



INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Services Committee**
 FROM: **Hari Ponnekanti, Public Works Director**
 BY: **Mike Perfetti, Surface Water Sr. Program Manger**
 CC: **Kris Kelly, Parks and Recreation Manager**
 DATE: **February 23rd, 2024**
 SUBJECT: **Nelsen Side Channel No. 91641203 and Park Acquisition Project No. 91730103 Conservation Futures Tax (CFT) Program Grant Award**

ISSUE

Authorize two amendments to the Interlocal Cooperation Agreement (ILA) between King County and the City of Tukwila for Conservation Futures-funded Open Space Acquisition Projects that will 1) capture King County policy-related changes to the 2019 ILA and 2) provide grant funding for two City projects.

BACKGROUND

The Nelsen Side Channel project will reconnect a remnant channel with the current realignment of the Green River, create public access to the river, restore critically needed off-channel habitat for endangered aquatic species, and provide additional flood storage capacity. Amendment #2 authorizes CFT funding to acquire the adjacent 1.5-acre parcel, expanding the project area to more than 5 acres.

Amendment #2 also provides CFT funding to acquire two parcels adjacent to Duwamish Hill Preserve (1023049072 and 3351400005) and expand the park by 0.35 acres. Acquisition of these properties is depicted in the park master plan and will support open space goals and shoreline restoration work associated with the current surface water CIP, Duwamish Hill Preserve Phase 3.

DISCUSSION

City staff have been in negotiations with the Nelsen Family Trust to purchase the subject property. With this funding, the City will have obtained \$180,000 in grant funding for property acquisition. The required match is budgeted in the project CIP and funded through the Surface Water Utility Enterprise Fund.

This agreement also formalizes a grant that was co-awarded in 2022 to Forterra and the City for Duwamish Hill Preserve. Since the time of application in 2021, the property sold was illegally cleared, used for construction equipment and vehicle storage, and is now on the market again. Forterra is in the process of obtaining an appraisal and is leading negotiations with the seller’s agent.

FISCAL IMPACT

	<u>Grant Award</u>	<u>Required Match</u>	<u>Match Source</u>	<u>Total</u>
Nelsen Side Channel	\$150,000	\$50,000	2023-24 CIP	\$200,000.00
Duwamish Hill Preserve	\$365,000	waived	NA	\$365,000.00

RECOMMENDATION

Council is being asked to accept two amendments to the ILA *between King County and the City of Tukwila*, modifying ILA template language and accepting \$535,000 in grant funds and consider this item on the Consent agenda at the March 4th, 2024 Regular Council Meeting.

Attachments: 2023-28 CIP Pg. 28 & 83
 ILA Amendments No. 1 and No. 2
 ILA, 2019
 Tukwila Award Letter – Nelsen Side Channel

CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2023 to 2028

PROJECT: Park Acquisition

Project No. 91730103

DESCRIPTION: Acquisition of land to preserve open space or park land for future generations. Focus areas include Cascade \

JUSTIFICATION: There are recreational deserts within Tukwila, defined as areas more than a 10-minute walk from a quality park. The City desires to provide equitable access to a quality park for all Tukwila residents and acquisition of key properties is needed. Also, open spaces are continually being developed and need to be preserved for future generations. To support new development within the city, and the increase of population associated with development (housing, work, or leisure), additional recreational spaces need to be provided to support those that live, work, and play in Tukwila.

STATUS: 2020 PROS Plan Identified 57th Ave South park, Tukwila Pond Park, P-17 Pond, and the Riverview Plaza Riverfront as locations suitable for water access/public space improvements.

MAINT. IMPACT: To be determined

COMMENT: Project is on Park Impact Fee list.

FINANCIAL (in \$000's)	Through Estimated									
	2021	2022	2023	2024	2025	2026	2027	2028	BEYOND	TOTAL
EXPENSES										
Design				15		15		15		45
Land (R/W)	232	25			200				17,100	17,557
Const. Mgmt.										0
Construction										0
TOTAL EXPENSES	232	25	0	15	200	15	0	15	17,100	17,602
FUND SOURCES										
Awarded Grant		25								25
Proposed Grant									8,000	8,000
Mitigation Expected										0
Park Impact Fees				15	200	15		15	2,200	2,445
City Oper. Revenue	232	0	0	0	0	0	0	0	6,900	7,132
TOTAL SOURCES	232	25	0	15	200	15	0	15	17,100	17,602



CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2023 to 2028

PROJECT: **Nelsen Salmon Habitat Side Channel** Project No. 91641203

DESCRIPTION: Create an off-channel salmon rearing habitat side channel by connecting a segment of historic river channel with the Green River.

