



INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Committee**
 FROM: **Henry Hash, Public Works Director** *H.H.*
 BY: **Mike Perfetti, Habitat Project Manager**
 CC: **Mayor Ekberg**
 DATE: **August 30, 2019**
 SUBJECT: **Surface Water Funds - Chinook Wind**
Project No. 91441202
RCO (ALEA) Grant Application Acceptance

ISSUE

Approve and sign a funding agreement with the State of Washington Recreation and Conservation Office (RCO) for the Chinook Wind project.

BACKGROUND

The Chinook Wind Project will install an off-channel habitat and passive park, with the vision of creating a greater habitat and trail corridor that will include Duwamish Gardens. King County acquired the Sleeping Tiger motel site in 2015 and is currently developing the habitat restoration component of Chinook Wind through their in-lieu fee mitigation program. The City of Tukwila, per City Resolution No. 1856, will accept ownership of the Chinook Wind property in the future. King County is working to meet mitigation requirements and obligations, and the City is taking the lead in developing public use and maintenance access through the site, including a trail, trailhead parking, site furnishings, and signage. Both of these efforts are being closely coordinated. Construction is anticipated to begin in 2020.

DISCUSSION

Council authorized the submittal of a grant application to the RCO in May 2018 (RCO ALEA grant #18-2033) with City Resolution No. 1960 in June 2019. On August 20, 2019 the City received the grant agreement for approval and signature.

FISCAL IMPACT

The RCO grant application total is \$314,400 and requires a 50% City match, or \$157,200. The City match will come from 2019/2020 budgeted surface water funds of \$225,000 or other grant/match sources, if possible.

Grant	RCO Grant	City match	Total amount
2019 ALEA grant	\$ 157,200	\$ 157,200	\$ 314,400

RECOMMENDATION

Council is being asked to authorize the Mayor to execute the RCO grant contract for the Chinook Wind Project for \$157,200 and consider this item on the Consent Agenda at the September 16, 2019 Regular Meeting.

ATTACHMENTS

- Page 95, 2019 CIP
- Agreement with the RCO

CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2019 to 2024

PROJECT: Chinook Wind Project No. 91441202

DESCRIPTION: King County purchased site and will restore it as a salmon estuary and passive park in partnership with the City.

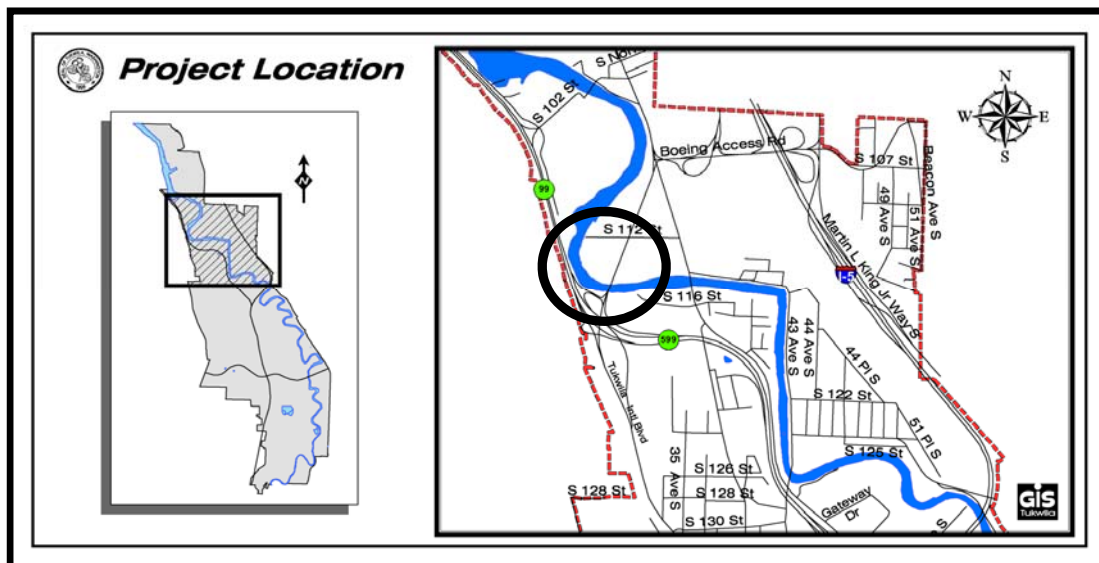
JUSTIFICATION: The WRIA 9 Salmon Recovery Plan recommends creating 20-acres of off-channel habitat within the Duwamish Transition Zone and lists this section of the river as critical habitat for salmon recovery within the Green/Duwamish Watershed.

STATUS: Property purchased and site cleared by King County in 2015 using King Conservation Futures and King County Mitigation Bank. Site planned to be turned over to Tukwila.

MAINT. IMPACT: Passive park will require additional maintenance and will include Duwamish Gardens.

COMMENT: Grant funding for construction is from the KC Mitigation Bank. City applied for State RCO grant of \$138k for trail & parking.

FINANCIAL (in \$000's)	Through 2017	Estimated 2018	2019	2020	2021	2022	2023	2024	BEYOND	TOTAL
EXPENSES										
Design	7	9	75	25						116
Land (R/W)	52		125							177
Monitoring			15	15	15	15	15	15	15	105
Const. Mgmt.				20						20
Construction				275						275
TOTAL EXPENSES	59	9	215	335	15	15	15	15	15	693
FUND SOURCES										
Awarded Grant				138						138
Proposed Grant			50	137						187
Mitigation Actual										0
Mitigation Expected										0
City Oper. Revenue	59	9	165	60	15	15	15	15	15	368
TOTAL SOURCES	59	9	215	335	15	15	15	15	15	693



Project Sponsor: City of Tukwila
Project Title: Chinook Wind Public Access

Project Number: 18-2033D
Approval Date: 06/27/2019

PARTIES OF THE AGREEMENT

This Recreation and Conservation Office Agreement (Agreement) is entered into between the State of Washington by and through the Recreation and Conservation Funding Board (RCFB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and City of Tukwila (Sponsor, and primary Sponsor), 6200 Southcenter Blvd, Tukwila, WA 98188, and shall be binding on the agents and all persons acting by or through the parties.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) (including indemnification and waiver of sovereign immunity, if applicable, as provided therein), (3) enter any amendments thereto on behalf of the Sponsors, and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all sponsors, unless otherwise allowed in Amendments and Agreement Section.

