



**CONTRACT FACE SHEET**

- Document Type:**
- Contract
  - MOU
  - Interlocal Agreement
  - Notice of Acceptance
  - Retainage
  - Franchise Agreement
  - Right of Way Use Agreement
  - Lien
  - Correspondence
  - Collective Bargaining Agreement
- Status:**
- New
  - Amendment
  - Change Order
  - Renewal
  - Cancellation

**\*Vendor Name:** KC Flood Control District

**\*JDE PO Number:** 910981-000

**\*Effective Date:** 10.16.2009

**\*Termination Date:** 12.31.2009

**Amendment Effective Date:** -

**\*Clerk's Receiving Number:** 45141

**Related Receiving Number:** -

**Bid/RFP/RFQ/ITQ Number:** -

**Ordinance Number:** \_\_\_\_\_

**Resolution Number:** 7992 10.05.2009

**CIP Number:** -

**Project Name:** Allows Bellevue to receive Opportunity Funds

**Site Name:** \_\_\_\_\_

**Vendor Number:** 159191

**File Location:** 09.683

\*Denotes mandatory fields. If referring to Retainage, please indicate the Termination Date same as the Contract Termination Date.

UT

Face Sheet Date: 10.22.09 C JDE

Scan/Index Date: 10.22.09 MM ECM

**INTERLOCAL COOPERATION AGREEMENT BETWEEN THE KING  
COUNTY FLOOD CONTROL ZONE DISTRICT  
AND THE CITY OF BELLEVUE FOR  
OPPORTUNITY FUND PROJECTS**

THIS INTERLOCAL COOPERATION AGREEMENT is entered into between the CITY OF BELLEVUE, a municipal corporation of the State of Washington ("City"), and the KING COUNTY FLOOD CONTROL ZONE DISTRICT, a quasi municipal corporation of the State of Washington ("District") ("Parties" or when singular "Party"), and shall be effective upon execution by the Municipality and the District.

**Article I. Recitals.**

In April 2007, the King County Council, as authorized by chapter 86.15 RCW, created the District as a quasi-municipal corporation. The King County Council members ex officio constitute the Board of Supervisors of the District, the governing body of the District.

In Resolution FCZD 2008-15.2, the Board of Supervisors approved the District's 2009 budget and annual work program, and allocated 10 percent of the District's annual property tax revenues for a sub-regional opportunity fund to be used by King County municipalities. The Board of Supervisors further determined that eligibility of projects for opportunity funds be based on consistency with chapter 86.15 RCW; provided that expenditures under RCW 86.15.035 and RCW 39.34.190 for salmonid habitat protection be linked to the construction of a flood or stormwater project. The Board of Supervisors also allocated the opportunity funds to a municipality based on that municipality's proportional contribution to the overall King County assessed valuation, as collected.

In Resolution FCZD 2009-01.1, the Board of Supervisors included the projects and activities described in Attachment A to this Agreement in an amendment to the District's annual budget and work program for the year 2009.

The Board of Supervisors desires to have the City implement its approved opportunity fund projects and activities for the years 2008 and 2009, as well as the projects and activities that are approved for the City in subsequent District annual budgets and work programs. The City desires to implement such projects and activities, and to receive opportunity funds to finance in whole or in part such projects and activities.

The City and the District are authorized to enter into this Agreement pursuant to Chapter 39.34 RCW (the Interlocal Cooperation Act), and agree as follows:

**Article II. Definitions.**

2.1 Eligibility Criteria. The term "Eligibility Criteria" means one of the two following criteria that Projects shall meet to qualify for Opportunity Funds:

2.1.1. Under RCW 86.15.110, Opportunity Funds may be expended for either flood control improvements or stormwater control improvements that are extended, enlarged, acquired or constructed, provided that the City has developed a comprehensive plan of development for flood control or for stormwater control, respectively, and the improvement contributes to the objectives of the plan. For flood control improvements, such plan shall be submitted to and approved by the Department of Ecology. In addition, for newly constructed improvements, the City shall develop preliminary engineering studies and plans, and such plans and studies shall be filed with the District's engineer. For all projects, the City shall provide cost estimates and underlying data and shall describe the benefit provided by the improvement.

2.1.2. Pursuant to the criteria in RCW 86.15.035 and RCW 39.34.190, as modified by Resolution FCZD 2008-15.2, District funds may be expended for cooperative watershed management actions, including watershed management partnerships and other intergovernmental agreements, for the purposes of water supply, water quality, and water resource and habitat protection and management, provided that Opportunity Funds expended for salmon habitat protection shall be linked to the construction of a flood or stormwater project, and provided further that all such funds shall be used for the implementation of watershed management plans, including but not limited to the following:

- a. Watershed plans developed under chapter 90.82 RCW;
- b. Salmon recovery plans developed under chapter 77.85 RCW;
- c. Watershed management elements of comprehensive land use plans developed under the growth management act, chapter 36.70A RCW;
- d. Watershed management elements of shoreline master programs developed under the shoreline management act, chapter 90.58 RCW;
- e. Nonpoint pollution action plans developed under the Puget Sound water quality management planning authorities of chapter 90.71 RCW and chapter 400-12 WAC;
- f. Other comprehensive management plans addressing watershed health at a WRIA level or sub-WRIA basin drainage level;
- g. Coordinated water system plans under chapter 70.116 RCW and similar regional plans for water supply; and
- h. Any combination of the foregoing plans in an integrated watershed management plan.

The authority to use funds for implementation of these plans is broadly construed to include:

1. Coordination and oversight of watershed management plan implementation, including funding a watershed management partnership for this purpose;
2. Technical support, monitoring, and data collection and analysis;
3. Design, development, construction, and operation of projects included in the plan; and
4. Conducting activities and programs included as elements in the plan.

2.2 Project. The term "Project" or "Projects" means specific projects or activities that meet the Eligibility Criteria of this Agreement, are approved by the Board of Supervisors in a resolution approving the annual budget and work program, or amendment thereto, and are described in an attachment to this Agreement that is approved pursuant to this Agreement.

2.3 Opportunity Funds. The term "Opportunity Funds" means the funds made available by the Board of Supervisors to the municipalities within King County for implementation of Projects. For each of the years 2008 and 2009, these funds represent 10 percent of property tax revenues collected for each of those years, and are available to individual municipalities based on the proportional amount that municipality's assessed valuation as collected (as determined by the King County Assessor's office) bears to the entire amount of assessed valuation in all of King County (as determined by the King County Assessor's office). For the years after 2009, this term means District funds that are designated as "Opportunity Funds" by the Board of Supervisors in either a resolution approving the District's annual budget and work program or a separate resolution.

2.4 Service Provider. The term "Service Provider" means the Water and Land Resources Division of the King County Department of Natural Resources and Parks.

**Article III. Duration of Agreement--Survival of Agreement.**

This Agreement shall be effective upon execution by both Parties, and shall remain in effect until terminated by one or both of the Parties. Either Party may terminate this Agreement by providing written notice of termination to the other Party no less than sixty (60) days prior to the effective date of termination. This Agreement also may be terminated

upon mutual agreement of the Parties expressed in writing. Sections 4.2, 5.2, 5.3, 5.4, 5.5, 6.3, 6.4 and 6.5 and Article VII shall survive any termination of this Agreement.