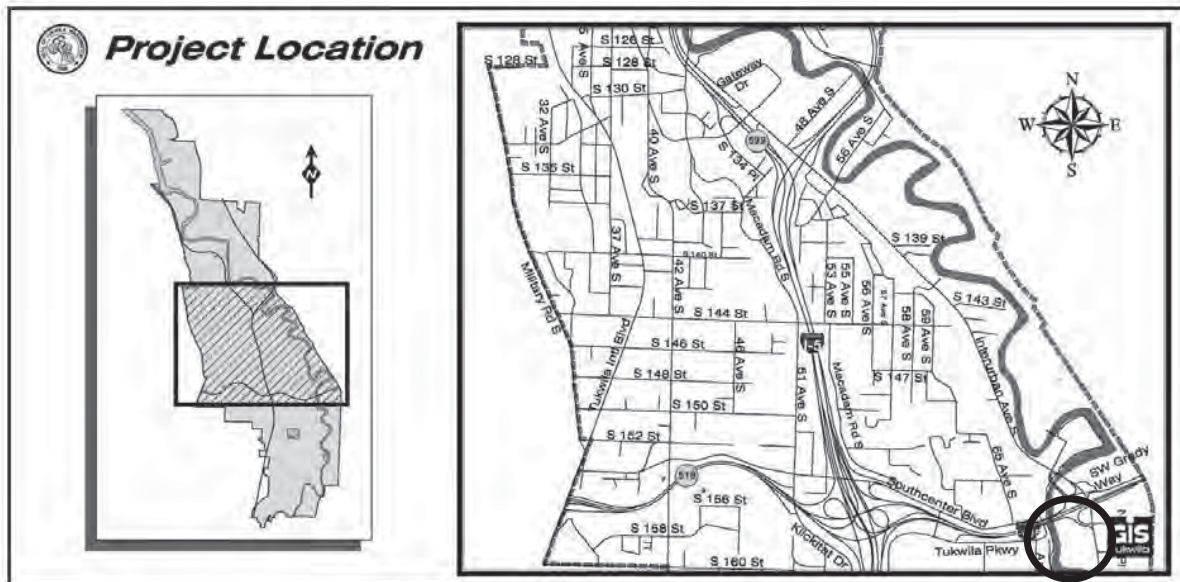
JUSTIFICATION: WRIA 9 has identified this project a proposed action in the Salmon Habitat Plan.

STATUS: The project area is primarily within State lands, but the intent is to transfer to City. The project may take place under an aquatic lease (DNR), depending on timing. Grant application for design funding submitted to Floodplains in 2020 with a low probability of success.

MAINT. IMPACT: Expected to increase maintenance

COMMENT: Property acquisition to the north could create the opportunity for a side channel and additional flood storage, or potentially combine this with Gilliam Creek Fish Barrier project depending on funding source feedback.

FINANCIAL (in \$000's)	Through Estimated									TOTAL
	2021	2022	2023	2024	2025	2026	2027	2028	BEYOND	
EXPENSES										
Design		50	300	300						650
Land (R/W)		5	300							305
Monitoring										0
Const. Mgmt.					385					385
Construction					1,440					1,440
TOTAL EXPENSES	0	55	600	300	1,825	0	0	0	0	2,780
FUND SOURCES										
Awarded Grant		50	150	150						350
Proposed Grant			300	100	1,232					1,632
Mitigation Actual										0
Mitigation Expected										0
Utility Revenue	0	5	150	50	593	0	0	0	0	798
TOTAL SOURCES	0	55	600	300	1,825	0	0	0	0	2,780



**AMENDMENT TO THE CONSERVATION FUTURES
INTERLOCAL COOPERATION AGREEMENT
BETWEEN KING COUNTY AND THE CITY OF TUKWILA
FOR OPEN SPACE ACQUISITION PROJECTS**

The King County Council, through Ordinance 9128, has established a Conservation Futures Levy Fund and appropriated proceeds to King County and certain cities. This amendment is entered into to provide for policy updates.

THIS AMENDMENT is entered into between the CITY OF TUKWILA and KING COUNTY, and amends and attaches to and is part thereof of the existing Interlocal Cooperation Agreement entered into between the parties on the 11th day of December, 2019 .

