



Signature Report

December 11, 2007

Ordinance 15987

Proposed No. 2007-0604.2

Sponsors Gossett

1 AN ORDINANCE authorizing the King County executive
2 to execute an intergovernmental agreement with the King
3 County Flood Control Zone District for King County to
4 provide services to the King County Flood Control Zone
5 District.

6

7 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

8 SECTION 1. Findings:

9 A. In January 2007, the King County council adopted the King County Flood
10 Hazard Management Plan ("the plan").

11 B. The plan recommended the creation of a countywide flood control zone
12 district to address the far-reaching and significant threats to public health and safety and
13 economic activities posed by flooding throughout the county.

14 C. In April 2007, King County adopted Ordinance 15728, creating the King
15 County Flood Control Zone District, a countywide flood control zone district, as
16 authorized by chapter 86.15 RCW.

17 D. Under chapter 86.15 RCW, the district is a quasi municipal corporation, an
18 independent taxing "authority" within the meaning of Article VII, section 1 of the state
19 Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the
20 state Constitution. A flood control zone district constitutes a body corporate and
21 possesses all the usual powers of a corporation for public purposes, including but not
22 limited to, the power to enter into contracts.

23 E. The district is authorized and intends to adopt a property tax levy in order to
24 implement and adopted annual budget with both capital projects and work programs for
25 enhanced flood protection.

26 F. The district requests that King County provide services to it.

27 G. King County is authorized by chapter 86.12 RCW to provide flood
28 management and protection services and is willing and able to perform the
29 services requested by the district.

30 H. King County has the experience and expertise to provide services to
31 the district related to flood control.

32 I. The parties can achieve cost savings and benefits that are in the public's
33 interest by having King County provide such services to the district.

34 J. Chapter 39.34 RCW authorizes counties to enter into agreements to
35 provide services to other governmental agencies such as Attachment A to this
36 ordinance.

37 K. RCW 86.15.060(1) provides that "administration of the affairs of
38 zones shall be in the county engineer." For the purpose of the implementation of
39 any agreements between King County and the district, the county engineer shall

40 be a professional engineer within the water and land resources division of the
41 department of natural resources and parks.

42 SECTION 2. The county executive is hereby authorized to execute an
43 intergovernmental agreement, substantially in the form of Attachment A to this
44 ordinance, with the King County Flood Control Zone District for the provision of
45 services.

46 SECTION 3. The agreement is intended to serve as the general framework to
47 allow for the immediate implementation of the district's annual scope of services by the
48 county. The district and county jointly acknowledge the general nature of the agreement
49 and the need to develop the appropriate detailed reporting and accounting procedures
50 necessary for the long-term implementation of the agreement, and commit by December

51 31, 2008, to amending this agreement accordingly in order to incorporate such detail into
52 the agreement.

53

Ordinance 15987 was introduced on 11/5/2007 and passed as amended by the Metropolitan King County Council on 12/10/2007, by the following vote:

Yes: 8 - Mr. Gossett, Ms. Patterson, Ms. Lambert, Mr. von Reichbauer, Mr. Dunn, Mr. Ferguson, Mr. Phillips and Mr. Constantine

No: 0

Excused: 1 - Ms. Hague

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 20 day of December 2007



Ron Sims, County Executive

Attachments A. Interlocal Agreement Between King County and the King County Flood Control District Regarding Support Services, dated 12-10-07

RECEIVED
2007 DEC 20 PM 3:08
CLERK
KING COUNTY COUNCIL

**INTERLOCAL AGREEMENT BETWEEN
KING COUNTY AND THE KING COUNTY FLOOD CONTROL ZONE DISTRICT
REGARDING SUPPORT SERVICES**

This Agreement is hereby entered into by King County, a home rule charter County in the State of Washington (hereinafter referred to as the "County"), and the King County Flood Control Zone District, a quasi-municipal corporation of the State of Washington (hereinafter referred to as the "District") (the "Parties" or when singular, the "Party") and shall be effective upon execution by King County and the District.

