



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19801

Proposed No. 2024-0209.1

Sponsors Dembowski

1 AN ORDINANCE relating to King County's combined
2 sewer overflow program and authorizing the King County
3 executive to sign and fulfill the obligations in the First
4 Material Modification to the 2013 Consent Decree with the
5 United States Environmental Protection Agency and the
6 Washington state Department of Ecology.

7 **STATEMENT OF FACTS:**

- 8 1. King County protects water quality and prevents water pollution by
9 providing wastewater treatment for thirty-four local sewer utilities. The
10 wastewater treatment division of the department of natural resources and
11 parks serves about two million people, covering four hundred twenty-four
12 square miles, including most urban areas of King County and parts of
13 south Snohomish County and northeast Pierce County.
- 14 2. Around twenty percent of the county's service area has combined
15 sewers, all located in the city of Seattle. The county has five combined
16 sewer overflow treatment facilities and thirty-eight combined sewer
17 overflow outfalls, which are permitted under the National Pollutant
18 Discharge Elimination System permit WA-002918-1.
- 19 3. The United State Environmental Protection Agency and the
20 Washington state Department of Ecology have alleged that the county

Ordinance 19801

21 violated sections 301 and 402 of the Clean Water Act, 33 U.S.C. Sections
 22 1311 and 1342, and the conditions and limitations of its National Pollutant
 23 Discharge Elimination System permit issued by the Washington state
 24 Department of Ecology.

25 4. In response, the parties negotiated a consent decree, which was
 26 approved in Ordinance 17514 in 2013. The approved consent decree was
 27 entered in Civil Action No. 2:13-cv-677, on July 3, 2013, to settle the
 28 litigation between the parties.

29 5. The parties entered into the Agreed Non-Material Consent Decree
 30 Modification to the consent decree on October 25, 2016, and filed such
 31 with the United States District Court for the Western District of
 32 Washington, authorizing the county to select a joint combined sewer
 33 overflow project with the city of Seattle to control two of the county's
 34 outfalls.

35 6. On October 28, 2019, the county formally requested that United State
 36 Environmental Protection Agency and the Washington state Department
 37 of Ecology agree to modify the consent decree due to several changed
 38 conditions including, but not limited to, increases in combined sewer
 39 overflow volumes requiring control due, in part, to climate change,
 40 resulting in project sizes, complexities, and implementation costs that
 41 were significantly greater than expected.

42 7. The parties entered into a Modification to Allow Electronic Reporting
 43 to the consent decree on May 9, 2023, not filed with the United States

Ordinance 19801

44 District Court for the Western District of Washington, authorizing the
 45 county to provide notifications, submissions, or other communications
 46 required by the consent decree by email or mail, with a preference for
 47 email.

48 8. The parties have negotiated the First Material Modification to the 2013
 49 Consent Decree in Attachment A to this ordinance in good faith.

50 9. The First Material Modification to the 2013 Consent Decree constitutes
 51 a material change to the consent decree that requires United States District
 52 Court for the Western District of Washington approval under paragraph
 53 104 of the consent decree.

54 10. King County, without admitting liability, agrees with the United State
 55 Environmental Protection Agency and Washington state Department of
 56 Ecology that the First Material Modification to the 2013 Consent Decree
 57 is fair, reasonable, and in the public interest.

58 11. The First Material Modification to the 2013 Consent Decree updates
 59 the remaining individual project sizes and descriptions to ensure the
 60 county will build projects that achieve Clean Water Act requirements,
 61 updates the critical milestones for each project, and extends the deadline to
 62 complete all combined sewer overflow projects from 2030 to 2037.

63 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

64 SECTION 1. The King County council hereby approves the First Material
 65 Modification to the 2013 Consent Decree, as presented in Attachment A to this

Ordinance 19801

- 66 ordinance, and authorizes the King County executive to sign and fulfill the county's
- 67 obligations contained in the First Material Modification to the 2013 Consent Decree.