Section 5.2 is updated with the additional language as underlined below:

Section 5.2 – Use of Proceeds. Proceeds provided to the City pursuant to this agreement as well as moneys provided by the City as match pursuant to this agreement may be used only to pay capital costs related to property acquisition and initial site stabilization activities. Those costs include appraisals, title searches, negotiations, administrative overhead, and the cost of actual acquisition or purchase options, and all other costs meeting the requirements of K.C.C. 26.12.010. The City shall have the property valued by an appraisal performed by an independent state-certified real estate appraiser with a current general real estate appraiser license, and reviewed by an independent state-certified general real estate appraiser unless otherwise provided in K.C.C. 26.12.010. In requesting reimbursement of proceeds for the Project, the City shall demonstrate to the County compliance with this Section 5.2. Proceeds utilized pursuant to this agreement may not be used to purchase land obtained through the exercise of eminent domain.

The first sentence of Section 6.1 is deleted and replaced with the following:

Except for acquisitions of property interests in opportunity areas, as defined by K.C.C. 26.12.003, any Project funded by Conservation Futures Levy proceeds shall be supported by the City in which the Project is located with a matching contribution, which is no less than twenty-five percent of the total costs of the Project including the value of the matching contribution provided by the City.

The second paragraph of Section 6.4 is updated with the additional language as underlined below:

The City shall not change the status or use of properties acquired with proceeds provided pursuant to this agreement unless the City provides equivalent lands or cash in exchange for the land to be changed to a different use, or a combination of land and cash reimbursement is provided. The land shall be valued in its changed

status or use, and not based upon its value as open space, and the replacement land or payment amount must be approved by the County. If requested by the County, at its own cost the City will provide the County an appraisal performed within the previous year by an independent state-certified real estate appraiser with a current general real estate appraiser license. The value established by the appraisal will not be binding on the County. If the County approves replacement land, the City shall complete the replacement within one year of approval. If the County approves cash reimbursement, the City shall pay the County within 90 days of approval.

In all other respects, the terms, conditions, duties and obligations of both parties shall remain the same as agreed to in the Interlocal Cooperation Agreement.

Once fully executed, this Amendment shall be incorporated into the existing Interlocal Cooperation Agreement as if fully set forth, and shall become Amendment 1.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces set forth below:

KING COUNTY

CITY OF TUKWILA

Dow Constantine
King County Executive
Acting under the authority of
Ordinance 19646

Thomas McLeod
Mayor
Acting under the authority of
ILA No. 19-184

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Leesa Manion
King County Prosecuting Attorney

Kari Sand
City Attorney

**AMENDMENT TO THE CONSERVATION FUTURES
INTERLOCAL COOPERATION AGREEMENT
BETWEEN KING COUNTY AND THE CITY OF TUKWILA
FOR OPEN SPACE ACQUISITION PROJECTS**

The King County Council, through Ordinance 9128, has established a Conservation Futures Levy Fund and appropriated proceeds to King County and certain cities. This amendment is entered into to provide for the allocation of additional proceeds made available for open space acquisition.

THIS AMENDMENT is entered into between the CITY OF TUKWILA and KING COUNTY, and amends and attaches to and is part thereof of the existing Interlocal Cooperation Agreement entered into between the parties on the 11th day of December, 2019, as previously amended.

The parties agree to the following amendment:

The Interlocal Cooperation Agreement is hereby amended by adding Exhibit 1, attached hereto.

In all other respects, the terms, conditions, duties and obligations of both parties shall remain the same as agreed to in the Interlocal Cooperation Agreement as previously amended.

Once fully executed, this Amendment shall be incorporated into the existing Interlocal Cooperation Agreement as if fully set forth, and shall become Amendment 2.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces set forth below:

KING COUNTY

CITY OF TUKWILA

Dow Constantine
King County Executive

Thomas McLeod
Mayor

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Leesa Manion
King County Prosecuting Attorney

Kari Sand
City Attorney

EXHIBIT 1

**2022 AND 2024 CONSERVATION FUTURES LEVY PROCEEDS
CITY OF TUKWILA ALLOCATION**

Jurisdiction	Project Name	Allocation
Forterra and Tukwila joint project	Duwamish Hill Preserve Addition #2 (2022 Allocation)	\$365,000
Tukwila	Nelsen Side Channel Acquisition (2024 Allocation)	\$150,000
TOTAL		\$515,000

