



ITEM NUMBER: 6a

DATE OF MEETING: April 13, 2010

WCC AGREEMENT NO. \_\_\_\_\_

WASHINGTON CONSERVATION CORPS  
SPONSOR CONTRACT

THIS CONTRACT made by and between the State of Washington Department of Ecology Conservation Corps, hereinafter referred to as the "DEPARTMENT," and that entity whose name appears in item 1, below, hereinafter referred to as the "SPONSOR."

<b>1. SPONSOR</b> Port of Seattle				<b>2. CONTACTS</b>								
<b>3. ADDRESS:</b> Sea-Tac Airport 17801 Pacific Hwy. S A6012M Seattle, WA 98158				DEPT. PROJECT LEADER		Roland McGill		(360) 407-6077				
				SPONSOR CONTACT		Josh Feigin		(206) 787-6798				
				CREW SUPERVISOR								
				OTHER								
				SPONSOR FISCAL OFFICER								
<b>4. PROJECT TITLE/DESCRIPTION</b> Port of Seattle Natural Resource Maintenance Interlocal Agreement												
<b>5. PROJECT LOCATION:</b> King County												
<b>6. SCOPE OF WORK:</b> Under direction of Port of Seattle staff, the WCC crew will implement a variety of Best Management Practices related to the maintenance of Port owned wetland, stream and other natural resource properties. See Section IX of this interlocal agreement for specific scope details and process.												
<b>7. PERIOD OF PERFORMANCE:</b> CONTRACT BEGINS: 05/01/2010 CONTRACT ENDS: 12/30/2015												
<b>8. MAXIMUM BUDGET</b>										REIMBURSED to DEPARTMENT by Sponsor		
Provided by DEPARTMENT			Cost		Provided by SPONSOR/DONATIONS				COST			
WCC Crew Labor			\$0								\$700,000	
Total DEPARTMENT Cost			\$0		Total SPONSOR COST						\$700,000	
											Above cost Not to be Exceeded	
<b>10. Special Terms and Conditions</b> <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (See____.)												
<b>11. Biennial Closures:</b> In accordance with biennial closing procedures, the sponsor must reimburse the DEPARTMENT no later than <u>June 30</u> , 2013 for services or material supplied under this contract when submitted for payment on properly itemized vouchers (Form A-19).										REMARKS		
<b>AFRS ACCOUNT CODE</b>												
TRANS CODE	FUND	APPN INDE X	PROG INDE X	PROJECT	SUB PROJ	PROJ PHAS	ORG INDE X	CO.	OBJ	SUB OBJ	AMOUNT	

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The Port of Seattle ("Port" or "Sponsor") and Washington State Department of Ecology ("Ecology" or "Department") agree as follows that the Department shall provide services through the Washington Conservation Corps ("WCC") which is administered and implemented by the Department:

- I. All rights and obligations of the parties to this contract shall be subject to and governed by those general terms and conditions contained in the text of this contract instrument and Section XII "SPECIAL TERMS AND CONDITIONS".
- II. In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) Applicable Federal & State Statutes & Regulations, (b) Special Terms and Conditions, and (c) General Terms and Conditions.
- III. This contract and its appendices, if any, contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind any of the parties hereto.
- IV. This contract shall be subject to the written approval of the authorized representative of the DEPARTMENT and shall not be binding until so approved. Only the authorized representative by writing (delegation to be made prior to action) shall have the expressed, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the authorized representative.

**V. LEGAL AUTHORITY/POWERS**

Under RCW 39.34.080, a public agency may contract with any one or more other public agencies to perform any governmental service, activity or undertaking if each public agency entering into the contract has legal authority to perform such service, activity or undertaking.

**A. Port/SPONSOR's Legal Authority/Background**

The Port/SPONSOR derives its legal authority to act from its enabling statutes, Title 53 RCW and Chapter 14.08 RCW.

The Port has legal authority to undertake natural resource maintenance on Port-owned properties, including the wetland mitigation sites for the Seattle Tacoma International Airport.

