

**INTERLOCAL AGREEMENT
BETWEEN KING COUNTY AND THE PORT OF SEATTLE
FOR THE PROVISION OF SURFACE WATER MANAGEMENT SERVICES**

This Interlocal Agreement (“Agreement”) is hereby entered into by King County (“King County” or “the County”) and the Port of Seattle (“Port”), hereinafter referred to collectively as the “Parties,” to provide the terms under which the Water and Land Resources Division (WLRD) of the King County Department of Natural Resources and Parks will provide surface water management-related technical services to the Port at the Seattle-Tacoma International Airport.

WHEREAS, the Port must monitor stream flow in Miller, Walker and Des Moines Creeks for a period of 15 years as a requirement of the 401 Certification issued by the Department of Ecology for the Airport’s Master Plan Update Improvement projects; and

WHEREAS, the Department of Ecology has requested that an independent party with established experience conduct the required stream flow monitoring; and

WHEREAS, King County has been and is currently monitoring stream flows throughout King County as part of its comprehensive hydrologic assessment program; and

WHEREAS, since 2004 King County has been providing stream gaging services to the Port under a series of technical service agreements, which are now expired; and

WHEREAS, King County has also been providing basin stewardship and monitoring coordination services to jurisdictions of the Des Moines Creek and Miller Creek Basins through a series of agreements; and

WHEREAS, through an interlocal agreement, King County is able to provide surface water management-related technical services to the Port of Seattle, and the Port wishes King County to provide these services, and

WHEREAS, pursuant to RCW 39.34, the Interlocal Cooperation Act, the parties are each authorized to enter into an agreement for cooperative action;

NOW THEREFORE, the parties hereto agree as follows:

I. Purpose of the Agreement

The purpose of this Agreement is to establish the terms and conditions under which King County, as represented by its Water and Land Resources Division, will provide the Port with surface water management-related technical services. At the time of execution of this Agreement, the Parties have established that King County will provide to the Port on

an annual basis Des Moines Creek gauging services, as described in Exhibit One, attached to this Agreement and incorporated herein and made a part hereof. The Parties have also established that, at least for 2010 and possibly thereafter, King County will provide to the Port basin stewardship and monitoring coordination services as described in Exhibit Two, attached to this Agreement and incorporated herein and made a part hereof. The Parties also agree that this Agreement may be amended in the future pursuant to Sections III and V to enable the provision of similar surface water-related services.

II. Administration

- A. **Administrators.** WLRD and the Port will each designate an Administrator to coordinate on an as-needed basis to ensure compliance with the terms of this Agreement and to promote the efficient delivery of services. The Administrator for the Port shall be Robert Duffner, Surface Water Manager, or other representative as designated by the Port. The Project Administrator for the Port shall be the Water and Land Resources Division Intergovernmental Coordinator or other representative as designated by the County.
- B. **Project Managers.** The Parties will each designate a Project Manager for Des Moines Creek gaging services and a Project Manager for basin stewardship and monitoring coordination services order to manage the day-to-day project management. For the Des Moines Creek gaging services described in Exhibit One, the Project Manager for the Port shall be Aaron Moldver (or his replacement), and the Project Manager for King County will be David Funke or other representative as designated by the County. For the basin stewardship and monitoring coordination services described in Exhibit Two, the Project Manager for the Port will Robert Duffner, Surface Water Manager (or his replacement), and the Project Manager for King County will be Dennis Clark (or other representative as designated by King County).
- C. **Conflict Resolution.** Any conflict that cannot be resolved by the Administrators will be referred for resolution to the Division Director of WLRD for King County, and the Aviation Planning and Environmental Services Director for the Port. This dispute resolution provision shall not be construed as prohibiting either Party from seeking

enforcement of the terms of this Agreement, or relief or remedy from a breach of the terms of this Agreement, in law or in equity.