**Article IV. Conditions of Agreement.**

4.1 Project Descriptions. The initial approved Projects are described in Attachment A, which is incorporated by reference. Subsequent approved Projects shall be described in new Attachments to this Agreement that are approved through the amendment process of Section 7.2.2, which Attachments shall be incorporated by reference into this Agreement.

4.2 Use of Funds. The City shall use Opportunity Funds distributed pursuant to this Agreement only for expenses related to the Projects.

**Article V. Responsibilities of City.**

5.1 Project Application and Description. The City may submit an application for distribution of Opportunity Funds within a period of time designated by the Service Provider and on a form approved by the Service Provider. As part of the application to receive Opportunity Funds, the City shall submit to the Service Provider the following information for each proposed Project:

5.1.1. Name of proposed project or activity;

5.1.2. Description of the flooding, stormwater, or watershed management problem to be addressed (one to two paragraphs);

5.1.3. Description of how the proposed project or activity will address the problem (one to two paragraphs);

5.1.4. Type of project or activity (e.g., feasibility study, design, construction, acquisition, programmatic activities, etc.);

5.1.5. Description of how the project or activity satisfies the “Eligibility Criteria,” as defined in this Agreement;

5.1.6. Identification of the plan (flood control, stormwater control, or watershed management) that includes the Project;

5.1.7. Product/deliverable and, for constructed Projects, design plans or studies; and

5.1.8. Schedule, milestones, costs and budget for each Project, consistent with the requirements of this Agreement.

The schedule for a Project shall provide for the expenditure of Opportunity Funds within two years after the commencement date of the Project. The City shall submit a request for distribution of Opportunity Funds after an actual expenditure is incurred for the Project, provided that the City may request distribution of up to 10 percent of Opportunity Funds for a Project upon approval of a Project by the Board of Supervisors. After approval of the Project by the Board of Supervisors, the application form, as approved by the Board of Supervisors, shall become an attachment to this Agreement through the amendment process in Section 7.2.2.

5.2 City Obligations for Projects. The City shall implement the Project as described and provided for in the approved attachment to this Agreement. Upon receipt, the City shall deposit Opportunity Funds in a separate account, which shall accrue interest at the rate earned by the City on its investments. To request a distribution of Opportunity Funds, the City shall submit to the Service Provider such information and proof of expenditure as requested by the Service Provider.

5.3. Projects Seeking Opportunity Funds Beyond Current Appropriation Year.

The City may request distribution of Opportunity Funds beyond the appropriation year for the District's budget and annual work program, provided that District approval of such distribution of Opportunity Funds shall not be construed as nor constitute a District obligation or commitment to appropriate Opportunity Funds for the Project beyond the approved appropriation year. The District shall have no obligation to provide Opportunity Funds beyond the appropriation year for the District's budget and annual work program, provided that the District shall distribute to the City after such appropriation year any Opportunity Funds that were allocated to the City in such appropriation year and in previous years and that have not been distributed to the City.

5.4 Reporting.

5.4.1. Until the Project is completed or all Opportunity Funds for a Project have been spent, the City shall provide semi-annually to the Service Provider brief written reports describing the progress on and status of the Project and any other relevant information that the Service Provider may request to determine compliance with this Agreement.

5.4.2. Upon completion of a Project, or upon expenditure of all of the Opportunity Funds for the Project, whichever occurs first, the City shall submit a final report to the Service Provider within 90 days of such completion or expenditure. The final report shall contain a summary of all Project expenditures, copies of invoices if requested by the Service Provider, a description of the Project status and accomplishments, and other relevant information requested by the Service Provider to verify compliance with this Agreement. The final report also shall contain a certification that all Opportunity Funds

provided to the City were expended solely on the Project in accordance with this Agreement and the Project approval. If a Project is not completed prior to termination of this Agreement, a report as described in this Section shall be provided to the Service Provider within 90 days of such termination. All records relating to a Project shall be retained by the City for a minimum of seven years, unless required by law to be retained for a longer period, in which case the longer period shall apply.

5.5 City obligations upon Project completion or termination. As consideration for receipt Opportunity Funds to implement the Project, the City agrees that:

5.5.1. If the Project involves developing a report or study, undertaking a study or collecting data, or producing written or electronic materials of any kind, copies of all such materials shall be provided upon request to the District or the Service Provider; and

5.5.2. If the Project involves the acquisition, extension, enlargement, or construction of a physical improvement, the City shall take ownership of, and shall be obligated to operate, maintain, and repair such improvement for the ordinary expected useful life of such improvement.

5.5.3 If the City terminates a Project, and the City has not expended all of the Opportunity Funds paid in advance pursuant to Section 6.3, the City shall return to the Service Provider the remaining Opportunity Funds within 60 days of the close of the calendar year in which the Project was terminated. Such returned Opportunity Funds shall be credited to the City's Opportunity Fund account, and may be used on future approved Projects, provided that if the Board of Supervisors has terminated the Opportunity Fund program at that time, the returned Opportunity Funds may be used by the District for District projects and activities.

**Article VI. Responsibilities of District.**

6.1 Upon timely submission of a Project application by the City, the Service Provider will review the application, provide reasonable and appropriate feedback, and consider including the Project as an element of the District's annual budget and work program.

6.2 If the Board of Supervisors approves the Project application by including the Project in the District's annual budget and work program, or an amendment thereto, the Service Provider shall attach a copy of the Project application as approved to this Agreement and it shall become a part hereof.

6.3 The District, through the Service Provider, shall distribute Opportunity Funds, up to the remaining amount of the City's total Opportunity Fund allocation, after City expenditure of funds for a Project as set forth in the approved schedule for the Project, provided that upon request of the City, the District shall pay up to 10 percent of the total Opportunity Funds allocated for a Project upon approval of an attachment to this Agreement. The Service Provider shall pay the Opportunity Funds after confirming that the expenditures have been made consistent with the Project approval and schedule.

6.4 The District assumes no obligation for future support of Projects meeting the Eligibility Criteria except as expressly set forth in this Agreement.

6.5 The District shall have no obligation to provide Opportunity Funds beyond the appropriation year for the District's budget and annual work program, provided that the District shall distribute to the City after such appropriation year any Opportunity Funds that were allocated to the City in such appropriation year and in previous years and that have not been distributed to the City.

**Article VII. Other Provisions.**

**7.1 Hold Harmless and Indemnification.**

7.1.1. The District assumes no responsibility for the direct payment of any compensation, fees, wages, benefits or taxes to or on behalf of the City, its employees, contractors or others by reason of this Agreement. The City shall protect, indemnify and save harmless the District, its officers, agents, employees and the Service Provider from any and all claims, cost and whatsoever occurring or resulting from (1) the City's failure to pay any compensation, fees, wages, benefits or taxes, and (2) the supplying to the City of works services, materials or supplies by City employees or agents or other contractors or suppliers in connection with or in support of performance of this Agreement.

7.1.2. The City further agrees that it is financially responsible for and will repay the District all indicated amounts following an audit exception, which occurs due to the negligent or intentional acts by the City, its officers, employees, agents or representatives.