In RCW 53.08.420, the Legislature authorized port districts to "participate in and expend revenue on cooperative watershed management actions ... for purposes of water supply, water quality and water resource and habitat protection and management." Wetland vegetation maintenance is integral to water resource and habitat protection and management. Wetlands act like a sponge or filter to detain and clean water. Besides affecting water quality, the elimination or degradation of wetlands affect the habitat of fish. For example, when wetlands are replaced by impervious surfaces, water runs off with greater force scouring the soils of the

banks of the creeks, leaving fish no place to rest, exposed to the sun and vulnerable to predators. When vegetation is not properly maintained, the wetland becomes degraded and loses its ability act like a filter to detain and clean water.

Wetland vegetation maintenance is also required under the conditions of permits issued for the Airport's capital projects.

Specifically, as part of the Third Runway project, the Port filled all or portions of wetlands within certain watersheds. The site of the Third Runway used to be a wooded canyon encompassing Miller Creek, the bottom of which used to lie approximately 150 feet below the level of the Airport's old runways. Before the Port could place fill into area wetlands, the Port had to obtain a permit from the Army Corps of Engineers. Under Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341), that meant the Port had to first obtain certification from Ecology stating that there is reasonable assurance that the project will not violate applicable state water quality standards and that impacts to wetlands will be mitigated. The construction of the Third Runway, for example, affected 21.34 acres of wetlands. The conditions of Ecology's certification was that the Port mitigate these impacts by providing two acres of wetland mitigation for every one acre of wetland affected by the Third Runway project, or earn 42.68 mitigation credits. The Port submitted a Natural Resources Management Plan to earn these mitigation credits by making improvements to over 112 acres of land in-basin, including enhancement of urban streams, removal of septic systems and replacement of impervious services. The Port's out-of-basin mitigation included the acquisition of a 65-acre site in Auburn, along the Green River, to establish forested wetland, shrub wetland, emergent wetland, open water, wetland habitat and buffers. The out-of-basin mitigation in Auburn is intended to provide habitat hospitable to waterfowl far enough away from the Airport and its runways to avoid dangerous collisions between birds and planes. The Port must maintain existing plantings to meet permit-specified performance standards for plant survival, plant density and vegetative cover at these established wetland mitigation sites.

## **B. Ecology/DEPARTMENT'S Legal Authority/Background**

The Legislature enacted Chapter 43.220 RCW which created the Washington Conservation Corps, hereinafter referred to as the "WCC," and named the DEPARTMENT as one of six state agencies having implementation authority. In enacting Chapter 43.220 RCW, the Legislature declared ...

That "it is important to provide an opportunity for group-oriented public service experiences for the state's young persons; and that "values of hard work, public spiritedness, group achievement and cooperation, resource conservation, and environmental appreciation can and should be transmitted to society's youth through a conservation corps program."

Under RCW 43.220.030, one of the WCC program goals is the conservation, rehabilitation, and enhancement of the state's natural, historic, environmental, and recreational resources with emphasis given to projects which address statewide priorities such as statewide water quality and watershed management plan. Other program goals include the "development of the state's youth resources through meaningful work experiences" and the "teaching of the workings of natural, environmental, and biological systems, as well as basic employment skills."

## **VI. PURPOSE**

The purpose of this interlocal agreement is to establish a formal understanding between the DEPARTMENT and the SPONSOR to obtain the services of the WCC in accomplishing the natural resource maintenance projects described in Section IX "SCOPE OF WORK".

This interlocal agreement is designed to specify the kinds and amounts of goods and services to be used and/or exchanged by the DEPARTMENT and the SPONSOR to their mutual benefit through a WCC project.

The SPONSOR acknowledges that participation in the WCC program shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits, nor in the impairment of existing contracts for services.

## **VII. OBJECTIVES**

The Port Environmental departments have a responsibility to manage a large amount of natural resources, including wetlands, coastal and stream riparian properties. Many of these properties are mitigation sites with vegetation performance standards and/or properties where invasive weed control and plant maintenance are required. The Port is entering this agreement as the SPONSOR in order to get assistance meeting their regulatory responsibilities. The Port desires to establish a partnership with an organization that can provide necessary services while developing environmental awareness and leadership in local community youth. Through such a partnership, the Port will collectively be working to meet their required mitigation maintenance standards along with organizational strategies dealing with enhancing the public understanding of the Port's role in the region and exhibiting environmental stewardship through our actions.

