

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 6f
Date of Meeting May 4, 2010

DATE: April 9, 2010

TO: Tay Yoshitani, Chief Executive Officer

FROM: Bob Duffner, Water Resources Manager, Aviation Environmental
Elizabeth Leavitt, Director, Aviation Planning and Environmental

SUBJECT: Interlocal Agreement with King County for Surface Water Management Services

Amount of This Request: \$0

Source of Funds: Annual Aviation Division Operating Budget (as approved by Commission)

ACTION REQUESTED:

Request for Port Commission authorization for the Port's Chief Executive Officer to execute an Interlocal Agreement (ILA) with King County in a form substantially as attached in Exhibit A, for stream gaging services in support of mandatory requirements of environmental permits for the Third Runway and other Master Plan Update (MPU) projects, basin steward services for the Miller and Walker Creek basins and other surface water management services.

SYNOPSIS

For the last six years, through a series of technical services agreements and ILAs, the Port of Seattle (Port) has engaged the King County Water and Land Resources Division to perform a variety of surface water management services including stream gaging and basin steward functions in support of the Airport's environmental management program. Execution of this Interlocal Agreement provides the Port with continued access to King County stream gaging and basin steward services for an unlimited amount of time. As a result the ILA could continue for 10 to 15 years to ensure all state and federal permit requirements have been accomplished. This ILA will allow the Port to comply with Aviation Division environmental permit requirements and provide a means to work cooperatively with local jurisdictions on basin-wide environmental issues while minimizing the administrative burden of annual renewals.

BACKGROUND

The Aviation Division is responsible for ensuring compliance with the Washington State Department of Ecology's §401 Certification and US Army Corps of Engineer's §404 Permit for construction of the Third Runway and other MPU Projects. The §401 Certification imposed conditions to ensure conformance with state water quality standards and other state environmental regulations. A number of these conditions require collection of stream gage data from creeks the Airport discharges into to support of various hydraulic evaluations. The §404 Permit also contains a condition requiring stream gage data collection. In combination, these

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conditions require the Port to conduct continuous stream gage monitoring in Miller Creek, Walker Creek and Des Moines Creek for a period extending 15 years after completion of the Third Runway and other MPU Projects. In addition to these §401 Certification and §404 Permit requirements, stream gage data is also used by Aviation Division staff to evaluate the performance of stormwater facilities as required by the Airport's National Pollution Discharge Elimination System (NPDES) permit.

Historically, local jurisdictions and the public have relied on King County to collect and distribute stream gage and other monitoring data. The current gage locations were originally established by King County, and for many years the County has monitored and maintained them. However, as local areas have incorporated, King County has either discontinued monitoring or sought funding from local jurisdictions or other interested parties to continue data collection. In order to ensure Airport stream gage monitoring needs were met, the Port has funded King County for these services through a series of annual Technical Service Agreements since 2004. The current agreement with King County expired in March 31, 2009.

In addition to stream gaging services, King County has provided basin steward services to the Port and other jurisdictions located within the Miller/Walker Creek watershed basin. The need for basin steward services was originally identified in a 2006 Executive Proposed version Miller and Walker Creek Basin Plan, which was developed by staff from the Port, Washington Department of Transportation and the Cities of Normandy Park, Burien, and SeaTac. The Basin Plan provides an overview of current and anticipated water resources problems in the basin and provides recommendations to address these problems within a twenty-year planning horizon. The Basin Plan has not been proposed for adoption by any of the participating jurisdictions due to a number of unresolved issues concerning stormwater detention standards for new development. Although the Basin Plan cannot be implemented as a whole, the Parties are in agreement that basin steward services and monitoring should be supported. The public has expressed strong support for this effort, and it is beneficial to the airport environmental compliance program.