Project Description:

Project #1139013 (Award #1141631): Forterra NW & Tukwila – Duwamish Hill Preserve Addition #2 (2022 Allocation)

Forterra and the City of Tukwila are working in partnership to expand the 10.5-acre Duwamish Hill Preserve. This project would add 0.36 acres to the southeastern part of the preserve. The acquisition would protect the site from potential development near the preserve gateway, buffer the preserve from adjacent residential uses, and allow for implementation of Phase III of the master plan including expansion of the gateway area, revegetation, and restoration. This project received a match waiver. As a partnership project, this funding is being included in both the Forterra NW and Tukwila King County CFT Agreements. Project funding is approved in King County Ordinance 19364.

Is this a Bond-financed Project? Yes

Project #1145699: Tukwila – Nelsen Side Channel Acquisition (2024 Allocation)

The City of Tukwila seeks to create rare off-channel rearing habitat on the Lower Green River for juvenile salmon. The city will acquire a single 1.46-acre parcel and set back the levee to reconnect the river with its historic remnant channel. The city intends to provide public shoreline access here and expand signage and wayfinding to facilitate connections to the Green River and Interurban Trails. Match will come from city funds or other grant funding. This award requires match equal to 25% of total project costs, reflecting the new match policy implemented July 2023 and adopted in the prior amendment. Project funding was authorized in King County Ordinance 19712.

Is this a Bond-financed Project? No

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN KING COUNTY AND THE CITY OF TUKWILA
FOR CONSERVATION FUTURES-FUNDED
OPEN SPACE ACQUISITION PROJECTS**

THIS INTERLOCAL COOPERATION AGREEMENT (“Agreement”) is a grant agreement entered into between the CITY OF TUKWILA (“City”) and KING COUNTY (“County”).

Article I. Recitals

On February 27, 1989, the King County Council passed Ordinance 8867, which established a process to allocate the proceeds of the Conservation Futures Fund.

On September 21, 1989, the King County Council passed Ordinance 9128, which established a Conservation Futures Levy Fund to provide for the receipt and disbursement of Conservation Futures tax levy proceeds and established conditions for use of the Fund, including conditions covering allowable cost and expenses.

On July 21, 2003, the King County Council passed Ordinance 14714, authorizing funding allocation procedures for King County Conservation Futures tax levy collections and amending Ordinance 8867, Section 2, as amended.

The Conservation Futures Advisory Committee has recommended an allocation of Conservation Futures proceeds to specific projects from the Conservation Futures Levy Fund following notification to the cities that proceeds were available, provision of an opportunity for the cities to respond and receipt by the committee of requests for funding, all pursuant to Ordinance 8867, as amended by Ordinance 14714.

Starting in 1990 and through 2017, the King County Executive, as authorized by the King County Council, executed Interlocal Cooperation Agreements for Conservation Futures funded open space acquisition projects with the cities of Auburn, Bellevue, Black Diamond, Bothell, Burien, Carnation, Covington, Des Moines, Duvall, Enumclaw, Federal Way, Issaquah, Kenmore, Kent, Kirkland, Lake Forest Park, Mercer Island, Milton, Newcastle, Normandy Park, North Bend, Pacific, Redmond, Renton, Sammamish, Seattle, Shoreline, Snoqualmie and Tukwila, and Vashon Park District. Many of these agreements were amended over time to add new projects.

Those existing Interlocal Cooperation Agreements remain in place with an indefinite term for the projects for which Conservation Futures proceeds were disbursed. The agreements require the properties to be maintained as open space in perpetuity.

The King County Council, by Ordinance 18978, has approved a new Interlocal Cooperation Agreement template for future projects in order to add terms for the use of bond proceeds for certain projects, achieve consistency between the agreement and the King County Code, and make other technical changes.

Pursuant to chapter 39.34 RCW, the parties agree to the following:

Article II. Definitions

1. Open Space

The term “open space” or “open space land” means: (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly; or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or

water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife reserves, natural reservations or sanctuaries or other open space, or (v) enhance recreational activities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land of not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farms and agricultural conservation under subsection (8) of RCW 84.34.020. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b) (iii) of this subsection for the purpose of promoting conservation of wetlands.

2. Project

The term “Project” means the specific projects described in Exhibit A or added by follow-on amendments to disburse proceeds entered pursuant to Section 8.2 of this Agreement.