WHEREAS, King County formed the District by adopting Ordinance 15728;

WHEREAS, in accordance with state law, the County Council acts ex officio as the Board of Supervisors of the District, a county engineer administers the affairs of the District, and the county treasurer acts as the District's treasurer;

WHEREAS, the District desires to carry out its mission to provide flood control improvements and flood protection services throughout King County as efficiently and effectively as possible;

WHEREAS, the District is authorized under the provisions of RCW 86.15.080 (8) to enter into cooperative agreements with other governments, such as King County, as well as the United States Army Corps of Engineers, to carry out the flood control and protection mission required by Chapter 86.15 RCW;

WHEREAS, the County has the expertise, resources and infrastructure necessary to support the District in its development and implementation of an annual District budget and work program;

WHEREAS, the County has provided flood control and flood protection services to the citizens of King County since its formation as a county and has developed an extensive expertise in providing flood control and protection services;

WHEREAS, the County can assist the District in efficiently and effectively carrying out the District's mission to provide flood control and protection services for the people of King County;

WHEREAS, a cooperative Agreement between the County and the District will benefit each Party and is both authorized by state law and of importance to the health, safety and property of the citizens of King County; and

WHEREAS, the District and the County are each authorized to enter into this Agreement pursuant to Chapter 39.34 RCW (the Interlocal Cooperation Act) and RCW 86.15.095;

NOW, THEREFORE, it is agreed by the Parties as follows:

1. Purpose and Scope of the Agreement.

1.1 The purpose of this Agreement is to provide the terms and conditions under which King County and the District will cooperate to jointly combine their respective financial resources and technical expertise to more effectively and efficiently provide flood control protection services to the people of King County.

1.2 The scope of the joint flood control protection program entered pursuant to this Agreement will be funded by District revenues, and will be established by the District's budget and work program ("Annual Scope of Services"), as approved by resolution by the District's Board of Supervisors attached to this Agreement as Attachment A.

2. District Obligations.

2.1 The District's Board of Supervisors shall adopt the District's 2008 Annual Scope of Services as prescribed in RCW 86.15.140. The Annual Scope of Services for the years after 2008, upon approval by resolution by the District's Board of Supervisors, shall be attached to this Agreement.

2.2 Any amendments to an adopted Annual Scope of Services subsequently approved during the calendar year, if deemed necessary by the District, shall upon approval by the District be attached as a new attachment to this Agreement.

2.3 The District shall pay for the costs incurred by the County consistent with the terms of this Agreement and the approved Annual Scope of Services, as follows:

2.3.1 The District shall pay the County for all actual incurred costs such as direct labor, employment benefits, equipment rental, sub-contractors, materials and supplies, utilities and permits.

2.3.2 The District shall pay the County for administrative overhead costs for the services provided by County employees to the District. The overhead costs shall be billed to the District in accordance with the standard methodologies for determining such costs as reviewed and approved by the King County Office of Management and Budget. The District will reimburse the County for any interest expense or annual fee expense charged to the Flood Control Operating Contract and Flood Control Capital Contract funds resulting from participation in the King County Investment Pool.

2.3.3 The District shall pay the County for costs for the legal services provided to the County in its administration and implementation of the Annual Scope of Services.

2.4 If the County seeks reimbursement of County costs incurred prior to the District's adoption of an Annual Scope of Services or to the execution of this Agreement, the District shall make such payments if the costs are reasonably related to and contribute to the performance of activities necessary to prepare, authorize or implement the Annual Scope of Services.

3. County Obligations.

3.1 Unless otherwise directed by the District through amendment to its bylaws, the Clerk of the Council shall serve as Clerk of the District's governing body ("Clerk of the Board") as that position is described in the District's Bylaws. In addition, the Clerk shall provide services to the District that are similar to those provided to the County Council but which are not described in

the Bylaws, and shall provide facilities for meetings of the Board and the Executive Committee.

3.2 The County, consistent with the Annual Scope of Services, shall provide other support services to the District similar to those provided to the County Council, including, but not limited to policy analysis of legislation and budgets, government relations, technical services and communications.

3.3 The County, consistent with the Annual Scope of Services, shall support the District in administering and implementing the District work programs, by providing appropriate technical expertise and personnel.