III. Responsibilities

- A. Service provision will be on a calendar year basis (January 1 to December 31) or portion thereof, as described in specific scopes of work.
- B. For the Remainder of Year 2010
 - a. The scope of work and cost estimate for Des Moines Creek gaging services and basin stewardship services are shown on Exhibit One and Exhibit Two respectively for the year 2010. The Port Commission has already approved expenditure of funds to pay for these services in its 2010 budget. Therefore, once both Parties have signed the Agreement, King County agrees to provide these services starting July 1, 2010.
- C. For 2011 and All Subsequent Years
 - a. By October 1st of each year, the Administrators will jointly develop written scopes of work and estimated costs for any surface water-related services required by the Port for the following year, in a form similar to the attached Exhibits. Service costs are subject to annual adjustments, including cost of living increases adopted by the King County Council.
 - b. Provision of basin steward services in a given year is dependent upon the participation of a number of jurisdictions. By August 1st of each year, King County will notify the Port whether it intends to provide basin stewardship services for the following year. However, King County reserves the right to withdraw its offer of basin steward services, so long as notice is provided to the Port by December 15th.
 - c. No later than January 1st of each year, the Port Administrator will obtain approval of the budget total from the Port Commission. The King County and Port Administrators shall jointly finalize the scope of work, schedule and budget, to document the services to be provided, consistent with the Commission's budget approval. The Administrators will sign the scope of work to indicate their mutual agreement, and King County will provide the services. Such scopes of work shall be documented in new attachments to this agreement that are approved in writing

by both Administrators which attachments shall be incorporated by reference into this Agreement. .

IV. Costs and Billing

- A. For each year in which services are provided, the Port will pay actual costs, including salaries, benefits and supplies, to provide all surface water-related services; provided however, that the Port will not pay more than the total cost estimate provided in the attached Exhibits and approved by the Port Commission.
- B. King County will invoice the Port for the actual cost of providing services on a quarterly basis, per the schedule below.
 - a. For the period January 1 to March 31: invoice to be received by May 1
 - b. For the period April 1 to June 30: invoice to be received by August 1
 - c. For the period July 1 to September 30): invoice to be received by November 1
 - d. For the period October 1 to December 31 invoice to be received by February 1 of the following year
- C. The Port will pay King County for billed amounts within 60 days after receipt of the invoice.
- D. As part of the Des Moines Creek gauging services provided pursuant to Exhibit One, the County owns the stream monitoring equipment (stage sensors/data loggers) currently existing at each gauging site, with the exception of 42R – Lake Reba Outlet which is owned by the Port. King County will continue to utilize the existing equipment at no additional cost to the Port. In the event that the Port determines it wishes to replace any existing equipment, the Port will pay all costs for the replacement equipment and retain ownership at project completion. King County will maintain and repair all equipment, whether owned by King County or the Port, according to the standards contained in Exhibit 1, Section B(3).

V. Effectiveness, Termination and Amendment

- A. This Agreement shall become effective upon signature by both Parties and shall remain in effect until terminated pursuant to Section V.B. below.
- B. This agreement may be terminated by either party for any reason upon provision of sixty (60) days written notice to the other Party.

- C. Except as provided in Section III.C.c. above, this Agreement may be amended, altered, or clarified only by written agreement of the Parties, and may be supplemented by addenda or amendments which have been agreed upon by both Parties in writing. Copies of such addenda and amendments shall be attached hereto and upon execution shall be incorporated herein and made a part hereof
- D. This Agreement is a complete expression of the terms hereto and any oral or written representations or understandings not incorporated herein are excluded. The Parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by the Parties which shall be attached to the original Agreement.

VI. Reporting Obligations

- A. Except as provided in Section B, below, King County's sole reporting obligation under this Agreement is to provide the results of any activities conducted pursuant to this Agreement to the Port. The Parties agree that King County's reporting obligations do not extend to any third party, including any regulatory agency that may seek to obtain or require the results of any activities conducted pursuant to this Agreement. The Parties further agree that any reporting obligations that may exist with regard to third parties, including regulatory agencies, shall remain solely the responsibility of the Port. King County shall have no liability for any failure to meet any existing reporting requirements and the Port agrees to defend, indemnify and hold harmless King County for any damages, suits or claims by third parties related to failure to report the results of activities conducted pursuant to this Agreement.
- B. In the event that King County receives a request for information pursuant to the Washington Public Records Act, Ch. 42.56 RCW for results of any activities conducted pursuant to this Agreement, the King County Administrator will

immediately contact the Port Project Administrator, provide a copy of the request, and respond to the request in accordance with the terms of applicable law.