7.1.3. The City shall protect, indemnify and save harmless the District from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the City, its officers, employees or agents in connection with the implementation of the terms of this Agreement and/or implementation of the Projects. For purpose of this Agreement only, the City agrees to waive the immunity granted it for industrial insurance claims pursuant to Washington Statute Chapter 51 to the extent necessary to extend its obligations under this paragraph to any claim, demand, or cause of action brought by or on behalf of any employee, including judgments, awards and costs arising therefrom including attorney's fees.

7.2 Amendment.

7.2.1. This Agreement may be modified by written instrument approved by the City Council and the District Board of Supervisors and signed by the Parties.

7.2.2. This Agreement also may be modified by additional attachment for Projects subsequently approved by the Board of Supervisors. After approval of a Project in the District's annual budget and work program, or amendment thereto, the Project application as approved shall become an attachment to this Agreement and shall constitute an amendment to this Agreement without further action by either Party.

7.3 Contract Waiver. No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provision of this Agreement. No waiver shall be effective unless made in writing.

7.4 No Third Party Rights. Nothing in this Agreement shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care with reference to any third party.

7.5. Entirety. This Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated are excluded. This Agreement merges and supersedes all prior negotiations, representations and agreements between the parties relating to the projects and constitutes the entire agreement between the parties. The parties recognize that time is of the essence in the performance of the provisions of this Agreement.

ATTACHMENT A



King County Water Land Resource Division  
River and Floodplain Management



King County

**Sub-Regional Opportunity Fund Project Application**

*Application Due Date: December 8, 2008*

Jurisdiction: City of Bellevue

- 1) Do you wish to forego the receipt of your Opportunity Fund allocation this year, allowing it to accrue for a future year?  Yes  No
- 2) Would you prefer to apply your Opportunity Funds toward an existing project on the District's 6-year CIP?  Yes  No If Yes, please provide the name of the project:

*If you said Yes to either (1) or (2) above, you do not need to complete the remainder of this form.*

3) Proposed project or activity name SE 30<sup>th</sup> Street / Sunset Creek Improvement, CIP Flood Control Program D-94  
and location: SE 30<sup>th</sup> Street at Sunset Creek, Bellevue WA

4) Description of the flooding, stormwater, or linked watershed management problem that this project or activity will address (1500 character maximum):  
Sunset Creek is an urban stream, significantly altered by development. It is also a Chinook spawning stream. The area was developed prior to the enactment of runoff control regulations, and approximately 44% of the tributary land area is impervious, with limited or no detention. High flow velocities and large streamflow fluctuations erode stream banks in the upper watershed and deposit the eroded sediment along the flatter sections. The adjacent floodplain is fully developed with commercial warehouses and businesses, confining the stream to a straightened narrow corridor. The accumulation of 3-4 feet of sediment and diminished conveyance capacity causes the area to flood routinely during even minor storm events. Flooding in the area cuts off access to the nearby buildings and has caused property damage. Bellevue crews have responded to road or structural flooding 29 times in 9 years in this area.

5) Description of how the proposed activity will address the problem outlined in number 2 (1500 character maximum):  
The project will improve public safety, provide flood protection, stabilize streambanks, restore spawning habitat, remove invasive species & replant with native vegetation, and provide ongoing sediment management. It will be constructed in two phases. Phase 1 will replace the existing SE 30<sup>th</sup> St culvert with a 13'x7' concrete box culvert and add a 5' sediment trap to capture sediment. The new culvert will convey the 100-year flow, reducing flooding to a 1% annual risk. Stream channel conveyance will be restored with targeted dredging and directional flow features which promote sediment transport. Phase 2 will include habitat restoration on 400 feet of additional stream reach, stabilizing streambanks using wood features such as engineered log jams and root wads, and replanting.

- |                      |   |  |  |   |
|----------------------|---|--|--|---|
| 6) Type of Activity: | <input type="checkbox"/> Feasibility Study        | <input checked="" type="checkbox"/> Project Design | <input checked="" type="checkbox"/> Project Construction | <input type="checkbox"/> Property Acquisition |
|                      | <input type="checkbox"/> Programmatic – identify: |  |  |   |
|                      | <input type="checkbox"/> Other – identify:        |  |  |   |

7) Describe how the proposed project or activity satisfies the eligibility criteria for at least one of the three categories listed in Section III of the attached document (1500 character maximum):  
This project meets the first eligibility criteria. It's a flood control project identified in Bellevue's Richards Creek Basin Plan and the Bellevue Utilities Capital Investment Program. It will enlarge an existing undersized culvert that causes flooding.

8) Identify the management plan (i.e. flood control, stormwater control, or watershed management) within which implementation of the project or activity is an element or is recommended:  
Richards Basin Plan (1999), Bellevue Utilities Capital Investment Plan Program D-94, Flood Control, adopted 12/1/2008.

9) Identify deliverables and any relevant design plans or studies (for construction projects):

The Sunset Creek Flood Control and Sediment Management Plan was prepared in October 2008. Design plans, specifications and cost estimates are currently at the 90% level.

10) Identify a timeline for this project from inception to completion. List any relevant milestones, and provide a rough estimate of project costs and budget:

Project was identified in the 1999 Richards Creek Basin Plan; added to Bellevue's CIP in 2004. Pre-design was completed in 2007 and design in 2008 (\$400,000). For Phase 1, 100% design plans are anticipated in January 2009 with federal, state, and local permits anticipated in March 2009. Construction is planned for August 2009 (est. \$800,000). Phase 2 construction is anticipated in summer 2010 (est \$350,000). Total project cost est: \$1,550,000 Project funding by Bellevue CIP: \$945,000 Funding from Sub-Opportunity Funds: \$605,318.

*For Informational Purposes Only:* We wish to inform the Flood Control District Board of Supervisors on how Opportunity Funds leverage other resources, and we appreciate any information you are willing to provide in this regard. If you plan to partner with other jurisdictions to conduct a project or otherwise intend to use your Opportunity Fund allocation to leverage grant funds or other surface water management funds, please provide us with this information (1200 character limit):

Opportunity funds will supplement Bellevue's Storm Drainage CIP budget, to allow completion of this flooding project sooner than would otherwise be possible.

*For Internal Use Only*

Authorized Signature	
<input type="checkbox"/> Project Eligible and Accepted	
<input type="checkbox"/> Project Ineligible	

**ORIGINAL**

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7992

A RESOLUTION authorizing the City Manager or his designee to execute, on behalf of the City, an Interlocal Cooperation Agreement with the King County Flood Control District for the disbursement of opportunity funds.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute the Interlocal Cooperation Agreement with the King County Flood Control District for the disbursement of opportunity funds, a copy of which Interlocal Agreement shall be given Clerk's Receiving No. 45141.

Passed by the City Council this 5th day of October, 2009, and signed in authentication of its passage this 5th day of October, 2009.

