 5. Except as otherwise provided herein, all other terms and conditions of the
105 Interlocal Agreement shall remain in full force and effect.
106

107 **IN WITNESS WHEREOF**, the parties hereto have executed this Amendment on the
108 ____ day of _____, 2012.
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110
111 KING CONSERVATION DISTRICT

KING COUNTY

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115 By _____
116 Chair, Board of Supervisors

By _____
King County Executive

117 Approved as to Form:

Approved as to Form:

118
119 _____

120 District Legal Counsel

Deputy Prosecuting Attorney

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122
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