



Legislation Text

File #: 2006-0244, **Version:** 1

AN ORDINANCE authorizing the county executive to enter into a project cooperative agreement with the United States Army Corps of Engineers and the State of Washington Department of Natural Resources for the construction of North Wind's Weir, also known as Duwamish Site 1, Ecosystem Restoration Project.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. The Duwamish/Green river watershed ("watershed") in King County is an invaluable natural resource that is home to many fish and wildlife species, including Chinook salmon and bull trout, recently listed as threatened under the Endangered Species Act. Degradation of the watershed, due to urbanization, physical alterations, and other factors, is of concern to citizens, interest groups and governments sharing jurisdiction in or with a major interest in the watershed.

B. In recent years, governments with jurisdiction or interests in the watershed, with input and participation from other interested parties, have initiated significant cooperative efforts to evaluate habitat restoration needs in the watershed. In 2000, through an interlocal agreement, seventeen jurisdictions of Water Resources Inventory Area (WRIA) 9 formalized their cooperative efforts by forming the WRIA 9 Forum in order to jointly fund, plan, prioritize, and conduct watershed planning and protection over a five-year period.

C. Previously, in 1997, Duwamish/Green watershed jurisdictions had executed an interlocal agreement to share local sponsorship responsibilities for the feasibility phase of the Duwamish/Green Ecosystem Restoration Project, (D/G ERP). The D/G ERP is a large-scale, multiphase project

conducted jointly with the United States Army Corps of Engineers ("USACE") to restore the ecosystem of the watershed through planning and construction of significant habitat restoration projects. Under a federal requirement, the feasibility phase was cost shared equally, between the federal and non-federal sponsor.

D. The Green/Duwamish Ecosystem Restoration Feasibility Report ("Feasibility Report") was completed in October 2000. It recommended forty-five sites in the watershed for habitat restoration; twenty-seven of which were identified for local sponsorship by King County.

E. An environmental impact statement, completed in 2000, addressed potential effects of implementing the D/G ERP and determined that *"the proposed restoration program would have beneficial cumulative effects with other habitat conservation enhancement projects, and would incrementally offset adverse impacts on habitat and related natural resources from past, present, and future development projects."*

F. The USACE submitted the report to the United States Congress (Congress), and requested and received congressional authorization, through Section 101(b) (26) of the Water Resource Development Act of 2000, Public Law 106-541, to construct the forty-five restoration sites as recommended in the Feasibility Report. This authorization enabled, but did not obligate, Congress to appropriate through its annual budget appropriations funding for the preconstruction, engineering and design (PED) phase of the D/G ERP and for construction, which is the fourth and final phase.

G. Federal funding for the D/G ERP PED phase to prepare designs and environmental documents for the restoration sites was appropriated by Congress in 2001, 2002, and 2003. During the PED phase, costs were shared seventy-five percent (75%) by the federal sponsor and twenty-five percent (25%) by the non-federal sponsor.

H. During 2003 and 2004 the jurisdictions of the WRIA 9 Forum shared local sponsorship responsibilities and provided funding for the PED phase through the watershed planning inter-local

agreement executed in 2000. Under council authorization, King County acted as the regional representative for the non-federal sponsors under the terms of the PED agreement. Grant funds from the King Conservation District to the WRIA 9 Forum were also used to help meet non-federal cost share responsibilities.

I. In August 2005, work of the WRIA 9 Forum culminated in the completion of the WRIA 9 Salmon Habitat Plan (“Plan”), which was ratified by the participating jurisdictions as of January 2006. The Plan recommends specific actions to recover, protect and restore habitat for Chinook salmon and bull trout, including nearly all of the restoration projects listed in Feasibility Report. Those sites in the Feasibility Report that emphasized habitat restoration needs of species other than Chinook salmon and bull trout were not included as recommendations in the Habitat Plan.

J. North Wind’s Weir (“NWW”) Intertidal Restoration Project (formerly called “Duwamish/ Site 1”), located on the Duwamish River at approximately river mile 6.3 in Tukwila, was included as one of the priority projects in both the Corps Feasibility Report and the WRIA 9 Habitat Plan. The NWW project would create over two acres of restored intertidal estuary, including a backwater slough and marsh areas, as off-channel habitat. Such habitat is critical to juvenile fish for growth and strength prior to their ocean migration. The site would also include interpretive signage, a trail to the Duwamish River, and a small boat hand-launching area.

K. In 2001, the county took a regional leadership role in pursuing initial Salmon Recovery Funding Board grants and other regional support to complete acquisition of the 2.6 acres required for the construction of North Wind’s Weir for \$1,854,866.55. The Washington State Salmon Recovery Funding Board and the Aquatic Lands Enhancement Account each awarded grants of \$500,000. The Elliott Bay/Duwamish Restoration Program Panel, which is responsible for administering the distribution of the Elliott Bay/Duwamish Consent Decree funds, approved \$611,822 for the acquisition. In addition, the balance was paid in equal amounts by King County, the city of Tukwila, and the City of

Seattle.

L. In 2003, the county and USACE renamed the Duwamish/Site 1 as North Wind's Weir to provide a more descriptive name for the site and cooperatively initiated design on the site as the first of the county-sponsored sites.

M. In 2004, the county completed an estimated seventy-five percent (75%) of the remediation of hazardous materials found at the site in preparation for construction. Cost of disposal of hazardous materials has been and remains the sole responsibility of the local sponsor.

N. April 20, 2006 the USACE completed the necessary environmental permitting for the Construction of NWW.

O. A Project Cooperation Agreement (PCA) between the USACE and non-federal sponsors must be executed before any federal funds may be expended for construction of the NWW project. The proposed PCA for NWW defines estimated total project costs, including cost estimates for construction, monitoring, and adaptive management. The PCA allocates costs shares for restoration features at sixty-five percent (65%) for the Corps and thirty-five percent (35%) for the county. Recreation feature costs are divided 50% - 50% for each.

P. The PCA for construction of the North Wind's Weir site is the first of a number of agreements anticipated to be signed by the county and the Corps for construction at the remaining 26 D/GERP sites for which the county would be the nonfederal sponsor. The total project cost for all 27 county sites estimated in 2000 dollars in the Feasibility Report was \$61,192,998.

Q. This ordinance is being adopted as an emergency measure in order to secure federal Corps funding that could otherwise be assigned to other non-King County projects if immediate action is not taken.

SECTION 2. The King County executive is hereby authorized to negotiate a final version of, and to enter into, a project cooperation agreement on behalf of King County with the U.S. Department of the Army,

the state of Washington Department of Natural Resources and King County, in substantially the same form as Attachment A to this ordinance, for the design and construction of North Wind's Weir Project, as such project is more fully described in the "Project Management Plan for the Duwamish/Site 1 (North Wind's Weir) Habitat Restoration Project" dated May 2, 2006, Attachment B to this ordinance.

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