3. Conservation Futures

The term “Conservation Futures” means developmental rights which may be acquired by purchase, gift, grant, bequest, devise, lease or otherwise, except by eminent domain, and may consist of fee simple or any lesser interest, development right, easement, covenant, or other contractual right necessary to protect, preserve, maintain, improve restore, limit future use of, or otherwise conserve open space land, all in accordance with chapter 84.34 RCW and K.C.C. chapter 26.12.

Article III. Purpose of the Agreement

The purpose of this Agreement is to create a cooperative arrangement between the City and the County relating to the Project and to define the terms and conditions governing both parties' obligations created by this agreement.

Article IV. Term of Agreement

This Agreement shall be continued in full force and effect and binding upon the parties hereto upon execution of the Agreement by both parties. The terms of the Agreement shall be indefinite. The Agreement will be terminated if the City is unable or unwilling: 1) to expend the proceeds provided through this Agreement; 2) to satisfy the matching requirements contained in this Agreement. If this Agreement is terminated as set forth herein, the City shall reimburse the County all unexpended proceeds provided by the County pursuant to this Agreement in the manner and amounts described below and payment of all amounts due pursuant to Section 8.1.

Article V. Conditions of Agreement

Section 5.1 -- Project Descriptions. Proceeds available pursuant to this Agreement may be used only for the Projects listed in Exhibit A, such substituted Projects as may be approved by the County as set forth below, or Projects added by follow-on amendments to disburse proceeds pursuant to Section 8.2 of this Agreement. All County funded Projects must meet open space criteria as described in chapter 84.34 RCW and K.C.C. chapter 26.12.

Section 5.2 -- Use of Proceeds. Proceeds provided to the City pursuant to this Agreement as well as moneys provided by the City as match pursuant to this Agreement

may be used only to pay capital costs related to property acquisition. Those costs include appraisals, title searches, negotiations, administrative overhead, and the cost of actual acquisition or purchase options, and all other costs meeting the requirements of K.C.C. 26.12.010. The City shall have the property valued by an appraisal performed by an independent state-certified real estate appraiser with a current general real estate appraiser license, and reviewed by an independent state-certified general real estate appraiser. In requesting reimbursement of proceeds for the Project, the City shall demonstrate to the County compliance with this Section 5.2. Proceeds utilized pursuant to this Agreement may not be used to purchase land obtained through the exercise of eminent domain.

Section 5.3 -- Completion/Substitution/Deletion of Projects. The City shall complete the Project described in Section 5.1 of this Agreement within a two year period from the effective date of the County ordinance appropriating funding for the Project. If the City does not meet this two year requirement, unless the City demonstrates to the Advisory Committee a compelling reason for continuance of CFT funding for the Project beyond the two-year limit or a reprogramming request is timely approved as provided for below, the County shall be released from any obligation to fund the Project, and the County in its sole discretion may reallocate such proceeds for other projects in other jurisdictions. The City may submit specific requests for project reprogramming to the County for its approval within the two year period. All projects proposed for reprogramming must meet open space criteria as described in chapter 84.34 RCW and K.C.C. chapter 26.12, be submitted for recommendation by the County's Advisory

Committee or its successor, and be approved by action of the King County Council. All reprogramming requests shall be submitted to the County's Department of Natural Resources and Parks, Open Space Acquisitions Unit, or its successor.

Section 5.4 -- Eminent Domain. If any Project requires the exercise of eminent domain to acquire the property, all proceeds provided pursuant to this Agreement plus accrued interest on such proceeds shall be reprogrammed as provided in this Agreement or repaid to the County.

Article VI. Responsibilities of the City

Section 6.1 -- Matching Requirements. Except for acquisitions of property interests in opportunity areas, as defined by K.C.C. 26.12.003, any Project funded by Conservation Futures Levy proceeds shall be supported by the City in which the Project is located with a matching contribution, which is no less than the amount of Conservation Futures Levy proceeds allocated to the Project. This contribution may be in the form of cash, land match with a valuation verified by an appraisal by an independent state-certified real estate appraiser with a current general real estate appraiser license, or the cash value, excluding King County conservation futures contributions, of other open spaces acquired within the previous two years from the date of submittal of the application by the City. The appraisal, to be reviewed, shall have been performed within two years of the application deadline set for the annual allocation of conservation futures tax levy proceeds under which the Property received funding. Properties considered as land match or cash value of other open space acquisitions should be directly linked to the property under application. Any City match, other than cash, shall require County

approval. County approval and County acceptance of the City's match will be transmitted in writing to the City by the County's Designated Representative.

