KING COUNTY
FLOOD CONTROL
DISTRICT

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STAFF REPORT ON ACTION ITEMS

April 23, 2012

1. Excess Liability Insurance Coverage

The Adopted 2012 Flood District Budget includes $75,000 within the District Administration budget to pay for annual liability insurance coverage. The District through FCD Resolution 2009-08.1 authorized the County to purchase and maintain insurance on the District's behalf until the District directs the County otherwise.

The District is included as an insured in the County's self-insurance program. Prior to securing the insurance for each twelve-month period, the County shall obtain the approval of the District's executive director.

Jennifer Hills from King County's Risk Management Office is available to answer questions about the scope of coverage and the solicitation process used to procure the insurance.

2. Revised 2012 Budget

A RESOLUTION relating to the operations and finances of the King County Flood Control Zone District; adopting a revised 2012 budget, capital budget, operating budget, and adopting the District's six year capital improvement program for 2012 – 2017; and amending FCD 2011-06.3.

The annual carry-forward budget resolution is necessary to provide budget authority for unspent appropriations from the prior year and to reinstate contract encumbrances.

- FLC002 South Park/Seattle shifted $3,050,000 to 2013/2014 based on current City of Seattle schedule.
- FL8021 Reddington/Green shifted $2,853,299 to 2013 based on current acquisition and relocation schedule.
- FLX200 Flood Emergency Contingency reduced to $250,000, which is the established annual emergency contingency fund
- $100,000 moved forward for Coal Creek/Bellevue for project feasibility study for project scheduled for construction by City of Bellevue in 2014.
- $565,000 moved forward for Sans Souci/Tolt based on landowner willingness in this high-priority reach.
- $7,000,000 awarded by the State of Washington for Briscoe-Desimone Levee Setback. This is awaiting the Governor's signature.

Board of Supervisors: Julia Patterson, Chair • Reagan Dunn, Vice Chair
Bob Ferguson • Larry Gossett • Jane Hague • Kathy Lambert • Joe McDermott • Larry Phillips • Pete von Reichbauer
Executive Director: Kjristine Lund

The net effect of these adjustments, plus 2011 operating budget closeout, is to increase the adopted capital reserve of $6.9 million by $6.877 million to $13.857 million. Of this, $3.5 million is necessary for insurance purposes and the balance is programmed for construction peaks in 2014-2016 on the CIP.

3. Property Acquisition City of Snoqualmie

A Resolution authorizing King County to enter into an agreement with the City of Snoqualmie on behalf of the King County Flood Control Zone District to provide the City funding for the purposes of acquiring properties from willing landowners consistent with flood protection and control purposes.

This resolution would authorize King County to enter into an agreement with the City of Snoqualmie to provide the city funding in the amount of $150,000 per property up to a total of $3,000,000 for the purposes of acquiring properties from willing landowners. The agreement would restrict the use of property acquired using District funds by deed to uses consistent with flood protection and control purposes. The deed would also provide for enforcement of such restrictions by the District and/or King County.

If this resolution were approved King County would then execute a service agreement with the City of Snoqualmie.

Background

WLRD staff sent me a draft issue paper on December 22, 2011 outlining an approach for partnering with the City of Snoqualmie on land acquisition in light of RCW 86.15's requirements that the District hold title to property it acquires. I postponed action on this item during the first quarter of 2012 due to pending legislation related to District consolidation. That legislation would have transferred all powers of the District to the County making this transaction unnecessary. Since that legislation did not pass, the City of Snoqualmie and WLRD have indicated they want to move forward with this resolution to enable the city to acquire property leveraging FCD funds with conservation future funds.

The City of Snoqualmie ("City") has been engaged in a program of acquisition of contiguous properties within the Snoqualmie River floodplain and the city's boundaries for flood risk reduction and other municipal purposes.

The city has partial funding available for acquisition of up to 20 structures along Railroad Avenues and Park Street and seeks additional funds from the District in the amount of $3,000,000 to complete these acquisitions and is willing to restrict the use of the properties via deed restrictions to uses that are consistent with the District's flood protection and control purposes.

The King County Flood Control Zone District ("District") has appropriated $6,633,518 in 2012 for the purposes of implementing capital projects in the Snoqualmie River floodplain, including capital projects within the City of Snoqualmie.

> The FCD CIP includes a project called 'Upper Snoqualmie Residential Flood Mitigation' for acquisition and elevation of at-risk homes in the Snoqualmie/North Bend area. In 2009, WLRD staff worked with the cities of North Bend and Snoqualmie (and the Advisory Committee) to propose that these dollars be pooled and to develop a mitigation strategy and prioritization across both jurisdictions to target the funds and to provide some flexibility to respond to landowner interest and willingness.
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> WLRD has a detailed flood mitigation needs analysis that identifies parcels that should be elevated and acquired, and the analysis prioritizes those needs. Staff from the cities of Snoqualmie and North Bend collaborated with WLRD in the development of this mitigation analysis. Through this effort WLRD has a target list of acquisitions and elevations for the six years of appropriations on the CIP. There is no set allocation to one city or to one approach to mitigation – it is based on the prioritization and whether the landowner is willing.