(SEAL)

  
\_\_\_\_\_  
Grant S. Degginger, Mayor

Attest:

  
\_\_\_\_\_  
Myrna L. Basich, City Clerk

# Agenda

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p. 1 of 5

## City Council Regular Session

MONDAY  
October 5, 2009

8:00 – 10:00 p.m.  
Council Chambers (1E-126)

Page

1. Call to Order
2. Roll Call, Flag Salute
3. Communications: Written and Oral  
*Note: Three-minute limit per person, or five minutes if representing the official position of a recognized community organization. Maximum of three persons are permitted to speak to each side of any one topic. Additional presentations may be heard at Agenda Item 13, including three additional persons speaking to topics heard at Agenda Item 3.*
4. Reports of Community Council, Boards and Commissions
5. Report of the City Manager
  - (a) Management Brief on the Government Finance Officers Association Distinguished Budget Presentation Award  
FIN  
Jan Hawn  
5-1
  - (b) Management Brief regarding Stormwater Pollution Communication Plan  
UTIL  
Denny  
Vidmar  
5-3
6. Council Business and New Initiatives
7. Approval of the Agenda

City Council meetings are wheelchair accessible. American Sign language (ASL) interpretation is available upon request. Please phone 452-6805 at least 48 hours in advance. Assisted Listening Devices are also available upon request.



## 8. Consent Calendar

- |  |      |             |
|--|------|-------------|
| (a) Minutes of September 8, 2009 Study Session<br>Minutes of September 8, 2009 Regular Session<br>Minutes of September 14, 2009 Extended Study Session   |      | <u>8a-1</u> |
| (b) Motion to approve payment of claims for the period September 19, 2009 through October 2, 2009 and payroll for the period September 1, 2009 through September 15, 2009.   | FIN  | <u>8-1</u>  |
| (c) Resolution Nos. 7981, 7982, 7983, 7984, and 7985 authorizing execution of a General Services Contract between the City and various contractors for On-Call Landscape Maintenance services.   | FIN  | <u>8-3</u>  |
| (d) Resolution No. 7986 authorizing execution of a four-year contract with Andrews Consulting, LLC, in an amount not to exceed \$300,000, for the purpose of operating and managing programs and services at the Bellevue Challenge Course located in Eastgate Park.   | PARK | <u>8-15</u> |
| (e) Resolution No. 7987 authorizing execution of a four-year contract with Mini-Mountain Sports Center, Ltd., in an amount not to exceed \$150,000, for the purpose of operating and managing programs and services at the Indoor Climbing Wall located in the South Bellevue Community Center.                | PARK | <u>8-21</u> |
| (f) Resolution No. 7988 authorizing execution of a professional service contract with Brown and Caldwell for engineering services, in an amount not to exceed \$465,000, for the Sanitary Sewer Repairs 2010-2011 project (CIP Plan No. S-24).   | UTIL | <u>8-27</u> |
| (g) Resolution No. 7989 authorizing execution of a professional service contract with Taylor Associates, Inc., in an amount not to exceed \$160,000, to implement conditions of the Interagency Agreement between the City and the Washington State Department of Ecology as authorized by Ordinance No. 5895. | UTIL | <u>8-33</u> |

*(This agreement assists in implementing some requirements of the NPDES Phase II Municipal Stormwater Permit.)*

(h) Resolution No. 7990 authorizing execution of an agreement to relinquish a storm drainage pipeline easement no longer required by the Storm and Surface Water Utility for property located at 10722 NE 24<sup>th</sup> Street. UTIL 8-45

(i) Resolution No. 7991 authorizing execution of an agreement to relinquish two water pipeline easements no longer required by the Water Utility for property located at 17243 SE Cougar Mountain Drive. UTIL 8-51

\* \* (j) Resolution No. 7992 authorizing execution of an Interlocal Cooperation Agreement with the King County Flood Control District for the disbursement of opportunity funds. UTIL 8-57

*(Discussed with Council at Regional Issues on September 21, 2009.)*

(k) Code amendments implementing mandatory National Pollutant Discharge Elimination System (NPDES) and Non-NPDES permit requirements UTIL 8-77

Ordinance No. 5905 repealing Chapter 24.06 of the Bellevue City Code in its entirety and replacing it with a new chapter: providing for severability; and establishing an effective date;

Ordinance No. 5906 amending Chapter 23.76 of the Bellevue City Code, specifically amending sections 23.76.005, 23.76.015, 23.76.025, 23.76.030, 23.76.032, 23.76.035, 23.46.040, 23.76.060, 23.76.070, 23.76.080, 23.76.088, 23.76.090, 23.76.093, 23.76.095, 23.76.100, 23.76.140, 23.76.160, 23.76.170, 23.76.175, 23.76.190; **creating** sections 23.76.010, 23.76.020; repealing section 23.76.120; providing for severability; and establishing an effective date.

Ordinance No. 5907 adopting section 1.18.075 in Chapter 1.18 of the Bellevue City Code establishing escalating enforcement procedures for violations relating to control of illicit discharges, Chapter 24.06 BCC, and Chapter 23.76 BCC; providing for severability; and establishing an effective date.

*(Discussed with Council on September 21, 2009.)*

9. Public Hearings

10. Land Use

- (a) \* Consideration of the application of Gary Abrahams of T-Mobile for a Conditional Use Permit to replace a parking lot area standard with a wireless communication facility that includes a 120-foot tall monopole and a 160 square foot equipment shed. The site is located in the jurisdiction of the East Bellevue Community Council and serves the Bellevue Seventh Day Adventist Church located at 15 – 140<sup>th</sup> Avenue NE. File No. 08-143285-LB.

DEV            10-1  
 SRVCS  
 Carol Helland

*(Council discussion on this quasi-judicial matter was held on September 21, 2009.*

*This is a Process I application within the jurisdiction of the East Bellevue Community Council; therefore, the Hearing Examiner provides a written recommendation to Council, which is the decision-making body. An appeal of the Hearing Examiner's recommendation was not filed.*

*The Hearing Examiner recommends Council approval with conditions.)*

Ordinance No. 5908 approving the conditional use application of Gary Abrahams of T-Mobile to replace a parking lot area standard with a wireless communication facility that includes a 120-foot tall monopole and a 160 square foot equipment shed that will serve the Bellevue Seventh Day Adventist Church located at 15 – 140<sup>th</sup> Avenue Northeast, subject to conditions.

11. Other Ordinances, Resolutions and Motions

- (a) Ordinance No. 5909 determining the public advantage of vacating portions of 105<sup>th</sup> Avenue SE, south of SE 8<sup>th</sup> Street, and SE 8<sup>th</sup> Street, east of Bellevue Way, and vacating the same, subject to certain conditions.

CIVIC            11-1  
 Nora Johnson  
 Patti Ebert

*(The required public hearing was held on May 4, 2009.)*

- (b) Resolution No. 7993 authorizing execution of a consultant agreement with PB Americas, Inc.

TRAN            11-11  
 Goran

(formally known as Parsons Brinckerhoff), in an amount not to exceed \$1,189,845, for the preparation of an Engineering Design Report for the NE 4<sup>th</sup> Street extension from 116<sup>th</sup> Avenue NE to 120<sup>th</sup> Avenue NE, as part of the Mobility and Infrastructure Initiative (CIP Plan No. G-80).

Sparman

(c) Ordinance No. 5910 authorizing the issuance and sale of a limited tax general obligation bond anticipation note of the City in the principal amount of not to exceed \$30,000,000 for the purpose of financing projects included in the City's Capital Investment Program and repaying the City's Limited Tax General Obligation Bond Anticipation Note, 2008; providing the form, terms, conditions, covenants and maturity of the note; authorizing the sale of the note; providing for the disposition of the proceeds of sale of the note to pay for such acquisition and for costs of issuing the note; and providing for the issuance of limited tax general obligation bonds of the City.