Section 6.2 -- Reporting. All proceeds received pursuant to this Agreement and accrued interest therefrom will be accounted for separately from all other City moneys, accounts and moneys. Until the property described in the Project is acquired and all proceeds provided pursuant to this Agreement have been expended, the City shall provide the reports required by K.C.C. 26.12.035.

Section 6.3 -- Disposition of Remaining Proceeds. If the City does not expend all proceeds obligated to be provided through this Agreement and no substitute project is requested or approved as to the excess proceeds, such proceeds, if held by the City, shall be refunded to the County. For purposes of this section, "proceeds" shall include all moneys obligated to be provided by the County plus interest accrued by the City on such moneys. Any proceeds in excess of those required to be provided by the County for the actual costs of the Project shall remain with the County for use in its sole discretion.

Section 6.4 -- Maintenance in Perpetuity. Except as provided in this Section 6.4, the City, and any successor in interest, agree to maintain properties acquired with proceeds provided pursuant to this Agreement as open space in perpetuity and, as required by the County, to include in the real property records notice of this restriction. Projects carried out by the City in whole or in part with funds provided for under the terms of this Agreement shall not be transferred or conveyed except by Agreement with an agency or nonprofit organization as defined in K.C.C. 26.12.003, which shall provide that the land or interest in land shall be continued to be used for the purposes of K.C.C.

chapter 26.12, and in strict conformance with the uses authorized under chapter 84.34 RCW.

The City shall not change the status or use of properties acquired with proceeds provided pursuant to this Agreement unless the City provides equivalent lands or cash in exchange for the land to be changed to a different use. The land shall be valued in its changed status or use, and not based upon its value as open space, and the replacement land or payment amount must be approved by the County. If requested by the County, at its own cost the City will provide the County an appraisal performed within the previous year by an independent state-certified real estate appraiser with a current general real estate appraiser license. The value established by the appraisal will not be binding on the County. If the County approves replacement land, the City shall complete the replacement acquisition within one year of approval. If the County approves cash reimbursement, the City shall pay the County within 90 days of approval.

Section 6.5 – Tax Covenants. The City acknowledges that proceeds provided by the County for a Project may be proceeds of tax-exempt bonds (the “Bonds”) subject to certain requirements of the Internal Revenue Code of 1986, as amended (the “Tax Code”), including any implementing regulations and any administrative or judicial interpretations. The City will comply with Tax Code requirements, including those set forth in Exhibit B, which is incorporated herein, applicable to Bond-financed Projects identified in Exhibit A, which is incorporated herein, as well as Bond-financed Projects identified in subsequent amendments to this Agreement.

Article VII. Responsibilities of the County

Subject to the terms of this Agreement, the County will provide Conservation Futures Tax Levy proceeds in the amounts and for the Projects identified in Exhibit A as well as in those amounts and for those Projects identified in subsequent amendments to this Agreement. The City may request additional proceeds; however, the County has no obligation to provide proceeds to the City in excess of the amount shown in Exhibit A. The County assumes no obligation for future support of the Project described herein except as expressly set forth in this Agreement.

Article VIII. Other Provisions

Section 8.1 -- Hold Harmless and Indemnification.

A. The County assumes no responsibility for the 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 County, its officers, agents and employees 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 work, 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.

B. The City further agrees that it is financially responsible for and will repay the County all indicated amounts following an audit exception, which occurs due to the negligent or intentional acts of this Agreement by the City, its officer, employees, agent or representatives arising out of the performance of the terms of this Agreement.

C. The City shall protect, indemnify and save harmless the County 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 the performance of its obligations under the terms of this Agreement. For the purposes of this Agreement only, the City agrees to waive the immunity granted it for industrial insurance claims pursuant to Title 51 RCW 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.

