

Approved: 07/10/2013

Effective: 07/20/2013

1 SNOHOMISH COUNTY COUNCIL
2 SNOHOMISH COUNTY, WASHINGTON

3
4 ORDINANCE NO. 13-041
5

6 APPROVING AND AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE A
7 SURFACE WATER MANAGEMENT SERVICES INTERLOCAL AGREEMENT
8 BY AND BETWEEN SNOHOMISH COUNTY AND THE CITY OF LAKE
9 STEVENS
10

11
12 WHEREAS, Snohomish County (the %County+) and the City of Lake
13 Stevens (the %City+) have entered into prior interlocal agreements for
14 constructing, operating, and maintaining the hypolimnetic aeration system, for
15 controlling invasive aquatic plants, and for design, construction, monitoring, and
16 maintenance of drainage capital projects; and
17

18 WHEREAS, there is an on-going need to provide effective surface water
19 management services in both unincorporated areas and within the city limits; and
20

21 WHEREAS, the County and the City have negotiated the terms of a
22 %Surface Water Management Services Interlocal Agreement by and between
23 Snohomish County and the City of Lake Stevens+(the %Agreement+), an interlocal
24 agreement pursuant to chapter 39.34 RCW, the Interlocal Cooperation Act; and
25

26 WHEREAS, the existing interlocal agreement between the City and the
27 County titled %Interlocal Agreement for Surface Water Management Services By
28 and Between Snohomish County and the City of Lake Stevens+dated April 27,
29 2007, as amended on December 2, 2009, and August 8, 2011, shall terminate by
30 mutual agreement of the City and the County upon execution of this Agreement;
31 and
32

33 WHEREAS, the City approved the Agreement on April 8, 2013; and
34

35 WHEREAS, the County Council held a public hearing on July 10, 2013, to
36 consider approving and authorizing the County Executive to execute the
37 Agreement.
38

39 NOW, THEREFORE, BE IT ORDAINED:

40 Section 1. The County Council hereby adopts the foregoing recitals as
41 findings of fact and conclusions as if set forth in full herein.

1 Section 2. The County Council hereby approves and authorizes the
2 County Executive to execute the Agreement in the form attached hereto as
3 Exhibit A.

4
5
6 PASSED this 10th day of July, 2013.
7

8
9 SNOHOMISH COUNTY COUNCIL
10 Snohomish County, Washington

11 ATTEST:

12
13 /s/ Randy Reed
14 Asst. Clerk of the Council

/s/ Stephanie Wright
Chairperson

15
16
17 (X) APPROVED
18 () EMERGENCY
19 () VETOED
20

DATE: July 10, 2013

21
22 /s/ John Lovick

23
24 County Executive

25 ATTEST:

26
27 /s/ LaTanja Outlaw
28

29
30 Approved as to form only:
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32
33 /s/ Alethea Hart
34 Deputy Prosecuting Attorney
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**EXHIBIT A
to
ORDINANCE NO. 13-041**

**SURFACE WATER MANAGEMENT SERVICES INTERLOCAL
AGREEMENT BY AND BETWEEN SNOHOMISH COUNTY AND THE CITY
OF LAKE STEVENS**

[See Attached]

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AFTER RECORDING RETURN TO

Snohomish County Council
Attention: Debbie Parris
3000 Rockefeller Ave, M/S 609
Everett, WA 98201

**SURFACE WATER MANAGEMENT SERVICES
INTERLOCAL AGREEMENT
BY AND BETWEEN
Snohomish County and the City of Lake Stevens**

THIS AGREEMENT FOR SURFACE WATER MANAGEMENT SERVICES (this "Agreement") is made and entered into this _____ day of _____, 2013, by and between Snohomish County, a political subdivision of the State of Washington (hereinafter referred to as the "County") and the City of Lake Stevens, a Washington municipal corporation (hereinafter referred to as the "City").