3.4 The Water and Land Resources Division ("WLRD") of the Department of Natural Resources and Parks, or its successor, shall identify an engineer who shall act in the capacity of the county flood control engineer for the purposes of RCW 86.15.060. The scope of the engineer's duties and authority shall be consistent with the provisions of RCW 86.15.060 and all resolutions adopted by the Board. By January 1, 2008, the Director of WLRD shall provide written notice to the Clerk of the Board identifying the individual who is to serve in the capacity of the county flood control engineer. The Director of WLRD shall notify the Clerk of the Board in writing of any change in the identity of the individual serving in such capacity within five days of the change.

3.5 Except for those official records maintained by the Clerk of the Board, WLRD shall maintain and be the repository of the official records of the District. Such records shall be available to the District during regular business hours. Furthermore, requests for information from the District, resulting from a public disclosure request, shall be met as provided for in Chapter 42.56 RCW and District resolution.

3.6 In accordance with the King County budget cycle and process, the County shall prepare and submit for review and approval by the District an annual budget meeting the requirements of RCW 86.15.140 and an annual work program for the District for the year 2008 and beyond.

3.7 The County shall implement the Annual Scope of Services as adopted by the District's Board of Supervisors, unless directed otherwise by the King County Council.

3.8 In the event of a threat of imminent harm to property or public safety, the County shall respond on behalf of the District and shall immediately inform the District of emergency actions that have been taken, or may be required, to protect against such threat.

4. Invoices.

4.1 The County will provide monthly invoices for the cost of services provided to the District to implement the Annual Scope of Services.

4.2 The invoices shall include all actual costs, plus administrative overhead costs, and shall be of sufficient detail to allow the District to verify consistency and compliance with the Annual Scope of Services.

4.3 The invoices will be submitted within thirty (30) days following the end of the month services are provided.

4.4 The invoices shall be submitted to:

Clerk of the Board

King County Flood Control Zone District

4.5 If the District determines that the County's invoice lacks sufficient detail or information to verify consistency or compliance with the Annual Scope of Services, the District shall notify the County within ten (10) working days of receipt of the invoice. As soon as practicable, the County shall provide the information or documentation requested by the District to allow the District to determine consistency and compliance.

4.6 Payments are due within thirty (30) days of receipt of a complete invoice.

4.7 Payments shall be made to:

Manager
Financial Management Section
Finance and Business Operations Division
King County Department of Executive Services

5. Fund Availability.

5.1 On January 1, 2008, all available funds from the District fund will be available for the County to submit invoices against for County services performed under the terms of this Agreement.

6. Quarterly Financial and Accounting Reporting.

6.1 The County shall provide the District with quarterly reports regarding services rendered under and compliance with the Annual Scope of Services.

6.2 The report and any required supporting documents shall be submitted to the District within thirty (30) days of the end of the quarter.

6.3 At the end of each calendar year, a reconciliation of fund transfers and costs incurred will be completed by the County. The annual report of costs and ending fund balance for both the operating and capital county funds will be provided to the District within twenty (20) days of the end of the accounting year-end processing.

6.4 All reports will be submitted to:

Clerk of the Board

King County Flood Control Zone District

7. Capital Projects Implementation Report.

7.1 The County shall prepare and submit to the chair of the District Board a report on April 1st and October 1st of each year, outlining the status of the County's implementation of all capital projects contained in the current adopted six-year District capital projects program together with those projects carried forward from previously adopted six-year District capital projects programs.

7.2 The report shall include the following:

7.2.1 An explanation of significant changes to scope, schedule and impact on work plan and budget since last budget approval;

7.2.2 Identification of revisions to milestones and budget for the current year;

7.2.3 A proposal for revisions to scope, budget and schedule;

7.2.4. A reallocated District six-year CIP including all changes to projects, estimated costs, schedules, and scopes of work to be pursued for the current year, and programmed in the remaining years of the six-year program;

7.2.5 A justification for each project postponement or acceleration and substitution;

7.2.6 A revised financial plan;

7.2.7 An accounting summary of the current project status and the amount of unexpended project budget balance by project phase and revenue for each project in the current year of the program; and

7.2.8 Identification of which projects will commence construction in the current budget year within the constraints of the total current year fund appropriation.