D. To the extent permitted by law, and except to the extent caused by the sole negligence of the County, the City agrees, at its expense, to pay, and to indemnify and hold the County, its officers, employees or agents harmless of, from and against, any and all claims, damages, demands, losses, liens, liabilities, penalties, fines, taxes, lawsuits and other proceedings and costs and expenses (including attorneys' fees) of every conceivable kind, character or nature whatsoever, arising directly or indirectly from or out of, or in any way connected with any examination or audit of any Bond issued to finance or refinance costs of any Bond-financed Project identified in Exhibit A as well as Bond-financed Projects identified in subsequent amendments to this Agreement by the Internal Revenue Service, or any determination by the Internal Revenue Service or a court of competent jurisdiction that the interest on any such Bond is or should be subject to federal income taxation; provided, however, that the City shall not be liable for any payment made by the County with respect to any settlement of any such examination or

audit, or of any other proceeding related thereto, entered into without the consent of the City.

Section 8.2 -- Amendment. The parties reserve the right to amend or modify this Agreement. Amendments or modifications to disburse proceeds approved by the County Council must be by written instrument signed by the parties substantially in the form of Exhibit C. Other amendments also must be approved by the respective City and County Councils.

Section 8.3 -- 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.

Section 8.4 -- 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 Project 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 set forth below:

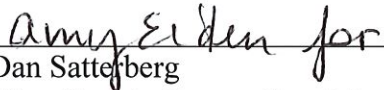
KING COUNTY



Dow Constantine
King County Executive


Date: 12-11-2019
Acting under the authority of
Ordinance 18978

Approved as to form:



Dan Satterberg
King County Prosecuting Attorney

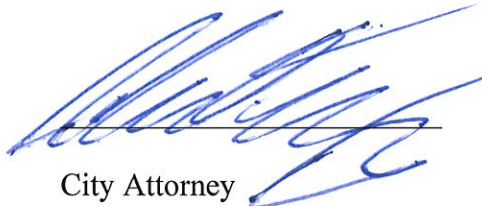
CITY OF TUKWILA



Allan Ekberg
Mayor

Date: 12-4-19

Approved as to form:



City Attorney

EXHIBIT A

**2019 & 2020 CONSERVATION FUTURES LEVY
CITY OF TUKWILA ALLOCATIONS**

Jurisdiction	Project	Allocation
Tukwila	Duwamish River Habitat Corridor (2019 award)	\$335,000
Tukwila	Duwamish River Habitat Corridor (2020 award)	\$335,000
Tukwila	Equitable Access Initial Acquisition Work (2020 award)	\$25,000
TOTAL		\$695,000

Project Description:

Project #1133810: Tukwila – Duwamish River Habitat Corridor (2019 award)

Tukwila is awarded funding to acquire a 0.93-acre parcel 073300-0225 located next to the Green River Trail to provide riverfront public access and restoration opportunity along the Duwamish River. This site offers passive park opportunity, with trails and viewpoints, in a neighborhood with no other passive parks. The property contains 160 feet of tidally influenced shoreline within the Duwamish River transition zone. Project funding was authorized in King County Ordinance 18835.

Is this a Bond-financed Project? No

Project #1136984: Tukwila – Duwamish River Habitat Corridor (2020 award)

The City of Tukwila received an award of \$335,000 CFT in FY 2019 annual dollars for this proposal to acquire 0.93-acre (parcel 0733000225) on the Duwamish River. The city is returning this year to seek a match waiver and apply for the remaining \$335,000 in funding necessary to complete the project. This project was determined to be an opportunity area project eligible for a match waiver (see Section 6.1 of the ILA), so the local funding match requirement was waived for both the 2019 and the 2020 awards. Project funding was authorized in King County Ordinance 18987.

Is this a Bond-financed Project? Yes

Project # 1136851: Tukwila – Equitable Access Initial Acquisition Work (2020 award)

This project is for initial acquisition work to help identify a new open space acquisition to serve open space equity needs in Tukwila. The project proposes to use the requested funding for title, appraisal, and start-up work on mapped parcels in the city that meet all three defined criteria for a match waiver. This project is not property-specific. City cash match is required for this project. Project funding was authorized in King County Ordinance 19021.

Is this a Bond-financed Project? No

EXHIBIT B

Tax Covenants

The City acknowledges that proceeds provided by the County for the Project may be proceeds of Bonds subject to certain requirements of the Tax Code. The City will take all actions with respect to the Project, and proceeds received for the Project, necessary to assure the exclusion of interest on the Bonds from the gross income of the owners of the Bonds, including but not limited to the following:

(a) Expenditure of Proceeds. The City will expend proceeds of the Bonds received from the County for capital expenditures for federal income tax purposes within the meaning of Section 1.150-1(b) of the Tax Code. Bond proceeds may be expended to pay, or reimburse the City for, Project capital expenditures or to repay interim indebtedness incurred for capital expenditures of the Project.