Ordinance 19801 was introduced on 7/9/2024 and passed by the Metropolitan King County Council on 7/23/2024, by the following vote:

Yes: 9 - Balducci, Barón, Dembowski, Dunn, Mosqueda, Perry, Upthegrove, von Reichbauer and Zahiray

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:

E76CE01F07B14EF...
Dave Upthegrove, Chair

ATTEST:

DocuSigned by:

8DE1BB375AD3422...
Melani Hay, Clerk of the Council

APPROVED this _____ day of 7/31/2024, _____.

DocuSigned by:

4FBCAB8196AE4C6...
Dow Constantine, County Executive

Attachments: A. First Material Modification to Consent Decree

UNITED STATES OF AMERICA	)	
	)	
and	)	
	)	
THE STATE OF WASHINGTON,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 2:13-cv-677
	)	
KING COUNTY, WASHINGTON	)	
	)	
Defendant.	)	
	)	

WHEREAS, the United States of America (“United States”), the State of Washington (“the State”), and King County, Washington (“the County”) are Parties to the Consent Decree entered by this Court on July 3, 2013 (ECF No. 6);

WHEREAS, the Parties entered into a Non-Material Modification to the Consent Decree on October 25, 2016, and filed such with the Court, authorizing the County to select a joint combined sewer overflow (“CSO”) project with the City of Seattle (“the City”) to control two of the County’s outfalls (ECF No. 7);

WHEREAS, the County has completed construction of ten of the seventeen CSO Control Measures required by the Consent Decree and has commenced construction of two of the remaining CSO Control Measures;

1

(“Ecology”) agree to modify the Consent Decree because of unexpected increases in CSO volumes requiring control and unexpected planning and implementation challenges due, in part, to climate change and variability of location, duration, and intensity of weather events;

WHEREAS, EPA and Ecology agreed to entertain specific modification requests from the County, and the Parties began informal negotiations to clarify the scope and content of potential modifications;

WHEREAS, the Parties continued informal negotiations for several years until EPA and Ecology requested additional supporting documentation on March 15, 2022;

WHEREAS, on November 18, 2022, the County submitted its specific modification requests and supporting documentation. The County sought Material Modifications to the descriptions, design criteria, and critical milestone dates of five CSO Control Measures detailed in Appendix B due to significantly greater CSO volumes requiring control than the Parties anticipated when they entered into the Consent Decree. These modifications clarify certain terms and allow for adaptive management of planned CSO Control Measures due, in part, to the impact of climate change and variability of weather events, and in particular, the need to manage larger volumes of stormwater run-off than anticipated;

WHEREAS, the Parties resumed negotiations to reach agreement on modifications to the Consent Decree based on the County’s request;

WHEREAS, the Parties entered into a second Non-Material Modification to the Consent Decree on May 9, 2023, not filed with the Court, authorizing the County to provide notifications, submissions, or other communications required by the Consent Decree by email or mail, with a preference for email;

WHEREAS, the Parties have agreed, pursuant to Paragraph 104 of the Consent Decree, to the material modifications to the Consent Decree detailed herein;

WHEREAS, this First Material Modification made herein constitutes a material change to the Consent Decree, requiring Court approval under Paragraph 104 of the Consent Decree; and

WHEREAS, the Parties recognize, and the Court by entering this First Material Modification finds, that this Modification has been negotiated by the Parties in good faith and that this Modification is fair, reasonable, and in the public interest.

NOW THEREFORE, with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

1. Except as specifically modified herein, all provisions of the Consent Decree entered by this Court on July 3, 2013 (ECF No. 6) shall remain unchanged and in full force and effect.
2. The deadline to obtain Construction Completion of all CSO Control Measures shall be modified to December 31, 2037.
3. Paragraph 9(w) shall be replaced with the following:
“Performance Criteria” shall mean either, (a) for CSO Outfalls, achieving Controlled status for each CSO Outfall; or (b) for CSO treatment plants, meeting all NPDES Permit requirements and State water quality standards.