VII. Indemnification and Hold Harmless

- A. The Port shall protect, defend, indemnify, and save harmless King County, its officers, officials, employees, and agents, while acting within the scope of their employment, from any and all costs, claims, judgments, penalties, and/or awards of damages, arising out of or in any way resulting from the Port's own negligent acts or omissions.
- B. King County shall protect, defend, indemnify, and save harmless the Port, its officers, officials, employees, and agents, while acting within the scope of their employment, from any and all costs, claims, judgments, penalties, and/or awards of damages, arising out of or in any way resulting from King County's own negligent acts or omissions.
- C. Each Party agrees that its obligations under this Section VI. extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event that a Party incurs any judgment, award, and/or cost arising therefrom, including attorneys' fees, to enforce the provisions of this Article, all such fees, expenses, and costs shall be recoverable from the responsible Party to the extent of that Party's culpability.
- D. The indemnifications provided for in this Section shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day of _____, 2010.

Approved as to Form

KING COUNTY:

Deputy Prosecuting Attorney

King County Executive

Approved as to Form

PORT OF SEATTLE:

Port Counsel

Tay Yoshitani
Chief Executive Officer

Exhibit One

2010 Scope of Work

Des Moines, Miller and Walker Creek Stream Gaging Services

Purpose, Objective, and Scope

Under this Scope of Work, the King County Water and Land Resources Division (WLR Division) will provide hydrologic data collection services to the Port of Seattle in the Des Moines, Miller and Walker Creek watersheds. Existing monitoring equipment at each site and materials required to complete services shall be provided at no cost to the Port. In addition to providing data to the Port of Seattle as specified in this Scope of Work, the County will continue to publish Des Moines, Miller and Walker Creek hydrologic data and provide it to interested parties.

Stream gaging services are to be provided between July 1, 2010 and December 31, 2010 at the stream gaging stations identified in Table 1.

Table 1: Des Moines, Miller and Walker Creek Gaging Stations	
Station Identification	Station Name
11C	East Branch of Des Moines Creek at Tyee Detention Pond Inlet
11D	Main Stem of Des Moines Creek at mouth
11F	Main Stem of Des Moines Creek near S 200 th Street
11G	West Branch of Des Moines Creek at Northwest Ponds Outlet
11H	East Branch of Des Moines Creek at Bow Lake Discharge
42A	Miller Creek near mouth
42B	Miller Creek at Miller Creek Detention Facility
42E	Walker Creek tributary to Miller Creek
42J	Miller Creek at Des Moines Memorial DR
42K	Walker Creek West of SR509
42R	Lake Reba Outlet to Miller Creek

Services to be Provided

Stream gaging services at the stations identified in Table 1 will include:

- measurement of stage;
- measurement of discharge;
- maintenance of gaging stations;
- data reporting.

(1) Measurement of Stage

Stream stage shall be measured at each location identified on Table 1 based on reference datum currently established at each station. Stage shall be directly observed at reference gages and uploaded from of existing stage sensors/data loggers. Station visits shall be approximately five weeks apart.

During each visit, the stage shall be checked before any maintenance activities are undertaken. All additional measurement activities shall be performed as specified in King County Water and Land Resources Division's *General Gage Maintenance and Data Workup Procedures* shall be completed. Accuracy of stage measurements shall be +/- 0.05 feet.

Field notes shall be maintained and address condition of channel and control, condition of installation and sensor performance. Sensor performance shall be assessed in the field by generating a plot of the water level record. The plots shall be checked for:

- peak flows associated with known rainstorm events to ensure the recorded elevations are of a reasonable magnitude;
- changes in low-flow stage indicating potential control changes;
- spikes or daily fluctuations indicating sensor problems;
- base stage flow after storms that may provide evidence of fill or scour in the channel.

(2) Measurement of Discharge

Stream discharge shall be measured at each station visit. Additional site visits to characterize stage discharge relationships during seasonal low-flow and peak discharge conditions may be required. Additional low flow measurements shall be made after several days without precipitation during the flow augmentation period for Des Moines Creek (July 24 – October 24) and for Walker Creek (August 1 – October 31). Additional peak discharge measurements shall be made during the winter months as needed to update the gage stage-discharge rating curves.