The Parties initially funded basin steward services in 2007 through a series of individual technical services agreements between King County and each jurisdiction. These services continued through 2008 and 2009. The Cities of Normandy Park, Burien and SeaTac are currently funding King County basin steward services through individual technical services agreements. The Port's Central Procurement Office and Legal department have determined that it is more appropriate to utilize King County's services by entering into an ILA pursuant to the Interlocal Cooperation Act, Ch. 39.34 RCW. Hence, this request for authorization.

PROJECT DESCRIPTION/SCOPE OF WORK

This request is for authorization to enter into an ILA for surface water management services. The ILA will authorize stream gaging and basin stewardship in 2010. Stream gaging tasks to be performed will include measurement of stage (water level); measurement of discharge (flow); maintenance of gaging stations; and data reporting on a publically accessible internet site. Stream gaging will be conducted at 12 locations on Miller, Walker, and Des Moines Creeks.

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Basin steward services will be provided for the Miller/Walker watershed basin. In addition to funds provided by the Port through this ILA, the Cities of Normandy Park, Burien and SeaTac will contribute to this overall effort through separate agreements with King County that the Port is not party to. Each jurisdiction's contribution to total effort will be based on its percentage of impervious surface within the basin. The King County basin steward will perform the following functions: develop, coordinate, and manage of volunteer stream/wetland improvement projects; develop education resources; provide a point of contact for citizens, community groups and governments on water resource issues related to and affecting the basin; and develop a guide future monitoring in the basin.

This ILA will enable the provision of stream gaging and basin steward services on a task order basis, using the annual administrative procedures specified in the ILA. In addition, in the future the Port may request that King County provide other surface water management services, such as invasive species control, habitat evaluation, fisheries assessment, hydraulic evaluations, and stormwater facilities maintenance. Services beyond 2010 will only be provided under this ILA if the funding for those services are authorized by the Port Commission in the Division budget, the Port requests the services through a task order, and King County agrees to provide the services.

STRATEGIC OBJECTIVES:

This ILA supports the Port's strategy to "Enhance Public Understanding and Support of the Port's Role in the Region" by providing a cost effective means to ensure compliance with permit requirements and to cooperatively work with local jurisdictions on watershed issues within the Miller/Walker Creek basin. This agreement allows the Port to accomplish this work while building a working partnership with another public agency.

In addition, this ILA supports the Port's strategy to "Exhibit Environmental Stewardship through our Actions" by facilitating the assessment of natural resources with the watershed basins potentially affected by Airport operations. The ILA also provides for public education on matters related to water resources and engage the public in a variety of habitat enhancement projects.

FINANCIAL IMPLICATIONS:

Budget/Authorization Summary

This ILA authorizes stream gaging and basin steward services for 2010 for a total cost of \$46,749. No other work is guaranteed to King County under this agreement. The Port will authorize all other work under individual task orders on an annual basis as specific work is required and funding for that work is authorized by the Commission. The ILA does not have a not-to-exceed dollar threshold.

No budget authorization request is associated with this Commission action.

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Source of Funds

The costs associated with services to be performed under this ILA in 2010 are in the Commission approved 2010 Aviation Division operating budget. Costs for any services to be performed beyond 2010 will be included in subsequent annual Aviation Environmental operating budget requests.

ECONOMIC IMPACTS:

There is no economic impact related to this agreement since it primarily provides for a continuation of services that have been performed routinely in the past.

ENVIRONMENTAL SUSTAINABILITY AND COMMUNITY BENEFITS:

This agreement provides an effective means to monitor the performance of Airport stormwater management practices and facilities. Stream gage data is made available to the Port through a publicly accessible web site. The local community has expressed strong interest in this data. The data aids the community in assessing stream conditions, monitoring salmon spawning, and evaluating illicit discharges to local streams.

The basin steward provides the Airport and community significant benefits. The Airport's NPDES permit requires implementation of pollution prevention practices to ensure Airport operations will not adversely affect the environment. The basin steward provides a means to assess and address potential cross-jurisdictional impacts that are best addressed through basin-wide actions such as invasive weed control and stream monitoring.

