File #: 2018-0458, **Version:** 2

Clerk 02/19/2019

A MOTION requesting that the executive develop and transmit an initial report and a compliance report regarding remedies to existing fish passage barriers for King County.

WHEREAS, salmon are vital to Washington's economy, culture, and diet, and

WHEREAS, fifteen salmonid populations in Washington state are designated as federally threatened or endangered under the Endangered Species Act, and

WHEREAS, the Governor's 2016 State of Salmon in Watersheds report found migratory salmon species are in decline due loss of habitat, manmade structures that block their natural runs, pollution and changing environmental factors, and

WHEREAS, fishing has historically served as an important source of livelihood for indigenous Salish inhabitants of the Pacific Northwest and the right of harvesting fish in perpetuity was secured to the tribes in the Stevens Treaties, and

WHEREAS, the state of Washington and other agencies have a treaty-based duty to preserve fish runs, including a right to habitat sufficient to support fish, and

WHEREAS, the Ninth Circuit Court of Appeals ruled Washington v. United States, 853 F.3d 946 (2016) that Washington state has constructed numerous culverts that blocked salmon from spawning grounds and other critical habitat to an extent that violated treaty rights. On June 11, 2018, the United States Supreme Court affirmed per curiam the Ninth Circuit court's ruling (584 U.S. ___ (2018)) and

WHEREAS, King County is responsible for protecting and stewarding the county's environmental

resources and critical areas, and

WHEREAS, while King County is not a party to or directed to take any action under this recent case, King County constructs, maintains and operates road, trail and similar facilities that necessitate culverts, bridges and dams to cross, divert and manage streams, rivers and fish and wildlife habitat conservation areas, and

WHEREAS, the impact of King County's culverts, bridges, dams and similar facilities on fish passage and habitat has not been adequately determined, and

WHEREAS, King County spends significant resources on habitat restoration to support salmon recovery;

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

A. The council requests the county executive develop and transmit a fish passage barrier compliance plan and evaluation report to the council that:

1. Inventories and characterizes all culverts, bridges, dams and similar facilities owned or maintained by King County as to size, age, location and whether they pose a human-made or caused barrier to fish passage;

2. Identifies existing countywide plans, policies, standards and regulations that adversely affect salmon habitat and restoration efforts, including identification of specific references to the impacts of culverts, bridges, dams and similar facilities on fish passage and makes recommendations for changes to the plans, policies, standards and regulations;

3. Provides a detailed summary and timeline of past and current practices and actions taken by King County to address fish passage barriers, including specific actions taken to remedy culverts, bridges, dams and similar facilities impacting fish passage;

4. Prepares a work plan that outlines and prioritizes steps and actions necessary to address culverts, bridges, dams, and similar facilities posing blockages to fish passage in light of Washington v. United States;

5. Creates a timeline and estimated cost projection to remedy fish passage barriers owned or

maintained by King County consistent with the scope of actions taken by the state of Washington on similar facilities in complying with the ruling in Washington v. United States;

6. Provides a financial analysis on the county's estimated costs of remedying identified fish passage barriers, including funding options and cost sharing opportunities;

7. Identifies opportunities to partner with other jurisdictions and tribes to facilitate the work plan required by this motion; and

8. Assess whether organizational changes are appropriate or necessary to ensure prioritization and expeditious completion of the work plan required by this legislation.

B. The executive should transmit an initial report providing a status update of the inventory including, but not limited to, blockages identified in the inventory to date, and estimated costs to remedy those identified blockages by October 31, 2019, in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff, the policy staff director and lead for the mobility and environment committee.

C. The executive should transmit the report required in section A. of this motion by December 31, 2020, in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy

to all councilmembers, the council chief of staff, the policy staff director and lead for the mobility and environment committee.