FIN  
Jan Hawn

11-19

*(Discussed with Council on September 14, 2009.)*

- 12. Unfinished Business
- 13. Continued Oral Communications
- 14. New Business
- 15. Executive Session
- 16. Adjournment

\* \* Quasi-judicial matters are those in which the Councilmembers sit as "judges" to decide issues involving specifically identified property or other rights between individuals or parties. This differs from Council's usual role of acting in a legislative or policy-making capacity.

## CITY COUNCIL AGENDA MEMORANDUM

### SUBJECT

Resolution No. 7992 authorizing the execution of an Interlocal Cooperation Agreement between the City and the King County Flood Control District. The agreement would allow Bellevue to receive reimbursement for flood control projects from the Flood Control District's Subregional Opportunity Fund.

### FISCAL IMPACT

The agreement will provide just over \$605,000 to reimburse the City for the SE 30<sup>th</sup> Street/Sunset Creek flood control project in 2009. This project was budgeted in the Utilities Department CIP flood control program—Project D-94. The agreement is structured to allow for annual reimbursements of approximately \$300,000 for future flood control projects.

### STAFF CONTACT

Denny Vidmar, Director, 452-7675  
Joyce Nichols, Policy Advisor, 452-4867  
Utilities Department

### POLICY CONSIDERATION

In November 2008, the King County Council, acting in its role as the Board of Supervisors of the King County Flood Control District (FCD), adopted a 10-cent per \$1,000 of assessed value property tax levy to fund the activities and capital projects of the District. The Board also created a "Subregional Opportunity Fund" (SOF) and designated one cent of the 10-cent levy to address local flooding problems unrelated to the County's large rivers and major tributaries. The opportunity fund will generate in excess of \$3 million per year. Each jurisdiction is eligible to receive funding based on its proportional share of the County's total assessed value. Jurisdictions do not have to compete for the funds. Earlier this year, the FCD staff developed an Interlocal Cooperation Agreement (ILA) to allow opportunity funds to be distributed to jurisdictions to fund local flood control projects. If the agreement is approved by Council, Bellevue will be eligible to receive reimbursement for the SE 30<sup>th</sup> Street/Sunset Creek project. The \$605,000 figure represents funding for 2008 and 2009 as directed by the Flood Control District Board. Future funding will be approximately \$300,000 per year.

### BACKGROUND

Attached for your information is copy of the briefing memo from Council's September 21, 2009 Regional Issues Study Session that provides background on the Flood Control District Interlocal Cooperation Agreement and details on the SE 30<sup>th</sup> Street/Sunset Creek project and a copy of the Interlocal Cooperation Agreement.

## EFFECTIVE DATE

If approved, this Resolution will become effective immediately.

## OPTIONS

1. Adopt Resolution No. 7992 authorizing execution of an Interlocal Cooperation Agreement between the City and the King County Flood Control District to allow for reimbursement of expenses for Bellevue flood control projects from the King County Flood Control District's Subregional Opportunity Fund.
2. Do not adopt Resolution No. 7992. Failure to adopt this Interlocal Cooperation Agreement will result in the loss of approximately \$605,000 in 2009 and approximately \$300,000 per year in future funding from the King County Flood Control District's Subregional Opportunity Fund for local flood control projects.

## RECOMMENDATION

Option No. 1 – Adopt Resolution No. 7992 authorizing execution of an Interlocal Cooperation Agreement between the City and the King County Flood Control District to allow for reimbursement of expenses for Bellevue flood control projects from the King County Flood Control District's Subregional Opportunity fund.

## MOTION

Move to adopt Resolution No. 7992 authorizing execution of an Interlocal Cooperation Agreement between the City and the King County Flood Control District to allow for reimbursement of expenses for Bellevue flood control projects from the King County Flood Control District's Subregional Opportunity fund.

## ATTACHMENTS

September 21, 2009 Council Briefing Memo on Interlocal Cooperation Agreement  
Copy of Interlocal Cooperation Agreement  
Proposed Resolution No. 7992

- Action
- Discussion
- Information

**SUBJECT: KING COUNTY FLOOD CONTROL ZONE DISTRICT - UPDATE**

**STAFF CONTACT:** Diane Carlson, CMO, 452-4225; Denny Vidmar, Utilities, 452-7675; Joyce Nichols, Utilities, 452-4867

**POLICY ISSUE:** In November 2008, the King County Council, acting in its role as the Board of Supervisors of the King County Flood Control District (FCD), adopted a 10 cent per \$1,000 of assessed value property tax levy to fund the activities and capital projects of the District. The Board also created a "Subregional Opportunity Fund" (SOF) and designated one-cent of the 10-cent levy to address flooding problems unrelated to the county's large rivers and major tributaries. The opportunity fund will generate in excess of \$3 million per year. Earlier this year, the FCD staff developed an Interlocal Cooperation Agreement (ILA) to allow opportunity funds to be distributed to jurisdictions to fund local flood control projects.

**NEEDED FROM COUNCIL**

This briefing is intended to update Council on the King County FCD Interlocal Cooperation Agreement and receive Council direction on the ILA.

**BACKGROUND:**

**King County Flood Hazard Management Plan**

On January 17, 2007, the King County Council adopted the 2006 King County Flood Hazard Management Plan ("Plan"). The Plan proposes repairs and upgrades to the County's aging system of flood levees, many of which are 40 years old. Prior to the formation of the District, the County's sources of funding for flood control generated \$3 million per year to fund between \$179-\$335 million of needed repairs and maintenance. In November 2008, the King County Council, acting in its role as the Board of Supervisors of the King County Flood Control District (FCD), adopted a 10 cent per \$1,000 of assessed value property tax levy to fund the activities and capital projects of the District over a 10-year period. The property tax levy approved by the FCD Board is estimated to generate in excess of \$30 million annually.

**Subregional Opportunity Fund Established**

Many cities, including Bellevue, expressed concerns that the District's property tax was applied county-wide, yet the funding would in large part be allocated to projects in South King County and the Snoqualmie Valley. Many jurisdictions would receive little or no direct benefit from the tax, and would still have to fund flood control projects within their cities. Seeking to address this concern, in 2008 the FCD Board established the Subregional Opportunity Fund (SOF) and allocated one-cent of the 10-cent levy to each jurisdiction based on its assessed value to address local flooding problems unrelated to the County's major rivers and tributaries. The SOF will generate in excess of \$3 million each year. During development of the 2009 budget, the

FCD Board agreed to distribute the 2008 and 2009 allocations in 2009. Bellevue's two-year allocation is \$605,318. Jurisdictions do not have to compete for the funds. To receive funds, projects must meet eligibility requirements established by the FCD. Eligible projects include *flooding and stormwater projects, and habitat projects that are linked to a flood control or stormwater project.*

### **ILA Summary**

If approved by Council, the ILA (included as Attachment A) would allow Bellevue to receive *2008 and 2009 opportunity funds for projects approved by the FCD Board as part of its 2009 budget, as well as projects approved in subsequent FCD budgets.* The agreement is effective upon execution by both parties and remains in effect until terminated by one or both parties. As outlined in the ILA, the FCD will conduct an annual application process for opportunity funds. The FCD staff will certify project eligibility and forward the projects to the FCD Board for adoption as part of its annual budget adoption process. Funds for approved projects would be available to jurisdictions beginning in January of each year. The city may request distribution of the funds to reimburse it for expenses incurred for the project. Funds must be expended within two years of the project start date.

