

Attachment A

2006-126

CONTRACT NO. C0600212

15480

**AGENCY AGREEMENT BETWEEN
KING COUNTY AND THE
STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
RELATING TO AIR SUPPORT (HELICOPTER) SERVICES**

THIS AGREEMENT is made and entered into by and between the State of Washington Department of Ecology, hereinafter referred to as "Ecology" and King County, hereinafter referred to as "King County."

IT IS THE PURPOSE OF THIS AGREEMENT to provide aerial observation, surveillance and support services to Ecology for purposes of oil or hazardous material spill response and training, including but not limited to the use of Forward-Looking Infra-Red (FLIR) imaging. Operation(s) provided under this agreement are necessary to respond to a significant and imminent threat to life or property (including natural resources) when no service by a private operator is reasonably available to meet that threat. This joint response fulfills the need for government response to potential environmental and law enforcement situations.

THEREFORE, IT IS MUTUALLY AGREED THAT:

STATEMENT OF WORK

At the discretion of the King County Sheriff's Office and as resources are available, King County shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of the work set forth in Attachment A attached hereto and incorporated herein.

Ecology may place properly trained personnel aboard the aircraft to conduct work when their presence is essential to the performance of the work. King County shall have the final authority to grant or deny access to their facility or to board its aircraft. King County will also have the final authority regarding the carriage and/or use of Ecology equipment onboard the aircraft. Ecology will ensure that requested operation(s) are necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet that threat.

The Department of Ecology is required to train with the King County Sheriff's Office Air Support Unit prior to deploying to actual incidents. Any unique training, equipment, or supplies required by Sheriff's Office Air Support Unit personnel to carry out contract missions will be provided by Ecology at the Department of Ecology's expense.

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PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on September 1, 2005, and be completed June 30, 2009, unless terminated as provided herein.

PAYMENT

Compensation for the work provided in accordance with this agreement has been established under the terms of RCW 39.34.130. The parties have estimated that the cost of accomplishing the work herein will not exceed \$431 per hour (2005), and the total agreement ceiling will be \$80,000. The hourly rate will be updated annually by May 15 based on the Sheriff's Office Adopted Cost Book. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount prior to the commencement of any work, which will cause the maximum payment to be exceeded. Compensation for services shall be in accordance with the terms set forth in Attachment A, which is attached hereto and incorporated herein.

BILLING PROCEDURE

King County shall submit one invoice per month listing each support mission flown. Invoices for work done prior to the annual revised cost estimate may be held by King County until the hourly cost is known and Ecology has been notified. Payment to King County for approved and completed work will be made by warrant or account transfer by Ecology within 30 days of receipt of the invoice. Upon expiration of the contract, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

King County contact name and telephone number for billing/invoice questions is: Captain Jim Graddon, Contract Services Unit, (206) 296-4183.

Payments will be made payable to: King County Sheriff's Office, and will be mailed to the following address: KCSO Budget and Accounting, Mail Stop KCC-SO-0100, 516 Third Avenue, Seattle, WA 98104.

RECORDS MAINTENANCE

The parties to this contract shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

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RIGHTS IN DATA

Unless otherwise provided, data developed under this Agreement by Ecology shall be owned by Ecology, and data developed under this Agreement by KCSO shall be owned by KCSO. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

AGREEMENT ALTERATIONS AND AMENDMENTS

This agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

TERMINATION

Either party may terminate this Agreement upon 30 days prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. Each party reserves the right to litigate issues and matters in court, de novo.

GOVERNANCE

This contract is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. applicable state and federal statutes and rules;

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- b. statement of work; and
- c. any other provisions of the agreement, including materials incorporated by reference.

ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

WAIVER

A failure by either party to exercise its rights under this agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

CONTRACT MANAGEMENT

The contract manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Contract Manager for Ecology is: David Byers, Spill Response Section Manager, Olympia Headquarters Office, (360) 407-6974.

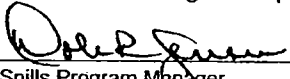
The Program Manager for the King County is: Captain Jim Graddon, KCSO Contract Services Unit, (206) 296-4183.

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IN WITNESS WHEREOF, the parties have executed this Agreement.

State of Washington Department of Ecology

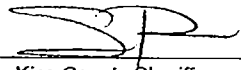

Spills Program Manager
Washington Department of Ecology

12-22-05
Date

King County

King County Executive

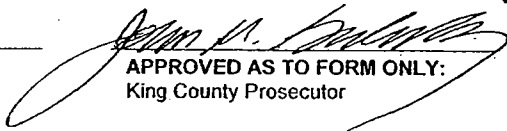
2-23-2006
Date


King County Sheriff

1/19/06
Date

APPROVED AS TO FORM ONLY:
Attorney General

Date


APPROVED AS TO FORM ONLY:
King County Prosecutor

12/28/05
Date

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ATTACHMENT A SCOPE OF WORK AND BUDGET

Scope of Work

As resources are available and at the discretion of the Sheriff's Office, King County will provide helicopter support to the Department of Ecology during spills of oil and/or hazardous material and training missions. Helicopters will be equipped with Forward-Looking Infra-Red (FLIR) and conventional visible light imaging/recording capability. As requested by Ecology, King County will provide remote telemetry monitoring capability and recorded mission FLIR/Visible observations on DVD format, as available.

The Department of Ecology will ensure that requested operation(s) are necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet that threat.

The Department of Ecology is required to train with the King County Sheriff's Office Air Support Unit prior to deploying to actual incidents. Any unique training, equipment, or supplies required by Sheriff's Office Air Support Unit personnel to carry out contract missions will be provided by Ecology at the Department of Ecology's expense.

2005 Cost

King County will supply the service outlined in the scope of work at a rate of \$431.00 per hour, billed according to the chart below. The total cost of this agreement shall not exceed \$80,000. The overtime rate is \$62.89 per officer. These figures will be updated annually based on the Sheriff's Office Adopted Cost Book.

Type of Call	Billing Method
On Duty Calls for Service	Actual flight time in 5-min increments times the ASU hourly rate.
Off Duty Shift Extension Calls for Service	Actual flight time in 5-min increments times the ASU hourly rate. Plus actual flight crew overtime in 15-min increments.
Off Duty Callout Calls for Service	Actual flight time in 5-min increments times the ASU hourly rate. Plus all other flight crew time (portal to portal) billed at the overtime rate. Minimum call time is 2 hours per person, including flight time.
Training	On-duty training missions: Actual flight time in 5-min increments times the ASU hourly rate. Scheduled off-duty training missions: Actual flight time in 5-min increments times the ASU hourly rate, Plus actual flight crew overtime in 15-min increments.