Stream discharge shall be measured using either a velocity-area method or by direct volumetric measurement. Stream discharge measurements shall be completed in accordance with King County Water and Land Resources Division's *Protocol for Measurement of Streamflow at King County Surface Water Monitoring Sites* (Smith and Funke, 2001) and U.S. Geological Survey methods ((Buchan and Somers 1984). In general, stream discharge measurements shall be within a five percent level of accuracy. Efforts shall be provided as needed to maximize the accuracy of all low flow measurements. At a minimum, stream discharge measurement methodology shall be capable of measuring flows as low as 0.10 cubic feet per second. Ranges of potentially less accurate data measurements shall be noted and included in the Annual Report (see below).

Flow measurements shall be calculated in the field (or if not possible, with one week of collection) and plotted to determine if discharge measurements are on the current rating curve. If a shift is evident from the plot, errors or conditions in the stream to account shift should be determined.

(3) Maintenance of Gaging Stations

The hydraulic control shall be maintained at each station. Maintenance of the hydraulic control includes the removal of sticks and other debris and cutting back vegetation where feasible. Any alteration to the control shall be documented along with the measured stage. All station maintenance shall be performed in a manner that will not impact any subsequent stage and/or discharge measurement. If the upstream pool is large, discharge measurements shall be performed before cleaning the control.

Deliverables to be Provided

Deliverable to be provided shall include:

Preliminary Data Reports for each monitoring period (five weeks).

- Preliminary data workup will be performed after each download. The provisional data will be available for download in electronic form from the King County Hydrologic Information Center webpage, <http://www.dnr.metrokc.gov/wlr/waterres/hydrology>.
- The County will notify the Port of any problems with the data, anomalous readings, or other issues by email.
- Preliminary Data Reports shall be available 21 days after each five-week monitoring period.

Annual Data Summary Report summarizing all data collected during the calendar year shall be provided. The Annual Data Summary Report shall include:

- Identification of the monitoring period, discharge measurement and data upload dates, a summary of station condition assessments, an assessment of data quality (including an assessment rating curves), and summary of other issues or concerns. In addition, the annual report shall provide a Summary of Discharge Measurements, Daily Data Summary and Discharge/Stage Plots. The Summary of Discharge Measurements will tabulate all direct discharge measurement results for all stations. The Daily Data Summary will summarize daily mean, maximum and minimum stage and flow data over the annual reporting period. Discharge/Stage Plots shall be provided for each station. The plots shall identify continuous discharge and stage measurements over the annual reporting period.
- A final electronic file (ASCII or Excel equivalent spreadsheet) containing continuous data. Each final data file shall contain all continuous data collected during the annual monitoring period. Data shall include station identification, date, time, stage and discharge. A quality assurance review shall be performed on all data provided in the final electronic data report.

The Annual Data Summary Report shall be provided 30 days following completion of the final stage/discharge measurement event in the calendar year. Two hard copies of the Annual Report (including Summary of Discharge Measurements, Daily Data Summary and Discharge/Stage Plots) shall be provided. In addition, electronic files containing the Annual Report and final electronic data shall be provided via e-mail.

Deliverable submittal. All deliverables shall be submitted to the Port of Seattle project manager as identified below:

Aaron Moldver
 Port of Seattle Aviation Environmental Programs
 P.O. Box 68727
 Seattle WA 98168-0727
 Phone: (206) 988-5508
 e-mail: amoldver@portseattle.org

Costs for Services

Services for Des Moines, Miller and Walker Creek Stream Gaging shall be provided on a time and materials basis, based on actual labor expenses at the following hourly rates for this calendar year:

Engineer II: \$90.86 per hour
 Engineer III: \$100.28 per hour

The estimated costs for the July 1, 2010 to December 31, 2010 time period is provided below in Table 2:

Table 2: Summary of Estimated 2010 Labor Costs								
Item	Hourly Rate	Station Maint., Discharge Measurements, & Installations		Additional Discharge Measurements		Reporting: Preliminary and Final		Total Costs
		Hours	Labor Cost	Hours	Labor Cost	Hours	Labor Cost	
Engr II	\$90.86	130	\$11,812	17	\$1,544	49	\$4,552	\$17,808
Engr III	\$100.28	16	\$1,604	4	\$401	36	\$3,610	\$5,615
					Total Labor Costs:			\$23,423

Agreed:

For Port of Seattle

Date

For King County

Date

Exhibit Two

Scope of Work for 2010 Miller and Walker Creeks Basin Stewardship and Monitoring Coordination

King County will provide the following services for the period July 1, 2010 to December 31, 2010:

- **Basin Stewardship**
- **Basin Monitoring Coordination**

Basin Stewardship Activities

The goal of these activities is to:

- Improve resources and foster community investment in water resources by conducting volunteer stream/wetland improvement projects
- Develop and provide education resources for students and adults
- Provide a single point of contact for citizens, community groups, and governments on issues related to and affecting the basin.