### **Bellevue Project Proposed for 2008 and 2009 Opportunity Funds**

In 2008, the FCD asked cities to submit proposals for projects using opportunity funds that would be included in the 2009 proposed budget for the District. These projects served as "placeholders" while the FCD was working out details and drafting language for the opportunity fund ILA. Bellevue staff submitted a proposal to use \$605,318 in opportunity funds to support Phase I of the SE 30<sup>th</sup> Street/Sunset Creek Culvert Replacement Project. This project was at the top of the list of flood control projects list in the Utilities flood control program in the Stormwater CIP. The project is large—totaling approximately \$1.6 million—and is being constructed in two phases. Typical of many urban streams, Sunset Creek has been altered by development. High stream velocities erode sediment and deposit it where the creek flattens out. Limited detention in the area, combined with the build-up of sediments result in flooding during even minor storm events. The creek also provides spawning habitat for salmon and this project addresses the negative impacts on habitat caused by the flooding. In addition, when Sunset Creek floods in this area, *emergency access is limited or cut off, and the flooding impacts nearby businesses.* Pre-design and design efforts for both phases were completed in 2008. Construction began during the "fish window" this summer and included installing a new box culvert at SE 30<sup>th</sup> St. with a sediment trap. The new culvert is designed to state standards for fish passage and is sized to handle a 100-year flood event. The construction cost for Phase I (*which included design costs for both phases*) is approximately \$1.2 million. Opportunity funds from 2008 and 2009 would cover \$605,318 of that amount, or just over half.

### **Bellevue Project Proposed for 2010 Opportunity Funds**

In response to the FCD's request for projects to receive 2010 opportunity funds, Bellevue staff recently submitted a request for funding for Phase II of the SE 30<sup>th</sup> Street/Sunset Creek Culvert Replacement Project. Phase II will restore the downstream channel's capacity to handle increased flows and provide habitat restoration and bank stabilization along 400 feet of the stream. Targeted dredging and other controls will help manage sediments. The restored channel will keep peak flows contained within the stream. In combination, the two phases will decrease flooding, eliminate the need for annual maintenance dredging and improve aquatic habitat. Construction costs for Phase II are estimated at \$390,000. Opportunity funds would cover approximately \$302,000 of that cost.

### **Next Steps**

If Council provides direction tonight to proceed with the ILA, staff will place the item on the October 5 Council agenda for approval. Once the ILA is signed, Bellevue will request reimbursement for the 2008 and 2009 allocation of \$605,318.

**ATTACHMENT:**

- (A) Interlocal Cooperation Agreement Between the King County Flood Control Zone District and the City of Bellevue for Opportunity Fund Projects

## Attachment A

### INTERLOCAL COOPERATION AGREEMENT BETWEEN THE KING COUNTY FLOOD CONTROL ZONE DISTRICT AND THE CITY OF BELLEVUE FOR OPPORTUNITY FUND PROJECTS

THIS INTERLOCAL COOPERATION AGREEMENT is entered into between the CITY OF BELLEVUE, a municipal corporation of the State of Washington ("City"), and the KING COUNTY FLOOD CONTROL ZONE DISTRICT, a quasi municipal corporation of the State of Washington ("District") ("Parties" or when singular "Party"), and shall be effective upon execution by the Municipality and the District.

#### Article I. Recitals.

In April 2007, the King County Council, as authorized by chapter 86.15 RCW, created the District as a quasi-municipal corporation. The King County Council members ex officio constitute the Board of Supervisors of the District, the governing body of the District.

In Resolution FCZD 2008-15.2, the Board of Supervisors approved the District's 2009 budget and annual work program, and allocated 10 percent of the District's annual property tax revenues for a sub-regional opportunity fund to be used by King County municipalities. The Board of Supervisors further determined that eligibility of projects for opportunity funds be based on consistency with chapter 86.15 RCW; provided that expenditures under RCW 86.15.035 and RCW 39.34.190 for salmonid habitat protection be linked to the construction of a flood or stormwater project. The Board of Supervisors also allocated the opportunity funds to a municipality based on that municipality's proportional contribution to the overall King County assessed valuation, as collected.

In Resolution FCZD 2009-01.1, the Board of Supervisors included the projects and activities described in Attachment A to this Agreement in an amendment to the District's annual budget and work program for the year 2009.

The Board of Supervisors desires to have the City implement its approved opportunity fund projects and activities for the years 2008 and 2009, as well as the projects and activities that are approved for the City in subsequent District annual budgets and work programs. The City desires to implement such projects and activities, and to receive opportunity funds to finance in whole or in part such projects and activities.

The City and the District are authorized to enter into this Agreement pursuant to Chapter 39.34 RCW (the Interlocal Cooperation Act), and agree as follows:

**Article II. Definitions.**

2.1 Eligibility Criteria. The term "Eligibility Criteria" means one of the two following criteria that Projects shall meet to qualify for Opportunity Funds:

2.1.1. Under RCW 86.15.110, Opportunity Funds may be expended for either flood control improvements or stormwater control improvements that are extended, enlarged, acquired or constructed, provided that the City has developed a comprehensive plan of development for flood control or for stormwater control, respectively, and the improvement contributes to the objectives of the plan. For flood control improvements, such plan shall be submitted to and approved by the Department of Ecology. In addition, for newly constructed improvements, the City shall develop preliminary engineering studies and plans, and such plans and studies shall be filed with the District's engineer. For all projects, the City shall provide cost estimates and underlying data and shall describe the benefit provided by the improvement.

2.1.2. Pursuant to the criteria in RCW 86.15.035 and RCW 39.34.190, as modified by Resolution FCZD 2008-15.2, District funds may be expended for cooperative watershed management actions, including watershed management partnerships and other intergovernmental agreements, for the purposes of water supply, water quality, and water resource and habitat protection and management, provided that Opportunity Funds expended for salmon habitat protection shall be linked to the construction of a flood or stormwater project, and provided further that all such funds shall be used for the implementation of watershed management plans, including but not limited to the following:

- a. Watershed plans developed under chapter 90.82 RCW;
- b. Salmon recovery plans developed under chapter 77.85 RCW;
- c. Watershed management elements of comprehensive land use plans developed under the growth management act, chapter 36.70A RCW;
- d. Watershed management elements of shoreline master programs developed under the shoreline management act, chapter 90.58 RCW;
- e. Nonpoint pollution action plans developed under the Puget Sound water quality management planning authorities of chapter 90.71 RCW and chapter 400-12 WAC;
- f. Other comprehensive management plans addressing watershed health at a WRIA level or sub-WRIA basin drainage level;
- g. Coordinated water system plans under chapter 70.116 RCW and similar regional plans for water supply; and
- h. Any combination of the foregoing plans in an integrated watershed management plan.

