

**King County**

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June 26, 2024

The Honorable Dave Upthegrove
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Upthegrove:

This letter transmits a proposed Ordinance that, if enacted, would authorize King County to enter into the First Material Modification to the Consent Decree (First Material Modification) to the 2013 Consent Decree with the U.S. Environmental Protection Agency (EPA), and the Washington State Department of Ecology (Ecology).

The First Material Modification updates multiple provisions in the combined sewer overflow (CSO) compliance program established in the 2013 Consent Decree. Controlling CSOs is necessary to achieve compliance with federal and state requirements under the Clean Water Act, conditions in the West Point National Pollutant Discharge Elimination System (NPDES) permit, and obligations set forth in the 2013 Consent Decree. Further information on the First Material Modification can be found in the attached memorandum.

King County authorized execution of the 2013 Consent Decree through Ordinance 17514. The 2013 Consent Decree obligates the County to complete its CSO control program through implementation of a series of CSO control projects by December 31, 2030. The EPA, Ecology, and King County worked together closely to develop the First Material Modification to the 2013 Consent Decree. Notably, the First Material Modification updates CSO project sizes and descriptions to ensure King County achieves compliance with CSO regulations and extends the overall compliance deadline from 2030 to 2037.

The First Material Modification compliance deadline extension allows the County to balance regulatory requirements and affordability. The planning-level project cost estimate to complete the remaining CSO control projects is approximately \$3.3 billion in 2022 dollars, though the total costs may range between \$1.7 billion to \$4.9 billion in 2022 dollars. More than half of these cost estimates fall within the next 10 years of capital spending and are already included in the recent 10-year sewer rate forecast update under an assumption of a 2040 completion date.

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A completion date of 2037 is anticipated to increase the current 10-year rate forecast by approximately seven percent.

King County is one of many jurisdictions throughout the country that have entered into a federal CSO Consent Decree and negotiated a modification. The First Material Modification maintains regulatory certainty for the County to complete the Consent Decree CSO compliance program. The overall compliance schedule extension provides the County an opportunity to balance rate affordability with other legal and regulatory obligations. Throughout the negotiation process, the County has continued to demonstrate its commitment to control CSOs by initiating programs such as the Mouth of Duwamish CSO Control Program and completing projects such as the Georgetown Wet Weather Treatment Station.

The First Material Modification clarifies the County's ability to incorporate new and emerging scientific information regarding potential impacts from climate change into future CSO control project designs. This flexibility ensures that CSO planning, design, and construction will continue to align with the County's Strategic Climate Action Plan and regulatory objectives over time.

Finally, the First Material Modification maintains the County's current priority of reducing the largest CSO volumes from the Duwamish area, which is one of the County's priority equity and social justice areas. These actions reflect the County's continued commitment to equity, racial, and social justice in accordance with the County's Equity and Social Justice Strategic Plan.

Thank you for your consideration of this proposed Ordinance. This important legislation will help King County residents by continuing to improve water quality and meet commitments under the Clean Water Act.

If your staff have questions, please contact Kamuron Gurol, Division Director of the Wastewater Treatment Division, Department of Natural Resources and Parks, at 206-263-5767.

Sincerely,



for

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Enclosures

cc: King County Councilmembers

ATTN: Stephanie Cirkovich, Chief of Staff

Melani Hay, Clerk of the Council

Karan Gill, Chief of Staff, Office of the Executive

Penny Lipsou, Council Relations Director, Office of the Executive

John Taylor, Director, Department of Natural Resources and Parks (DNRP)

Kamuron Gurol, Division Director, Wastewater Treatment Division, DNRP