Task 1: Continue and expand basin stewardship projects focused on invasive plant control and/or revegetation

Task 1a: Maintain Existing Stewardship Projects: Stewardship will continue at existing stewardship projects including:

- Miller Creek at S. 144th Way in Burien
- Walker Wetland in Burien
- Walker Preserve in Normandy Park

Services provided will include:

- Monitor for invasive weeds and survival of new plants
- Organize volunteer events to weed, mulching, and in-fill plant as necessary and as volunteers are available

Task 1b: Initiate one new stewardship project, location to be determined. Services provided will include:

- Publicize activities and recruit volunteers
- Arrange for preparation of a site management plan, if necessary, by an ecologist
- Hire EarthCorps/Washington Conservation Corps/Veterans Conservation Corps crews as needed to prep the site
- Handle all logistics including tools, supplies, snacks, portable toilets, and plants
- Advertise/publicize events
- Lead restoration events

Task 2: Carry out education programs focused on the Miller/Walker Creek basin

Task 2a: Continue education programs for high school students/adult audiences. Continue partnership with Environmental Science Center to maximize consistency of messages and audiences reached. As necessary, revise presentations to incorporate new developments in the basin and messaging from city stormwater pollution prevention (STORM program) and Puget Sound Partnership.

Task 2b: Offer program to Highline High School, Evergreen High School, Mt. Rainier High School, and/or Waskowitz Outdoor Education Program and conduct at least 6 classroom presentations each year. Provide at least two presentations to community groups such as Rotary and churches each year.

Task 3: Develop print media and web resources to support awareness and be a citizen point of contact

Task 3a: Maintain design and content for Miller/Walker basin home page on the web.

Task 3b: Provide stream and water quality related content for other web sites and new media including city, county, and community webpages (e.g., B-Town blog).

Task 3c: Draft three articles for each city newsletter each year

Task 4: Be a citizen point of contact and assist homeowners

Task 4a: Serve as single point of contact for citizens seeking creek information, stream stewardship (on private property) information, and volunteer opportunities. Participate in public meetings/hearings related to the health aquatic resources in the basin as requested by the ILA signatories.

Task 4b: Respond to up to 12 citizen requests for site visits to homeowners seeking assistance with drainage, vegetation, and creek stewardship. Work will be performed in cooperation with city staff where appropriate.

Task 4c: Provide on-the-ground stewardship assistance to property owners to teach them techniques and create sense of commitment. Most likely tasks are invasive plant removal (principally English ivy) and proper tree-planting techniques. Number of contacts will vary based on property-owner interest.

Task 4d: Assist city staffs on an as-needed basis in identifying, investigating, analyzing, and property owner education associated with water quality complaints received through an Illicit Discharge Detection and Elimination Program. Steward will work with city staff to determine when, where, how and to what extent services will be provided to support NPDES.

Task 4e: Coordinate and facilitate meetings of the Miller/Walker Creeks Project Management Team

Basin Monitoring Coordination

During 2010, a Quality Assurance Project Plan (QAPP) will be developed to guide future monitoring in the basin. The quality assurance project plan will be prepared in accordance with King County guidelines, unless the parties jointly determine otherwise, and will address:

- Project description
- Organization and schedule
- Quality objectives
- Sampling process design
- Sampling procedures
- Measurement procedures
- Quality control
- Data management procedures
- Data verification and validity
- Data quality (usability) assessment
- Quality assurance/quality control
- Estimated costs

The draft plan will be circulated for review and comment among interested parties and citizens in draft form. It will then be revised as necessary and finalized.

Cost

The cost for the Port of Seattle’s share of these services for the time period July 1, 2010 to December 31, 2010 will be \$23, 326.

Agreed:

For Port of Seattle

Date

For King County

Date