4. Paragraph 9(dd) shall be replaced with the following:

dd) “Twenty-Year Moving Average” or “20-Year Moving Average” shall mean the average number of untreated discharge events per CSO Outfall over a twenty-year period and is the averaging period used to assess compliance with the State’s CSO “control” standard of “greatest reasonable reduction” defined in WAC 173-245-020(22). The Twenty-Year Moving Average will be calculated at least annually and reported in the County’s Annual Report. The number of discharge events per year shall be based on representative monitoring records. For years where monitored data do not exist (e.g., during CSO control project design) or are not representative (e.g., due to the completion of CSO reduction projects; non-capital modifications; operational adjustments), the number of discharge events per year shall use the predicted discharge frequency as calculated through modeling. The model for each CSO Outfall shall be established by the LTCP or approved engineering report for CSO control project design and be based on historical rainfall data, hydraulic information (including climate change projections), and the control project design expected efficacy.

5. The following definition shall be added as new Paragraph 9(gg):

gg) “Optimization” shall mean the application of adjustable controls, operational improvements, or capacity modifications to achieve improved flow management with limited capital modifications to the system. Examples include but are not limited to: installing or adjusting controls for gates or pump stations; using additional monitoring locations to refine control settings; modifying weir elevations; and adding conveyance capacity to resolve a localized capacity limitation. The primary objective is to maximize the use of available storage and conveyance capacities more rapidly and effectively than typical capital projects.

6. Paragraph 15 shall be replaced with the following:

15. King County shall construct and implement the CSO Control Measures in accordance with the Performance Criteria and the descriptions, Design Criteria, and the dates for submission of engineering reports, Completion of Bidding, and Construction Completion for each CSO Control Measure as set forth in Appendix B.

7. Paragraph 17 shall be replaced with the following:

17. After two complete wet seasons (each spanning the period October 1 – April 30) following Construction Completion of each CSO Control Measure identified in Appendix B that are associated with CSO Outfalls numbers 028, 029, 030, 032, 036, 039, and 041 at the County’s new satellite CSO treatment plants, the County shall document, in its Annual Report submitted pursuant to Section VIII, whether these CSO satellite treatment plants and associated CSO Outfalls meet the effluent limits in the County’s NPDES Permit and State water quality standards. The first complete wet season shall begin October 1 after Construction Completion. If one of these new satellite CSO treatment plants and associated CSO Outfalls does not meet the effluent limits in the County’s NPDES Permit or State water quality standards within this timeframe, the County shall submit to EPA and the State for their approval a Supplemental Compliance Plan as set forth in Paragraph 20 below. This Supplemental Compliance Plan shall be submitted not later than January 30 of the year following the year in which the second wet season concludes.

8. Paragraph 18 shall be replaced with the following:

18. After two complete wet seasons (each spanning the period October 1 – April 30) following Construction Completion of each CSO Control Measure identified in Appendix B that addresses all remaining CSO Outfalls other than CSO Outfalls numbers 028, 029, 030, 032, 036, 039, and 041, the County shall document, in its Annual Report submitted pursuant to Section VIII, whether these CSO Outfalls are Controlled. The first complete wet season shall begin October 1 after Construction Completion. If one of these CSO Outfalls is not Controlled within this timeframe, the County shall submit to EPA and the State for their approval a Supplemental Compliance Plan as set forth in Paragraph 20 below. This Supplemental Compliance Plan shall be submitted not later than January 30 of the year following the year in which the second wet season concludes.

9. Paragraph 20 shall be modified to add the following to the end of the paragraph:

CSO Outfall Corrective Actions Report(s) submitted in accordance with NPDES Waste Discharge Permit No. WA0029181 shall satisfy the requirements for the Supplemental Compliance Plan described in this Paragraph.

10. Paragraph 21 shall be replaced with the following:

21. Proposed Revisions to CSO Control Measures and Design Criteria: The County may propose a revision to a CSO Control Measure, or to the Design Criteria for a CSO Control Measure, for a CSO control project listed in Appendix B by submitting a proposal to EPA and Ecology for review and approval (in accordance with the review procedures detailed within Section VI) by no later than the date of submission of the engineering report for the subject CSO control project.