If a Sponsor wishes to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization, the Sponsor has the obligation to provide to RCO in writing a new Applicant Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, RCO will be entitled to rely upon the fact that the current Authorized Representative/Agent has the authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the State Building Construction Account of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO).

DESCRIPTION OF PROJECT

The City of Tukwila will use this grant to develop a trailhead, trail system, informational signage, and viewpoints within the Chinook Wind habitat restoration project. This access will connect in the future with the nearby Duwamish Gardens trail system, creating a substantial and unique urban water access experience. The primary recreation opportunities that this project will provide is access to the Duwamish River off-channel mitigation site for viewing and to learn about area's history and the extensive salmon recovery efforts along the river.

PERIOD OF PERFORMANCE

The period of performance begins on July 1, 2019 (project start date) and ends on January 31, 2023 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.

The Sponsor must request extensions of the period of performance at least 60 days before the project end date.

STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Agreement are hereby incorporated by reference as part of this Agreement.

LONG-TERM OBLIGATIONS

For this development and renovation project, the sponsor's on-going obligations shall be in perpetuity and shall survive the completion/termination of this Project Agreement unless otherwise identified in the Agreement or as approved by the funding board. It is the intent of the funding board's conversion policy (see the Long-Term Obligations Of The Project Sponsors section) that all lands acquired and/or facilities and areas developed, renovated, or restored with funding assistance remain in the public domain in perpetuity.

PROJECT FUNDING

The total grant award provided for this project shall not exceed \$157,200.00. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	<u>Percentage</u>	<u>Dollar Amount</u>	<u>Source of Funding</u>
RCFB - Aquatic Lands Enhancement Acct	50.00%	\$157,200.00	State
Project Sponsor	50.00%	\$157,200.00	
Total Project Cost	100.00%	\$314,400.00	

RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor’s application and the project summary and eligible scope activities under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This “Agreement” as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by all parties. Extensions of the period of performance and minor scope adjustments consented to in writing (including email) by the Sponsor need only be signed by RCO’s director or designee, unless otherwise provided for in another agreement a Sponsor has with the RCO. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so, and such signature shall be binding on the Sponsor if the representative/agent signing has been authorized to do so by Applicant Resolution/Authorization provided to the RCO and such Applicant Resolution/Authorization has not been withdrawn by the governing body in a subsequent resolution.

Any amendment to this Agreement, unless otherwise expressly stated, shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES

This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, and any applicable federal program and accounting rules effective as of the date of this Agreement, and with respect to any amendments to this Agreement, as of the effective date of that amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

For the purpose of this Agreement, WAC Title 286, RCFB policies, and shall apply as terms of this Agreement.

For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

- Aquatic Lands Enhancement Account (ALEA) - Manual 21
- Development Projects - Manual 4
- Long Term Obligations - Manual 7
- Reimbursements - Manual 8

SPECIAL CONDITIONS

1. Cultural Resources-Monitoring Required

This agreement requires compliance with Executive Order 05-05 and/or Section 106 of the National Historic Preservation Act. RCO has completed the initial consultation for this project and archaeological monitoring of ground disturbing activities is required. The Sponsor must comply with the monitoring plan developed by Willamette CRA and the King County Historic

Preservation guidelines. The Sponsor must submit to RCO the results of the monitoring before final payment will be made. All cultural resources work must meet reporting guidelines outlined by the Department of Archaeology and Historic Preservation. RCO will defer to King County Historic Preservation in regards to the extent of monitoring required. In the event that the Army Corps of Engineers makes a different cultural resources treatment recommendation for areas within their jurisdiction, RCO will defer to the determination made by the lead federal agency.

2. Control and Tenure

The Sponsor has not met RCO's control and tenure requirements per the PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS, subsection C. Control and Tenure, of the Standard Terms and Conditions. No development, restoration, or renovation activities shall occur, nor requests for reimbursement be made related to this Project Agreement until RCO's control and tenure requirements are met. The Sponsor must provide control and tenure documents meeting RCO requirements by July 31, 2020. Failure to comply with this Special Condition may be grounds for termination of this Project Agreement per Termination and Suspension section of the Standard Terms and Conditions.

AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

Sponsor Project Contact

Mike Perfetti
City of Tukwila
6300 Southcenter Blvd, Ste 100
Tukwila, WA 98188
Mike.Perfetti@TukwilaWA.gov

RCO Contact

DeAnn Beck
Natural Resources Building
PO Box 40917
Olympia, WA 98504-0917
deanna.beck@rco.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

EFFECTIVE DATE

This Agreement, for project 18-2033, shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the sponsor and the RCO, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RECREATION AND CONSERVATION OFFICE AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

City of Tukwila

By: _____

Date: _____

Name (printed): _____

Title: _____

State of Washington Recreation and Conservation Office
On behalf of the Recreation and Conservation Funding Board (RCFB or funding board)

By: _____
Kaleen Cottingham
Director
Recreation and Conservation Office

Date: _____

Pre-approved as to form:

By: *Brian Staller*
Assistant Attorney General

Date: 01/01/2019