The services performed by the DEPARTMENT will support the Port in meeting regulatory mandates and organizational strategies while supporting several of the DEPARTMENT's stated goals for the Washington Conservation Corps. These goals as outlined in RCW 43.220.030 include: (1) Conservation, rehabilitation, and enhancement of the state's natural, historic, environmental, and recreational resources; (2) Development of the state's youth resources through meaningful work experiences; (3) Assisting agencies in carrying out statutory assignments with limited funding resources.

## **VIII. DEFINITIONS:**

- A. "SPONSOR Contact" shall mean the person who serves as the SPONSOR's lead on the project and shall cooperate with all parties concerned to promote successful completion of the project described in Section IX "SCOPE OF WORK".
- B. "SPONSOR Work Director" shall mean the person who specifies work to be performed onsite; outlines, describes, and delegates work to be accomplished; supplies necessary orientation and training for use of special equipment and procedures; and is responsible for directing WCC crew supervisor(s) regarding specific project tasks as described in Section IX. "SCOPE OF WORK."
- C. "DEPARTMENT Project Leader" shall mean the person who is responsible for developing and facilitating the project and shall serve as liaison between the DEPARTMENT and SPONSOR. PROJECT LEADER assumes ultimate responsibility to ensure adequate coordination of the project.
- D. "Corps Member" shall mean an individual enrolled in the WCC program. Corps members shall not be considered regular state employees. Provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans and vacation leave do not apply to the Corps members. However, medical aid and state industrial insurance will be provided by the DEPARTMENT for each Corps member.



- E. "Crew Supervisor" shall mean the person who is responsible for matters relating to personnel administration and overall project direction. He/she supervises Corps members (generally four or more) regarding work to be accomplished and is responsible for individual crew safety, daily crew supervision and discipline, completes Corps member training plans, and provides a written evaluation of each Corps member's job performance and skills acquired after two months and at termination of employment.

## **IX. SCOPE OF WORK**

The Port of Seattle requires outside services support to assist with maintenance of its wetland mitigation and other natural resource sites. Maintenance needs may include; selective trimming of desired vegetation, procurement of plants and other maintenance related materials, replacement plantings in areas of high mortality or low vigor, planting in areas of low density or cover, habitat stabilization, weed management, soil amendment, installation of rodent guards, troubleshooting existing irrigation systems, and supporting existing monitoring and planning efforts.

- A. **TASK ASSIGNMENT:** The SPONSOR will develop individual task orders as specific work tasks are required. Upon receipt of a task order the DEPARTMENT will prepare an estimate of necessary time and funding to complete the task and submit this estimate to the SPONSOR for approval. Upon acceptance of the estimate the DEPARTMENT may begin to work on the approved task. The DEPARTMENT shall perform in a satisfactory and proper manner the "SCOPE OF WORK," described in individual task orders.
- B. **NECESSARY EQUIPMENT:** To the extent necessary, both parties shall provide materials and supplies necessary to ensure satisfactory completion of the project, including any special equipment required by special work conditions, and both parties shall cooperate in the procurement of any necessary permits such as right of entry. The DEPARTMENT agrees to provide Corps members who will be used to complete said work. All equipment provided by either the DEPARTMENT or the SPONSOR shall be returned to the provider within fifteen (15) days after termination of this Agreement, unless otherwise specified in Section XVII. "SPECIAL TERMS AND CONDITIONS."