(a) Any request by the County for proposed modification of a CSO Control Measure or Design Criteria made pursuant to this Paragraph shall be made in writing to EPA and the State pursuant to Paragraph 85, with all documentation necessary to support the request for proposed modification, including all information relevant to the five criteria set forth below. The County shall provide such additional information requested by the United States or the State as is necessary to assist in evaluating the County's modification request. Any such proposal shall also include:

(i) Detailed project information, such as the size and length of new sewer lines, sewer infrastructure rehabilitation, inflow source reduction or storage capacity; the volume of storage, or scope of sewer separation activities; and the anticipated discharge volume reduction;

(ii) An implementation schedule for completion of the revised and/or alternative CSO Control Measure, or for the CSO Control Measure with revised and/or alternative Design Criteria, by the same Construction Completion date for the CSO Control Measure set forth in Appendix B;

(iii) A demonstration that the revised and/or alternative CSO Control Measure or Design Criteria will meet or exceed the Performance Criteria;

(iv) A description of the public engagement process concerning the revised and/or alternative CSO Control Measure or Design Criteria; and

(v) A demonstration that the proposed revision of or change in CSO Control Measure or Design Criteria will not cause any adverse impacts to sensitive water bodies or beneficial uses of affected waters, or any disproportionate impact on any one or more geographic areas.

(b) EPA and State approval of proposed revised and/or alternative CSO Control Measures or Design Criteria consistent with subparagraph (a) above shall be considered a non-material modification for the purposes of Section XIX of this Consent Decree; provided, however, that, if EPA and the State approve a change to the type of CSO Control Measure that is not already included as an option for that CSO control project in Appendix B (e.g., using treatment instead of storage when treatment is not listed as an option in Appendix B), this shall be considered a material modification and shall not be effective until it is approved by the Court in accordance with Paragraph 104 of this Consent Decree. Any such proposed material modification of this Consent Decree shall, furthermore, be subject to public notice and comment pursuant to 28 C.F.R. § 50.7. The United States and

the State reserve their rights to withdraw or withhold their consent to any such proposed modification of this Consent Decree if public comments received disclose facts or considerations that indicate that the modification would be inappropriate, improper, or inadequate.

(c) If EPA and the State disapprove the County's proposed modification, the County may invoke Informal Dispute Resolution in accordance with Paragraph 78. The Formal Dispute Resolution and judicial review procedure set forth in Paragraphs 79 to 83 shall not apply to proposals for modification of CSO Control Measures or Design Criteria submitted pursuant to this Paragraph.

(i) If the dispute is not resolved by Informal Dispute Resolution, then the position advanced by the United States shall be considered binding; provided that the County may, within thirty (30) days after the conclusion of the Informal Dispute Resolution Period, appeal the decision to the Director of the Enforcement and Compliance Assurance Division, EPA Region 10.

(ii) The Director of the Enforcement and Compliance Assurance Division, EPA Region 10 may approve or disapprove, or approve upon conditions or in a revised form, the proposed modification. The determination of the Director shall be in her/his discretion and shall be final. The County reserves the right to file a motion seeking relief in accordance with Federal Rule of Civil Procedure 60(b).

11. In Paragraph 33, the period for the County, in coordination with the City of Seattle, to review the Joint Plan shall be modified from every three years to every five years. Furthermore, Paragraph 33 shall be modified to add the following to the end of the paragraph:

The County and the City shall engage in a Coordinated Optimization Evaluation ("COE") as part of the next update of the Joint Plan. The COE is a significant effort that will identify and evaluate optimization opportunities that reduce CSOs by taking advantage of potential capacities through improving system-wide or basin specific controls and/or by installing new minor system components. The COE will also inform development of the County's and City's Long Term Control Plan Updates and project engineering reports.

12. Paragraph 43(a) shall add the following as new item (v) in the list of the items to be included in the County's Annual Report:

(v) the Twenty-Year Moving Average for each CSO Outfall, as required by Paragraph 9(dd).