King County as the Service Provider to the District has determined that the flood risk reduction objectives in the 2006 Flood Hazard Management Plan for the 20 parcels shown on Exhibit A – Map of Snoqualmie Properties for Acquisition can be addressed via a structural elevation at a cost of approximately $120,000 per structure

> The cost of an elevation is highly variable based on the type of foundation, number of stories, and materials used in home construction. The $120K is an average based on elevations in and around Snoqualmie.

If external funds are available to support an acquisition rather than a home elevation, it is also in the District's interest to remove the structure from the floodplain as a permanent flood mitigation action at a cost of approximately $30,000 per structure.

This resolution caps FCD funding at the approximate cost of a home elevation plus the cost of removal of the structure, or $150,000, on the conditions that the property that is acquired with city and District funds be restricted by deed to uses consistent with flood protection and control purposes.

It will benefit the District to have the city acquire, operate, maintain and administer the properties, with restrictions in use placed on the property that are consistent with the District's mission of flood protection and control.

Background Related to Asset Ownership

Section 9 of the ILA between the King County Flood Control District and King County requires that acquired properties be held in the name of either the Flood Control District or King County on behalf of the Flood Control District, and further requires that properties acquired by King County should be transferred to the Flood Control District via the appropriate documents. The ILA expires at the end of 2012, and under Section 9 assets purchased by King County should be transferred to the Flood Control District.

There may be some situations where joint ownership by the District and County is more efficient (for example, sole ownership by the District would mean that the County would be required to obtain a Special Use Permit to conduct routine maintenance work), and there may also be situations where the District's interests are met through easements and deed restrictions, and properties could be more efficiently managed by other entities.

District interests can be met via easements and deed restrictions, but full District ownership means that the District is responsible for ongoing site maintenance of properties.

There are situations where District funds might be most efficiently used as a cost-share with other funding partners, resulting in title held by other entities. For example, the City of Snoqualmie intends to use Conservation Futures Trust (CFT) funds in a targeted geographic area along Railroad and Park Streets to complete floodplain acquisitions that support both flood risk reduction and open space planning objectives. This is an area where, in many cases, District objectives could be met through a home elevation rather than fee simple acquisition.

In this situation a cost-share between city CFT funds and FCD funds (capped at the cost of an elevation), could enable multiple objectives to be addressed through an acquisition of the property and removal of structures. However, because the CFT funds require that any property purchased using CFT funds be in the name of the city, a grant would be necessary from the District to enable this cost-shared acquisition. In the absence of a District grant, these acquisition opportunities that support District, city, and County objectives might be lost.

Authorization to provide grants

During the 2010 legislative session, RCW 86.15 was amended to authorize flood districts to provide grants to political subdivisions within the district – such as the City of Snoqualmie – so long as the grant is for purposes authorized under RCW 86.15. Any such grant agreement would need to include specific language to ensure that District funds are targeted on the most appropriate parcels, and that the District's long-term interests are met through the appropriate easements and deed restrictions.

4. Resolution to modify grant agreements with the State of Washington

A RESOLUTION relating to the Hawley Road levee improvements in the City of Kent, repealing FCD2011-09.1, and authorizing the chair to enter into a new grant agreement with the State of Washington Department of Ecology.

A RESOLUTION relating to the Boeing levee improvements in the City of Kent, repealing resolution FCD2011-15.1, and authorizing the chair to enter into a new grant agreement with the State of Washington Department of Ecology.

The Board of Supervisors authorized the chair to enter into these two grant agreements in November 2011; however, after the Board's approval, the State of Washington Department of Ecology conducted their final review of the agreements and made changes to the agreements. The District's legal counsel, clerk and I agreed that the proposed changes should be placed before the Board for reauthorization because they alter the agreement beyond the language originally authorized.

The proposed changes include:

- General Terms and Conditions: The state has attached its general terms and conditions.

- Names the Recipient (the District) as the party responsible to ensure that necessary easements are secured. (Previously approved version said the City of Kent would obtain the easements).

- Names the recipient (the District) as responsible for ensuring that permits have been or will be obtained.

- States that county rather than city bid processes will be used.

- Adds a requirement to submit quarterly progress reports that include a Status of Property Acquisitions Report.

- Adds Appendix C-Restrictive Covenant Boilerplate.

- Adds Appendix D- Easement Agreement. The State requested that an easement agreement be added to the documents granting them access and provided boilerplate language.

- The revised agreement reflects a date change for task two (Right of Way and Easement Acquisition) of the Hawley Road Project made at the request of the City of Kent, from December 31, 2011 to March 30, 2012.