## **X. PERFORMANCE/RESPONSIBILITIES**

- A. **Effective Date of Agreement:** The Effective Date of this Agreement shall be the date of execution where the signatures of both parties have been obtained.
- B. **Time for Performance:** Any work performed prior to the effective date of this SPONSOR CONTRACT, or continuing after the completion date of same, unless otherwise agreed upon in writing herein, will be in violation of this contract and will be at the SPONSOR's expense.
- C. **Duration:** The duration of this Agreement shall be from the date of execution through a five year period.
- D. **Compliance With All Laws:** The SPONSOR agrees to observe all federal and state laws, regulations, and policies affecting performance under this contract.
- E. **Release of Information or Materials:** The SPONSOR will not release any information or materials developed pursuant to this contract without prior written authority from the DEPARTMENT.

F. Final Report Evaluation: Within 30 days after termination of this contract, the SPONSOR shall provide the DEPARTMENT with a written evaluation of the project. At a minimum, the following shall be evaluated:

1. Benefit to Corps members
2. Environmental benefits
3. Department cooperation/coordination
4. Whether the overall goals and objectives of the project were obtained
5. Suggestions for program improvement
6. Revised estimates of alternate supplier cost and SPONSOR cost/donation

**G. Non-Discrimination**

The DEPARTMENT and the SPONSOR agree to be bound by all federal and state laws, regulations, and policies against discrimination and agree not to discriminate in employment, either directly or indirectly, because of a person's age, sex, sexual orientation, marital status, creed, color, national origin, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. The DEPARTMENT is an Equal Opportunity and Affirmative action employer. For special accommodation needs, the telephone number for Washington Conservation Corps is (206) 407-6947. The TDD number is (206) 407-6006.

**H. Amendments**

Changes in the scope of this contract which cause an increase or decrease in the cost of, or the time required for the performance of any part of the scope of work under this contract, shall be accomplished by written amendment and executed by both parties prior to implementation.

**I. Subcontracts**

The SPONSOR shall not enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the DEPARTMENT'S PROJECT LEADER.

**J. Attorney's Fees**

In the event of any controversy, claim, or dispute arising out of this Agreement, each party shall be subject to the dispute resolution provision in Section XI and shall be solely responsible for the payment of its own legal expenses, if any, including but not limited to attorney's fees and costs.

**K. Legal Relationship**

The parties to this Agreement execute and implement this Agreement solely as the Port/SPONSOR and Ecology/DEPARTMENT. No partnership, joint venture or joint undertaking shall be construed from this Agreement.

**L. Compensation**

Upon completion of assigned task or service order the DEPARTMENT may submit an invoice based on rates included as Exhibit A. This exhibit may be changed annually as required by WCC regulation through the submittal and subsequent approval of an amended rate sheet.

1. Invoice Vouchers: Reimbursable expenditures under the terms and conditions of this contract shall in no event exceed the amount set forth herein. The SPONSOR shall reimburse the DEPARTMENT for services performed when submitted on a properly itemized voucher (Form A-19) in accordance with Section 8 of Contract Page 1 "MAXIMUM BUDGET". Reimbursement shall be made by the SPONSOR within thirty (30) days of receipt of said voucher.

## XI. RIGHTS

### A. Termination of Agreement:

1. Termination by SPONSOR for Cause: If the DEPARTMENT fails to fulfill in a timely and proper manner its obligations under this contract, or if DEPARTMENT shall violate any of the covenants, agreements, assurances, or stipulations of the contract, SPONSOR shall have the right to terminate this contract by giving written notice specifying the effective termination date to the DEPARTMENT at least seven (7) days before such date.
2. Termination by DEPARTMENT for Cause: If SPONSOR fails to fulfill in a timely and proper manner its obligations under this contract, or if SPONSOR shall violate any of the covenants, agreements, assurances, or stipulations of the contract, DEPARTMENT shall have the right to terminate this contract by giving written notice specifying the effective termination date to the SPONSOR at least seven (7) days before such date.
3. Termination by DEPARTMENT for Convenience: The DEPARTMENT may terminate this contract by giving written notice to SPONSOR of such termination and specifying the effective date thereof at least ten (10) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described above shall be delivered to DEPARTMENT for its review. After the review at the option of DEPARTMENT such documents or material or portions thereof shall become its property.
4. Insufficient Funding: In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the after the effective date of this contract and prior to normal completion, the DEPARTMENT may terminate the contract under Section XI.C. "Termination by DEPARTMENT for Convenience" clause, subject to renegotiation under those new funding limitations and conditions.