13. Paragraph 58 shall be replaced with the following:

58. Failure to Comply with Effluent Limits. The following stipulated penalties shall accrue for each failure to comply with the following numerical effluent limits imposed by the County's NPDES permit for CSO Outfalls # 027b (Elliott West CSO Treatment Plant), 044 (MLK/Henderson CSO Treatment Plant), 046 (Carkeek CSO Treatment Plant), 051 (Alki CSO Treatment Plant, excluding CSO Outfall #001 for the West Point Wastewater Treatment Plant), 058 (Georgetown CSO Treatment Plant), and any future CSO treatment plant constructed to control outfalls included in Appendix B and subject to numeric effluent limits:

<u>Parameter</u>	<u>Stipulated Penalty</u>
Total Suspended Solids removal efficiency	\$10,000 per annum
Fecal Coliform geometric mean	\$2,000 per month
Settleable Solids (annual average)	\$10,000 per annum
Total Residual Chlorine (maximum daily)	\$2,000 per day
Other annual numeric effluent limits	\$10,000 per annum per limit
Other non-annual numeric effluent limits	\$2,000 per violation per day

14. In Paragraph 117, the description of Appendix D shall be modified to the following:

"Appendix D" is the Joint Operations and System Optimization Plan and Coordinated Optimization Evaluation Between the City of Seattle and King County;

15. The "Status" column in Appendix A shall be changed to "2012 Status." The following language shall be added to the footnote to "2012 Status":

Outfall control status is reported annually in the County's CSO Annual Report.

16. Appendix B shall be replaced with the following:

APPENDIX B: CSO Control Measures, Design Criteria, and Critical Milestones

CSO Control Project and Discharge Serial Number (DSN)	CSO Control Measure(s)	Design Criteria	Critical Milestones ^{1,3}
Hanford #1 (DSN 031)	Increased Conveyance and Storage Tank	0.34 MG of peak CSO storage with conveyance	• Submission of Engineering Report by December 31, 2014 [Completed] • Completion of Bidding by December 31, 2016 [Completed] • Construction Completion by December 31, 2019 [Completed]
Brandon St./ S. Michigan St. (DSN 041/ 039)	CSO Treatment and Conveyance	66 MGD of peak CSO treatment and new conveyance system	• Submission of Engineering Report by December 31, 2015 [Completed] • Completion of Bidding by December 31, 2017 [Completed] • Construction Completion by December 31, 2022 [Completed]
3rd Avenue West (DSN 008)	Joint City-County Storage Tunnel	29 MG tunnel, of which 4.18 MG of peak CSO storage attributable to County's 3rd Avenue West site	• Construction Completion by December 31, 2027
11th Ave. NW (DSN 004)	Joint City-County Storage Tunnel	29 MG tunnel of which 1.85 MG of peak CSO storage attributable to County's 11th Avenue NW site	• Construction Completion by December 31, 2027
W. Michigan St./ Terminal 115 (DSN 042/ 038)	Storage Tank	1.25 MG of peak CSO storage	• Submission of Engineering Report by December 31, 2020 [Completed] • Completion of Bidding by December 31, 2026 • Construction Completion by December 31, 2029

CSO Control Project and Discharge Serial Number (DSN)	CSO Control Measure(s)	Design Criteria	Critical Milestones ^{1,3}
Mouth of Duwamish CSO Control Project (DSN 036/ 032/ 030/ 029/ 028)	CSO Treatment <i>or</i> CSO Storage and CSO Treatment <i>or</i> CSO Storage Facility	190 MGD of peak CSO treatment and modifications to existing conveyance system <i>or</i> 6 MG of peak CSO storage and 170 MGD of peak CSO treatment and modifications to existing conveyance system <i>or</i> 150 MG of peak CSO storage	• Submission of Engineering Report by December 31, 2026 • Completion of Bidding² by July 31, 2029 • Construction Completion by December 31, 2034
University (DSN 015)	Storage Facility <i>or</i> Storage Facility to manage consolidated control volumes associated with University and Montlake planning areas (DSN 015/014)	16.1 MG of peak CSO storage <i>or</i> 24 MG of peak CSO storage	• Submission of Engineering Report by December 31, 2029 • Completion of Bidding² by December 31, 2032 • Construction Completion by December 31, 2037
Montlake (DSN 014)	Storage Facility <i>or</i> Storage Facility to manage consolidated control volumes associated with University and Montlake planning areas (DSN 015/014)	11 MG of peak CSO storage <i>or</i> 24 MG of peak CSO storage	• Submission of Engineering Report by December 31, 2029 • Completion of Bidding² by December 31, 2032 • Construction Completion by December 31, 2037