The authority to use funds for implementation of these plans is broadly construed to include:

1. Coordination and oversight of watershed management plan implementation, including funding a watershed management partnership for this purpose;
2. Technical support, monitoring, and data collection and analysis;
3. Design, development, construction, and operation of projects included in the plan; and
4. Conducting activities and programs included as elements in the plan.

2.2 Project. The term "Project" or "Projects" means specific projects or activities that meet the Eligibility Criteria of this Agreement, are approved by the Board of Supervisors in a resolution approving the annual budget and work program, or amendment thereto, and are described in an attachment to this Agreement that is approved pursuant to this Agreement.

2.3 Opportunity Funds. The term "Opportunity Funds" means the funds made available by the Board of Supervisors to the municipalities within King County for implementation of Projects. For each of the years 2008 and 2009, these funds represent 10 percent of property tax revenues collected for each of those years, and are available to individual municipalities based on the proportional amount that municipality's assessed valuation as collected (as determined by the King County Assessor's office) bears to the entire amount of assessed valuation in all of King County (as determined by the King County Assessor's office). For the years after 2009, this term means District funds that are designated as "Opportunity Funds" by the Board of Supervisors in either a resolution approving the District's annual budget and work program or a separate resolution.

2.4 Service Provider. The term "Service Provider" means the Water and Land Resources Division of the King County Department of Natural Resources and Parks.

**Article III. Duration of Agreement--Survival of Agreement.**

This Agreement shall be effective upon execution by both Parties, and shall remain in effect until terminated by one or both of the Parties. Either Party may terminate this Agreement by providing written notice of termination to the other Party no less than sixty (60) days prior to the effective date of termination. This Agreement also may be terminated

upon mutual agreement of the Parties expressed in writing. Sections 4.2, 5.2, 5.3, 5.4, 5.5, 6.3, 6.4 and 6.5 and Article VII shall survive any termination of this Agreement.

Article IV. Conditions of Agreement.

4.1 *Project Descriptions.* The initial approved Projects are described in Attachment A, which is incorporated by reference. Subsequent approved Projects shall be described in new Attachments to this Agreement that are approved through the amendment process of Section 7.2.2, which Attachments shall be incorporated by reference into this Agreement.

4.2 *Use of Funds.* The City shall use Opportunity Funds distributed pursuant to this Agreement only for expenses related to the Projects.

Article V. Responsibilities of City.

5.1 *Project Application and Description.* The City may submit an application for distribution of Opportunity Funds within a period of time designated by the Service Provider and on a form approved by the Service Provider. As part of the application to receive Opportunity Funds, the City shall submit to the Service Provider the following information for each proposed Project:

5.1.1. Name of proposed project or activity;

5.1.2. Description of the flooding, stormwater, or watershed management problem to be addressed (one to two paragraphs);

5.1.3. Description of how the proposed project or activity will address the problem (one to two paragraphs);

5.1.4. Type of project or activity (e.g., feasibility study, design, construction, acquisition, programmatic activities, etc.);

5.1.5. Description of how the project or activity satisfies the “Eligibility Criteria,” as defined in this Agreement;

5.1.6. Identification of the plan (flood control, stormwater control, or watershed management) that includes the Project;

5.1.7. Product/deliverable and, for constructed Projects, design plans or studies; and

5.1.8. Schedule, milestones, costs and budget for each Project, consistent with the requirements of this Agreement.

The schedule for a Project shall provide for the expenditure of Opportunity Funds within two years after the commencement date of the Project. The City shall submit a request for distribution of Opportunity Funds after an actual expenditure is incurred for the Project, provided that the City may request distribution of up to 10 percent of Opportunity Funds for a Project upon approval of a Project by the Board of Supervisors. After approval of the Project by the Board of Supervisors, the application form, as approved by the Board of Supervisors, shall become an attachment to this Agreement through the amendment process in Section 7.2.2.

5.2 City Obligations for Projects. The City shall implement the Project as described and provided for in the approved attachment to this Agreement. Upon receipt, the City shall deposit Opportunity Funds in a separate account, which shall accrue interest at the rate earned by the City on its investments. To request a distribution of Opportunity Funds, the City shall submit to the Service Provider such information and proof of expenditure as requested by the Service Provider.

5.3. Projects Seeking Opportunity Funds Beyond Current Appropriation Year.

The City may request distribution of Opportunity Funds beyond the appropriation year for the District's budget and annual work program, provided that District approval of such distribution of Opportunity Funds shall not be construed as nor constitute a District obligation or commitment to appropriate Opportunity Funds for the Project beyond the approved appropriation year. The District shall have no obligation to provide Opportunity Funds beyond the appropriation year for the District's budget and annual work program, provided that the District shall distribute to the City after such appropriation year any Opportunity Funds that were allocated to the City in such appropriation year and in previous years and that have not been distributed to the City.

5.4 Reporting.

5.4.1. Until the Project is completed or all Opportunity Funds for a Project have been spent, the City shall provide semi-annually to the Service Provider brief written reports describing the progress on and status of the Project and any other relevant information that the Service Provider may request to determine compliance with this Agreement.

5.4.2. Upon completion of a Project, or upon expenditure of all of the Opportunity Funds for the Project, whichever occurs first, the City shall submit a final report to the Service Provider within 90 days of such completion or expenditure. The final report shall contain a summary of all Project expenditures, copies of invoices if requested by the Service Provider, a description of the Project status and accomplishments, and other relevant information requested by the Service Provider to verify compliance with this Agreement. The final report also shall contain a certification that all Opportunity Funds

provided to the City were expended solely on the Project in accordance with this Agreement and the Project approval. If a Project is not completed prior to termination of this Agreement, a report as described in this Section shall be provided to the Service Provider within 90 days of such termination. All records relating to a Project shall be retained by the City for a minimum of seven years, unless required by law to be retained for a longer period, in which case the longer period shall apply.

5.5 City obligations upon Project completion or termination. As consideration for receipt Opportunity Funds to implement the Project, the City agrees that:

5.5.1. If the Project involves developing a report or study, undertaking a study or collecting data, or producing written or electronic materials of any kind, copies of all such materials shall be provided upon request to the District or the Service Provider; and

5.5.2. If the Project involves the acquisition, extension, enlargement, or construction of a physical improvement, the City shall take ownership of, and shall be obligated to operate, maintain, and repair such improvement for the ordinary expected useful life of such improvement.

5.5.3 If the City terminates a Project, and the City has not expended all of the Opportunity Funds paid in advance pursuant to Section 6.3, the City shall return to the Service Provider the remaining Opportunity Funds within 60 days of the close of the calendar year in which the Project was terminated. Such returned Opportunity Funds shall be credited to the City's Opportunity Fund account, and may be used on future approved Projects, provided that if the Board of Supervisors has terminated the Opportunity Fund program at that time, the returned Opportunity Funds may be used by the District for District projects and activities.

Article VI. Responsibilities of District.

6.1 Upon timely submission of a Project application by the City, the Service Provider will review the application, provide reasonable and appropriate feedback, and consider including the Project as an element of the District's annual budget and work program.

6.2 If the Board of Supervisors approves the Project application by including the Project in the District's annual budget and work program, or an amendment thereto, the Service Provider shall attach a copy of the Project application as approved to this Agreement and it shall become a part hereof.