(b) Notice. The City will provide notice of action taken or planned to issue any tax-exempt indebtedness, including bonds, bank loans, or other tax-exempt indebtedness, to finance Project costs.

(c) Treatment as Grant.

- (1) The City is a governmental entity possessing substantial taxing, eminent domain and police powers and constituting a political subdivision of the State.
- (2) The City is not acting as an agent of the County.
- (3) The grant of proceeds for the Project does not impose any obligation or condition to directly or indirectly repay any amount to the County (excluding obligations or conditions intended solely to assure expenditure of the transferred moneys in accordance with the governmental purpose of the transfer).
- (4) The grant is required to be used for open space as required under Article II but does not impose any conditions relating to the use of the Project or other property of the City by the County or any of its agencies or authorities.
- (5) This agreement is a grant agreement.

(d) Limitations on Disposition of Project. The City will not sell or otherwise dispose of any components of the Project without prior approval by the County and compliance with timeframes for completion of land replacement or cash reimbursement as provided in Section 6.4.

(e) Record Retention. The City will retain its records of all accounting and monitoring it carries out with respect to the Bond proceeds received and with respect to the

Project for at least three years after the Bonds mature or are redeemed as provided in the amendment granting such Bond proceeds to the City.

(f) Cooperation. The City will provide tax certificates when and as requested by the County or County's bond counsel in order to establish or maintain the tax-exempt status of the Bonds. The City will cooperate in any audit of the Bonds by the Internal Revenue Service, including disclosure of any record, contracts and other materials relating to the Bond proceeds received by the City and the Project.

EXHIBIT C

**AMENDMENT TO THE CONSERVATION FUTURES
INTERLOCAL COOPERATION AGREEMENT
BETWEEN KING COUNTY AND THE CITY OF _____
FOR OPEN SPACE ACQUISITION PROJECTS**

Preamble

The King County Council, through Ordinance 9128, has established a Conservation Futures Levy Fund and appropriated proceeds to King County and certain cities. This amendment is entered into to provide for the allocation of additional proceeds made available for open space acquisition.

THIS AMENDMENT is entered into between the CITY OF _____ and KING COUNTY, and amends and attaches to and is part thereof of the existing Interlocal Cooperation Agreement entered into between the parties on the _____ day of (Month), (Year), as previously amended.

The parties agree to the following amendment:

The Interlocal Cooperation Agreement is hereby amended by adding Exhibit 1, attached hereto.

In all other respects, the terms, conditions, duties and obligations of both parties shall remain the same as agreed to in the Interlocal Cooperation Agreement as previously amended.

Once fully executed, this Amendment shall be incorporated into the existing Interlocal Cooperation Agreement as if fully set forth, and shall become Amendment ____.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces set forth below:

KING COUNTY

CITY OF _____

Dow Constantine
King County Executive

Mayor

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Dan Satterberg
King County Prosecuting Attorney

City Attorney

EXHIBIT 1

**[YEAR] CONSERVATION FUTURES LEVY PROCEEDS
CITY OF _____ ALLOCATION**

Jurisdiction	Project Name (Project Number)	Allocation
[City Name]	[Project Name] ([Project Number])	\$
TOTAL		\$

Project Description:

Project #[Project Number] [City Name] – [Project Name]
[Project Description used in legislation approving proceeds]

Is this a Bond-financed Project?

Water and Land Resources Division

Department of Natural Resources and Parks
King Street Center
201 South Jackson Street, Suite 5600
Seattle, WA 98104-3855
206-477-4800 Fax 206-296-0192
TTY Relay: 711

December 5, 2023

Josh Hopkins
City of Tukwila
6200 Southcenter Blvd
Tukwila, WA 98188

Dear Josh:

The King County Council has approved the following award of Conservation Futures funding.

Award Type	Project Name	Award Amount	Required Match
FY 2024	Nelsen Side Channel Acquisition	\$150,000	25% Match

The email accompanying this letter provides details about next steps on our Interlocal Cooperation Agreement associated with this project. The project should be completed within two years of King County Council’s approval of funds.

Please contact me at (206) 477-4578 or Ingrid.Lundin@kingcounty.gov if you have any questions about this award.

Sincerely,



Ingrid Lundin
Conservation Futures Program Coordinator