TRIPLE BOTTOM LINE SUMMARY:

This ILA will provide a financially responsible way to ensure the Port meets the permit requirements for construction of the Third Runway and other MPU projects. This agreement also allows for the Port to jointly fund basin wide efforts which are more effective and provide for greater benefits than if the Port and other local jurisdictions worked independently.

PROJECT SCHEDULE

Services performed under the agreement would be initiated in approximately May 2010. The ILA will remain in effect until the Port or King County terminates the agreement.

ALTERNATIVES CONSIDERED/RECOMMENDED ACTION:

- 1) Perform Services Using Existing Port Staff – Stream gage monitoring could be performed using existing Port staff. However, this alternative would require the Port to purchase and install new equipment at each station in place of existing King County equipment. In addition, the Port would need to develop and maintain a publicly accessible web-based

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reporting system. Basin steward services could not be performed by Port staff. The steward position must be filled by a third party, independent of all basin jurisdictions. This alternative is not recommended.

- 2) Execute a Category C Professional Services Agreement (PSA) – Stream gaging services can be secured through outside consulting service firms. However, this alternative would require the Port fund the purchase and installation of new stream gaging equipment at each station. In addition, the Port would need to fund the development and maintenance of a publicly accessible web-based reporting system. The steward position must be filled by an independent third party. For basin steward services, any consultant acquired through a PSA would not be independent from the Port, and a separate mechanism would need to be set up in order to get financial support from the other basin jurisdictions. This alternative is not recommended.
- 3) Execute an ILA with King County - This allows for continued stream gaging and basin steward services with trained personnel familiar with the Airport's requirements and the Miller and Walker Creek watershed basin. This Alternative would allow for the continued use of existing stream gaging equipment at no additional cost to the Port and would maintain stream gaging data on an existing internet site that is available to the public. The current King County basin steward would continue in this role providing continuity to a highly successful program. **This alternative is recommended.**
- 4) Do Nothing - This is not a viable alternative, as it would result in non-compliance with the Airport's §401 Certification and §404 Permit. The Port's support of the inter-jurisdictional Miller/Walker Creek Basin steward effort would end. This alternative is not recommended.

DOCUMENTS ASSOCIATED WITH THIS REQUEST:

Attachment – Interlocal Agreement between the Port and the King County Water and Land Resources Division

PREVIOUS COMMISSION REVIEW/ACTION

Prior stream gage monitoring was conducted in support of permitting and construction of Master Plan Update projects including the Third Runway. Funding was provided through project-wide authorization of those projects.

In January 1995, the Commission authorized the Executive Director to execute an ILA between the Port of Seattle, King County, and the Cities of Burien, Normandy Park, and SeaTac to install and operate stream flow gauges in Miller Creek. The Interlocal Agreement was signed by all four jurisdictions on March 1, 1996.

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Exhibit B of the ILA between the Port of Seattle and the City of SeaTac (September 4, 1997) states: “The Port and the City shall seek participation by the City of Burien, the City of Normandy Park and King County to do a Miller Creek Basin Plan...”

In November of 1999, the Commission authorized the Executive Director to execute an ILA between the Port of Seattle, King County, the Cities of Burien, Normandy Park, and SeaTac, and the State of Washington to share costs of continued inter-jurisdictional collaboration and the development of a Miller and Salmon Creek Basin Plan. The City of Normandy Park was not a party to the final executed Interlocal Agreement.

In May 2003, the Commission authorized the Executive Director to execute an amendment to the existing Miller Creek Basin Plan ILA to provide for the City of Normandy Park's participation and reduce Washington State Department of Transportation's role.

On November 23, 2009, the Commission authorized the Aviation Division operating expense budget which contained \$52,000 for stream gaging services and \$50,000 for receiving water and stormwater support which includes basin steward services.