6.3 The District, through the Service Provider, shall distribute Opportunity Funds, up to the remaining amount of the City's total Opportunity Fund allocation, after City expenditure of funds for a Project as set forth in the approved schedule for the Project, provided that upon request of the City, the District shall pay up to 10 percent of the total Opportunity Funds allocated for a Project upon approval of an attachment to this Agreement. The Service Provider shall pay the Opportunity Funds after confirming that the expenditures have been made consistent with the Project approval and schedule.

6.4 The District assumes no obligation for future support of Projects meeting the Eligibility Criteria except as expressly set forth in this Agreement.

6.5 The District shall have no obligation to provide Opportunity Funds beyond the appropriation year for the District's budget and annual work program, provided that the District shall distribute to the City after such appropriation year any Opportunity Funds that were allocated to the City in such appropriation year and in previous years and that have not been distributed to the City.

Article VII. Other Provisions.

7.1 Hold Harmless and Indemnification.

7.1.1. The District assumes no responsibility for the direct payment of any compensation, fees, wages, benefits or taxes to or on behalf of the City, its employees, contractors or others by reason of this Agreement. The City shall protect, indemnify and save harmless the District, its officers, agents, employees and the Service Provider from any and all claims, cost and whatsoever occurring or resulting from (1) the City's failure to pay any compensation, fees, wages, benefits or taxes, and (2) the supplying to the City of works services, materials or supplies by City employees or agents or other contractors or suppliers in connection with or in support of performance of this Agreement.

7.1.2. The City further agrees that it is financially responsible for and will repay the District all indicated amounts following an audit exception, which occurs due to the negligent or intentional acts by the City, its officers, employees, agents or representatives.

7.1.3. The City shall protect, indemnify and save harmless the District from any and all costs, claims, judgments, or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the City, its officers, employees or agents in connection with the implementation of the terms of this Agreement and/or implementation of the Projects. For purpose of this Agreement only, the City agrees to waive the immunity granted it for industrial insurance claims pursuant to Washington Statute Chapter 51 to the extent necessary to extend its obligations under this paragraph to any claim, demand, or cause of action brought by or on behalf of any employee, including judgments, awards and costs arising therefrom including attorney's fees.

7.2 Amendment.

7.2.1. This Agreement may be modified by written instrument approved by the City Council and the District Board of Supervisors and signed by the Parties.

7.2.2. This Agreement also may be modified by additional attachment for Projects subsequently approved by the Board of Supervisors. After approval of a Project in the District's annual budget and work program, or amendment thereto, the Project application as approved shall become an attachment to this Agreement and shall constitute an amendment to this Agreement without further action by either Party.

7.3 Contract Waiver. No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provision of this Agreement. No waiver shall be effective unless made in writing.

7.4 No Third Party Rights. Nothing in this Agreement shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care with reference to any third party.

7.5. Entirety. This Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated are excluded. This Agreement merges and supersedes all prior negotiations, representations and agreements between the parties relating to the projects and constitutes the entire agreement between the parties. The parties recognize that time is of the essence in the performance of the provisions of this Agreement.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have

signed their names in the spaces put forth below:

\_\_\_\_\_  
By \_\_\_\_\_  
Mayor (or City Manager or Executive)  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Municipal Attorney

KING COUNTY FLOOD CONTROL  
ZONE DISTRICT

*Kristine Rusk*  
Executive Director  
Date: 9 July 2009

Acting under the authority of  
Resolution FCZD 2008-15.2

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 1992

A RESOLUTION authorizing the City Manager or his designee to execute, on behalf of the City, an Interlocal Cooperation Agreement with the King County Flood Control District for the disbursement of opportunity funds.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Manager or his designee is hereby authorized to execute the *Interlocal Cooperation Agreement with the King County Flood Control District* for the disbursement of opportunity funds, a copy of which Interlocal Agreement shall be given Clerk's Receiving No. \_\_\_\_\_.

Passed by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2009 and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

(SEAL)

\_\_\_\_\_  
Grant S. Degginger, Mayor

Attest:

\_\_\_\_\_  
Myrna L. Basich, City Clerk



CR# 45141 Date: 10-22-09 Loc: 09-083 PO #: 910981-000

Res 7992

City of Bellevue  
Finance Department - Contracting Services  
450 110th Ave. NE. Bellevue, WA 98004

### Contract Routing Form

#### Current Contract Information:

**Contract Title:**

Interlocal Cooperation Agreement between the King County Flood Control Zone District and the City of Bellevue for Opportunity Fund Projects

**Department:** Utilities City Hall- 567

**Contract Manager:** Joyce Nichols

**Contract Type:** Interlocal Agreement (ILA)

**Contract Description:**

Interlocal Cooperation Agreement between the King County Flood Control Zone District and the Ci

**Contract Form:**

Custom contract document

**Budget Expenditure:**

Grant - Expenditure

**Total Contract Value:** ~~\$0.06~~ \$605,000

**This Amendment Value:** N/A

*(Reimbursement funds.)*

*in funding reimbursement*

**Maximo User:** No

#### Vendor Information:

**Is this a new vendor?** No

**Tax ID #:** 916001327

**Vendor Name:** King County Flood Control District

**COB License #:** N/A

**JDE Vendor Number:** 159191

**UBI #:** 600648159

**Is this vendor an independent contractor?** Yes

**Contractor's License #:** N/A

#### Contract Terms:

**Original Effective Date:** Date Signed **End Date:** N/A

**Subject To:** N/A

#### Related Contract Information:

**Is this an amendment/change order/renewal?** No

#### Council Approval:

**Does this contract require council approval?** Yes

**Council Award Date:** 10/5/2009

**Council Action:** Resolution

**Legislative #:** 7992

#### Route:

		In	Out
Contracting Services:	<u>John Li</u>	<u>10/13/09</u>	<u>10/13/09</u>
Information Technology:	Not Required		
Legal:	<u>Lacey Madala</u>		
Insurance Reviewed By:	<u>Johanne Nicolai</u>	<u>10/15/09</u>	<u>10/15/09</u>
Department Director:	<u>[Signature]</u>		
Contracting Services:	<u>John Li</u>	<u>10/19/09</u>	<u>10/19/09</u>
Return To:	Lori McCuiston		
City Clerk's Office:	<u>Chaugen</u>	<u>10-21-09</u>	<u>10-22-09</u>

**Selection Method:**

Selection Method:

Roster Service: -

Solicitation Issue Date:

Solicitation Due Date:

Length Bid/Proposal is valid for:

Bid/RFP/RFQ #:

Bid/RFP/RFQ/ITQ Title:

Grant Money involved in contract?

Quote #	Vendor Name	MWDBE	Fee/Cost
		<input type="checkbox"/>	

**Budget Information:**

Line #	Description	GL Date	Account #	Subtotal	Tax	Total

**Additional Comments:**

Not sure exactly how this applies to all of the questions above. This is specialized. Any account #'s can be provided by Bob Brookes at X-7199. Or call me Lori McCuiston at Ext. 5360 and I'll find the answers

*Recd. from Risk -  
Receive*

OCT 16 2009

**Contracting Services**

*CK*

*10/16/09 to CMO for Brad's signature / & all back to me.  
CK*