Footnote	Description
1	All engineering reports submitted must comply with the requirements of WAC 173-240-060.
2	“Completion of Bidding” for these CSO Control Projects shall be achieved when the County has accepted and awarded the bid for the first project component.
3	The City and County shall submit concurrent modification requests for changes to critical milestones on projects that are intended to control both City and County outfalls.

17. Appendix D shall be revised as follows:

APPENDIX D: Joint Operations and System Optimization Plan and Coordinated Optimization Evaluation Between the City of Seattle and King County

- A. Paragraph 1’s references to the preparation of the Joint Operations and System Optimization Plan shall be in the past tense, such that the fourth through sixth sentences of Paragraph 1 shall read:

The County worked with the City of Seattle in jointly preparing a Joint Operations and System Optimization Plan (“Joint Plan”) for the City’s Wastewater Collection System and those interdependent portions of King County’s regional wastewater conveyance and treatment system that are hydraulically connected to the City’s system. The result of this effort was development of a Joint Plan that is consistent with both entities’ operational objectives, ensures the optimal level of coordination and information sharing is maintained, and optimizes system and joint operations between both entities. The Joint Plan describes a procedure for operating their existing systems and includes a process for incorporating the Joint Plan into the design of new capital projects for the combined systems.

- B. A new Paragraph 2 shall be added as follows:

2. The County and the City continue to work together to ensure both systems are utilized to their full potential without adversely affecting the other. Prior work includes installing real-time data sharing between facilities, wet season preparedness meetings, gate optimizations, and a live shared overflow tracking website. These efforts are in part a result of the commitments made by each agency in the Joint Plan.

- C. The first sentence of what will now be Paragraph 3 shall read: The Joint Plan Updates shall continue to include, but not be limited to, the following items:

D. Item 3(k) is changed to reflect that updates to the Joint Plan must be made every five years instead of every three years.

E. A new Paragraph 4 shall be added as follows:

4. The next update to the Joint Plan will be submitted to EPA and the State by March 1, 2027. The Update will include the results of the Coordinated Optimization Evaluation, which will be initiated in 2023, and any optimization actions implemented as of March 1, 2027. The Coordinated Optimization Evaluation will include the following elements:

a. Opportunities to strategically remove stormwater and infiltration and inflow from the County's and City's collection systems;

b. Opportunities to optimize the use of available capacity to maximize use of existing collection system transport, storage, and treatment infrastructure for wastewater flows, including wet weather flows;

c. Opportunities for coordinated operation of the County's and City's combined sewer systems including the potential use of real-time controls that can react and/or anticipate wet weather conditions and assessing controls for greater capacity through operational changes and minor system improvements; and

d. Definition of planning parameters for future Long Term Control Plan Updates and project engineering reports.

18. The effective date of this Modification shall be the date upon which this Modification is entered by the Court or the motion to enter this Modification is granted, whichever occurs first, as recorded on the Court's docket.

19. This Modification shall be lodged with this Court for a period of at least thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if the comments regarding this Modification disclose facts or considerations indicating that this Modification is inappropriate, improper, or inadequate. The County consents to entry of this Modification as proposed without further notice

and agrees not to withdraw from or oppose entry of this Modification by the Court or to challenge any provision of this Modification, unless the United States or the State has notified the County in writing that the United States or the State no longer supports entry of this Modification.