### B. Notice:

Any and all notices required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier or two (2) days after deposit in the United States mail if sent by certified or registered mail, return receipt requested. All notices shall be addressed to the Port and Ecology at the addresses set forth below or at such other addresses as may be specified by one party's notice to the other party:

PORT/SPONSOR:

Josh Feigin  
Environmental Management Specialist  
Port of Seattle Aviation Environmental  
PO Box 68727  
Seattle, WA 98168  
Fax # (206) 787-6617

ECOLOGY/DEPARTMENT:

Nick Mott  
Project Coordinator, Contracts Management  
Washington Conservation Corps  
Washington State Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600  
Fax# (360) 407-7162

C. LIABILITY

1. When direct supervision is provided by the DEPARTMENT employed crew supervisor, the DEPARTMENT agrees that WCC members working under this contract are agents of the DEPARTMENT, and therefore the DEPARTMENT shall be liable for personal injury or property damage caused by WCC Corps member negligence.
2. When direct supervision is provided by the SPONSOR, the SPONSOR agrees that WCC Corps members working under this contract are agents of the SPONSOR, and therefore the SPONSOR shall be liable for personal injury or property damage caused by WCC Corps member negligence.
3. To the extent that the Constitution and laws of the State of Washington permit, all parties to this contract shall be responsible for damage to persons or property resulting from the negligence on the part of itself, its employees, its agents, or its officers. None of the parties assume any responsibility to the other parties for the consequences of any act or omission of any person, firm, or corporation not a party to this contract.

D. Disputes

Except as otherwise provided in this contract, when a bona fide dispute arises between the DEPARTMENT and the SPONSOR and it cannot be resolved, either party may request a dispute resolution with the DEPARTMENT. The parties agree that this dispute resolution process shall precede any action in a judicial tribunal. Either party's request for a dispute resolution must:

1. be in writing;
2. state the disputed issues;
3. state the relative positions of the parties;
4. state the SPONSOR's name, address, and WCC Agreement number;



5. be mailed to the DEPARTMENT within thirty (30) days after the party could reasonably be expected to have knowledge of the issue(s) which are now in dispute.

**F. Records Retention/Audit**

Both parties shall maintain books, records, documents and other evidence relating to the costs and/or performance of this Agreement ("records") on a generally recognized accounting basis and to such extent and in such detail as will properly reflect and fully support all fees, and direct and indirect costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by duly authorized personnel for six years after the expiration of this Agreement. Each party shall make a good faith effort to cooperate with representatives of the other party conducting an inspection, review or audit.

**XII. SPECIAL TERMS AND CONDITIONS**

Special terms and conditions of this contract contained in the box below are not made a part of this contract (requires initials).

\_\_\_\_\_  
/\_\_\_\_\_  
Department Sponsor

**XIII. MISCELLANEOUS**

**A. Entire Agreement:**

This document contains the entire and integrated contract between the parties, and no statement, promise, inducement or agreement made by the DEPARTMENT or its agents or employees that is not contained in this written Agreement shall be valid or binding. No alteration, addition, or modification of any of the terms or conditions of this Agreement shall be effective if not in writing and signed by the authorized representatives of the SPONSOR and the DEPARTMENT

**B. Severability:**

In the event any portion of this Agreement shall be found to be invalid by any court of competent jurisdiction, such holding shall not affect the remaining provisions of this Agreement unless the court of competent jurisdiction rules that the principal purpose and intent of this Agreement should and/or must be invalidated.

**C. Authority to Execute Agreement:**

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement.

D. Counterparts:

This Agreement may be executed in separate counterparts, all of which shall be construed as a single integrated instrument. Facsimile and digitally-scanned signatures shall be valid and binding with the same force and effect as the original signatures.

SIGNATURES:

SPONSOR

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DEPARTMENT

BY: \_\_\_\_\_

TITLE: Deputy Director/DOE

DATE: \_\_\_\_\_

Preapproved as to form by Assistant Attorney General.