8. Legal Relations.

8.1 It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other Party. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of the other Party.

8.2 This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of King County, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

8.3 To the maximum extent permitted by law, each Party shall defend, indemnify and hold harmless the other Party, and all of its officials, employees, principals and agents, from any and all claims, demands, suits, actions, fines, penalties, and liability of any kind, including injuries to persons or damages to property, which arise out of or are related to any negligent acts, errors, omissions of the indemnifying Party and its contractors, agents, employees and representatives in performing obligations under this Agreement.

Provided, that if any such damages and injuries to persons or property are caused by or result from the concurrent negligence of the District or its contractors, employees, agents, or representatives, and the County or its contractor or employees, agents, or representatives, each

Party's obligation hereunder applies only to the extent of the negligence of such Party or its contractor or employees, agents, or representatives.

The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under industrial insurance, Title 51 RCW, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated.

8.4 In the event either Party incurs attorney fees, costs or other legal expenses to enforce the provisions of this section against the other Party, all such fees, costs and expenses shall be recoverable by the prevailing Party.

8.5 The County shall provide insurance coverage, or self-insurance, for the acts and omissions of its officers, employees and agents in providing the services and carrying out the obligations of this Agreement, to the same extent and in the same amount as is provided generally by the County for its officers, employees and agents. The County shall provide proof of such insurance coverage or self-insurance at the request of the District. In the event that the County obtains insurance coverage for the Board of Supervisors, the costs of such insurance shall be reimbursable to the County by the District.

8.6 The provisions of this section shall survive any termination of this Agreement.

9. Duration and Termination.

9.1 This Agreement shall take effect upon its signing by both Parties and shall remain in effect until December 31, 2008, unless terminated or superseded by agreement of the Parties.

9.2 Either Party may terminate this Agreement for convenience upon 60 days written notice to the other Party. In addition, this Agreement may be terminated at any time by mutual agreement of the Parties.

9.3 Failure to require full and timely performance of any provision at any time shall not waive or reduce the right to insist upon complete and timely performance of such provision thereafter.

10. Dispute Resolution.

10.1 Should a dispute arise between the Parties out of or related to this Agreement, the Parties will notify the other in writing of any dispute that the respective Party believes should be resolved.

10.2 The Parties will communicate regularly and commit to act in good faith in seeking to resolve the dispute.

10.3 If the dispute cannot be remedied within thirty (30) days after written notice, the Parties shall consider submitting the matter to a mutually agreed upon non-binding mediator. The Parties shall share equally in the cost of the mediator.

11. Administration and Identification of Contacts.

11.1 This Agreement shall be administered by the Chair of the Board and the Office of the King County Executive, which shall be contacted as follows:

County: The King County Executive, or the King County Executive's appointee, as follows:

The Director, King County Water and Land Resources Division
201 S. Jackson Street, Suite 600
Seattle, WA 98104
(206) 296-6587

District:

The Clerk of the Board
516 Third Avenue, Room W-1039
Seattle, WA 98104
(206) 296-1020

With a copy to the county flood control engineer:

201 S. Jackson Street, Suite 600
Seattle, WA 98104

12. Entire Agreement.

12.1 This Agreement is a complete expression of the terms hereto and any oral representation or understandings not incorporated herein are excluded.

12.2 Any modification, amendment, or clarification to this Agreement shall be in writing and signed by both Parties. Copies of such shall be attached hereto and by this reference made a part of this Agreement as though fully set forth herein.

13. Severability.

If any provisions of this Agreement are held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby if the Parties mutually agree that such remainder would then continue to serve the purposes and objectives originally contemplated.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed.

KING COUNTY

Ron Sims
King County Executive

Dated

Approved as to Form:

Dan Satterberg
King County Prosecuting Attorney

By: _____
Senior Deputy Prosecuting Attorney

Dated

KING COUNTY FLOOD CONTROL ZONE DISTRICT

Larry Gossett
Chair of the Board of Supervisors

Dated

Approved as to Form:

Attorney for the District

Rod Kaseguma
Inslee, Best, Doezie & Ryder, P.S.

Dated