20. Each undersigned representative of the County, the State, and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice, on behalf of the United States, certifies that he or she is fully authorized to enter into the terms and conditions of this Modification and to execute and legally bind the Party he or she represents to this Modification.

21. This Modification to the Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to this Modification to the Consent Decree, and this Modification supersedes all prior agreements and understandings, whether oral or written, concerning the Modification embodied herein.

22. This Modification may be executed in counterparts, and its validity shall not be challenged on that basis.

Dated and entered this ____ day of _____, 2024.

JOHN C. COUGHENOUR
SENIOR UNITED STATES DISTRICT JUDGE

The undersigned hereby consents and certifies that he or she is authorized to consent to the terms and conditions of this First Material Modification to the Consent Decree in the matter of *United States of America and the State of Washington v. King County, Washington*, No. 2:13-cv-677 (W.D. Wash.).

FOR PLAINTIFF UNITED STATES OF AMERICA:

TODD KIM
Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division

/s/ Eric D. Albert
ERIC D. ALBERT, Senior Attorney
Charles Fletcher, Trial Attorney
United States Department of Justice
Environment and Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611
Washington, DC 20044

Date: June 11, 2024

TESSA M. GORMAN
United States Attorney
Western District of Washington

By: /s/ Brian C. Kipnis
BRIAN C. KIPNIS
Assistant United States Attorney
Office of the United States Attorney
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, WA 98101-1271

Date: June 11, 2024

The undersigned hereby consents and certifies that he or she is authorized to consent to the terms and conditions of this First Material Modification to the Consent Decree in the matter of *United States of America and the State of Washington v. King County, Washington*, No. 2:13-cv-677 (W.D. Wash.).

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

BENJAMIN BAHK
Director, Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Date: _____

HANNAH ANDERSON
Attorney, Water Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Date: _____

The undersigned hereby consents and certifies that he or she is authorized to consent to the terms and conditions of this First Material Modification to the Consent Decree in the matter of *United States of America and the State of Washington v. King County, Washington*, No. 2:13-cv-677 (W.D. Wash.).

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 10:

Date: _____
EDWARD J. KOWALSKI
Director, Enforcement and Compliance Assurance Division
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 155
Seattle, WA 98101

Date: _____
BEVERLY F. LI
Regional Counsel
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Date: _____
TED YACKULIC
Assistant Regional Counsel
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

The undersigned hereby consents and certifies that he or she is authorized to consent to the terms and conditions of this First Material Modification to the Consent Decree in the matter of *United States of America and the State of Washington v. King County, Washington*, No. 2:13-cv-677 (W.D. Wash.).

FOR THE STATE OF WASHINGTON:

ROBERT W. FERGUSON
Attorney General

By: _____
RONALD L. LAVIGNE, WSBA #18550
Senior Counsel
Attorneys for State of Washington
Washington Department of Ecology
2425 Bristol Ct., SW
Olympia, WA 98504

Date: _____

LAURA WATSON
Director
Washington Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Date: _____

The undersigned hereby consents and certifies that he or she is authorized to consent to the terms and conditions of this First Material Modification to the Consent Decree in the matter of *United States of America and the State of Washington v. King County, Washington*, No. 2:13-cv-677 (W.D. Wash.).

FOR KING COUNTY, WASHINGTON:

DOW CONSTANTINE
King County Executive
King County Chinook Building
401 5th Ave. Suite 800
Seattle, WA 98104

Date: _____

LEESA MANION
King County Prosecuting Attorney

By: _____
KIMBERLY FREDERICK, WSBA #37857
Chief Civil Deputy, Civil Division
701 5th Avenue, Suite 600
Seattle, WA 98104

Date: _____

Certificate Of Completion

Envelope Id: 4695A8066E5E48FC9538B654FAB511EE

Status: Completed

Subject: Complete with Docusign: Ordinance 19801.docx, Ordinance 19801 Attachment A.pdf

Source Envelope:

Document Pages: 4

Signatures: 3

Envelope Originator:

Supplemental Document Pages: 18

Initials: 0

Cherie Camp

Certificate Pages: 5

AutoNav: Enabled

401 5TH AVE

Envelopeld Stamping: Enabled

SEATTLE, WA 98104

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Cherie.Camp@kingcounty.gov

IP Address: 198.49.222.20

Record Tracking

Status: Original

Holder: Cherie Camp

Location: DocuSign

7/23/2024 5:13:47 PM

Cherie.Camp@kingcounty.gov

Security Appliance Status: Connected

Pool: FedRamp

Storage Appliance Status: Connected

Pool: King County-Council

Location: DocuSign

Signer Events**Signature****Timestamp**

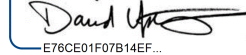
Dave Upthegrove

dave.upthegrove@kingcounty.gov

Chair

Security Level: Email, Account Authentication
(None)

DocuSigned by:



E76CE01F07B14EF...

Sent: 7/23/2024 5:14:53 PM

Viewed: 7/24/2024 8:25:36 AM

Signed: 7/24/2024 8:25:46 AM

Signature Adoption: Uploaded Signature Image

Using IP Address: 67.170.21.237

Electronic Record and Signature Disclosure:

Accepted: 7/24/2024 8:25:36 AM

ID: ee295be4-20eb-4857-be60-a57d9c41d2f5

Melani Hay

melani.hay@kingcounty.gov

Clerk of the Council

King County Council

Security Level: Email, Account Authentication
(None)

DocuSigned by:



8DE1BB375AD3422...

Sent: 7/24/2024 8:25:47 AM

Viewed: 7/24/2024 8:32:02 AM

Signed: 7/24/2024 8:32:07 AM

Signature Adoption: Pre-selected Style

Using IP Address: 198.49.222.20

Electronic Record and Signature Disclosure:

Accepted: 9/30/2022 11:27:12 AM

ID: 639a6b47-a4ff-458a-8ae8-c9251b7d1a1f

Dow Constantine

Dow.Constantine@kingcounty.gov

King County Executive

Security Level: Email, Account Authentication
(None)

DocuSigned by:



4FBCAB8196AE4C6...

Sent: 7/24/2024 8:32:09 AM

Viewed: 7/31/2024 3:04:56 PM

Signed: 7/31/2024 3:05:16 PM

Signature Adoption: Uploaded Signature Image

Using IP Address: 146.129.84.117

Electronic Record and Signature Disclosure:

Accepted: 7/31/2024 3:04:56 PM

ID: 92957433-b9ca-4023-bcb8-3964e0194032

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp**

Intermediary Delivery Events	Status	Timestamp
------------------------------	--------	-----------

Certified Delivery Events	Status	Timestamp
---------------------------	--------	-----------

Carbon Copy Events	Status	Timestamp
--------------------	--------	-----------

Ames Kessler akessler@kingcounty.gov Executive Legislative Coordinator & Public Records Officer King County Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 7/24/2024 8:32:09 AM Viewed: 7/24/2024 10:19:55 AM
--	-------------------	---

Witness Events	Signature	Timestamp
----------------	-----------	-----------

Notary Events	Signature	Timestamp
---------------	-----------	-----------

Envelope Summary Events	Status	Timestamps
-------------------------	--------	------------

Envelope Sent	Hashed/Encrypted	7/23/2024 5:14:53 PM
Certified Delivered	Security Checked	7/31/2024 3:04:56 PM
Signing Complete	Security Checked	7/31/2024 3:05:16 PM
Completed	Security Checked	7/31/2024 3:05:16 PM

Payment Events	Status	Timestamps
----------------	--------	------------

Electronic Record and Signature Disclosure
--

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, King County-Department of 02 (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact King County-Department of 02:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: cipriano.dacanay@kingcounty.gov

To advise King County-Department of 02 of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at cipriano.dacanay@kingcounty.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from King County-Department of 02

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to cipriano.dacanay@kingcounty.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with King County-Department of 02

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to cipriano.dacanay@kingcounty.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify King County-Department of 02 as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by King County-Department of 02 during the course of your relationship with King County-Department of 02.