RECITALS

WHEREAS, the Interlocal Cooperation Act, Chapter 39.34 Revised Code of Washington, permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on the basis of mutual advantage; and,

WHEREAS, the County and the City have entered into prior interlocal agreements for constructing, operating, and maintaining the hypolimnetic aeration system, for controlling invasive aquatic plants, and for design, construction, monitoring, and maintenance of drainage capital projects; and

WHEREAS, the Lake Stevens urban growth area includes lands within unincorporated Snohomish County surrounding the corporate limits of the City and covers portions of the watershed of Lake Stevens; and

1 WHEREAS, the County currently provides surface water
2 management services within the Lake Stevens urban growth area; and

3
4 WHEREAS, the City has annexed portions of the Lake Stevens
5 urban growth area and may annex additional portions of the urban
6 growth area in the future; and

7
8 WHEREAS, annexations result in shifts of jurisdiction and revenue
9 from the County to the City, but do not change watersheds or drainage
10 features or the need for surface water management services; and

11
12 WHEREAS, there is an on-going need to provide effective surface
13 water management services in both unincorporated areas and within the
14 city limits; and

15
16 WHEREAS, the County and the City would benefit from continued cooperation
17 related to managing the hypolimnetic aeration system and controlling invasive
18 aquatic plants, from cooperation in improving lake water quality through
19 phosphorus control treatments, from cooperation in monitoring lake water
20 quality and lake levels, and from coordinated provision of other surface water
21 management services; and

22
23 WHEREAS, the County and the City have determined that the
24 benefits received from cooperation will equal or exceed the costs to each
25 jurisdiction associated with the provisions of this Agreement;

26
27 NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

28
29 I. GOALS AND OBJECTIVES OF AGREEMENT

30
31 The goals of this Agreement are to provide effective surface water
32 management services within the Lake Stevens watershed and urban
33 growth area and to enhance coordination between the County and the
34 City in provision of those services.

35
36 The objectives of this Agreement are to:

- 37
38 • replace the prior interlocal agreement for surface water
39 management services between the County and City dated
40 April 27, 2007, as amended on December 2, 2009, and August
41 8, 2011;

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- cooperate in managing and potentially removing the hypolimnetic aeration system in Lake Stevens;
- cooperate in implementing phosphorus control treatments in the lake;
- cooperate in controlling Eurasian watermilfoil plants and other invasive species in the lake;
- cooperate in monitoring lake water quality and lake levels;
- cooperate on public education and outreach for phosphorus control in the Lake Stevens watershed;
- provide for maintenance of drainage infrastructure;
- provide a mechanism for transfer of long-term funding of capital projects from the County to the City as annexations occur;
- promote efficiencies in compliance with NPDES stormwater permits;
- enhance surface water management services by jointly promoting Low Impact Development standards and other sustainability initiatives and regulations;
- provide for seamless delivery of surface water management services as annexations occur and responsibility moves from the County to the City; and
- provide for fair recovery of costs by either the County or the City for mutually beneficial surface water management services performed within the Lake Stevens watershed and urban growth area.

II. DEFINITIONS

As used in this Agreement, terms have the following meaning:

“Aerator operation and maintenance” or “Aerator O/M” means operation, inspection, major and minor repair, parts replacement or overhaul, lubrication, operating adjustment, cleaning, landscaping maintenance, utility payment, rentals, leases, insurance, and purchase of equipment and materials, as necessary for the proper operation and maintenance of the hypolimnetic aeration system.

“Aerator removal” means the physical removal of the elements of the hypolimnetic aeration system from Lake Stevens and disposal or recycling of the materials. Aerator removal may also entail leaving selected components of the system, including but not limited to the

1 concrete anchors, permanently in Lake Stevens, subject to any de-
2 contamination and permit requirements.

3
4 “Hypolimnetic aeration system” means the system of lake
5 aerators, pipes, air compressor, compressor building, and other
6 equipment intended to supply oxygen to the bottom waters of Lake
7 Stevens without inducing mixing of the surface and bottom waters.

8
9 “Hypolimnion” means the lower region of the lake near the
10 sediment surface.

11
12 “Lake Management Advisory Team” means the technical advisory
13 team representing the County and the City, described in Section III.E of
14 this Agreement.

15
16 “Lake Stevens urban growth area” means the geographic area
17 surrounding the City of Lake Stevens that has been designated by
18 Snohomish County for future urban growth and development pursuant to
19 the Growth Management Act, RCW 36.70A.

20
21 “Lake Stevens watershed” means the geographic area that drains
22 to or contributes water to Lake Stevens.

23
24 “Monitoring” means collecting, analyzing, and reporting water
25 quality and water quantity conditions in Lake Stevens and area streams in
26 support of water quality protection and effective storm drainage.

27
28 “NPDES Permit” means the National Pollutant Discharge
29 Elimination System municipal stormwater permit issued under the
30 federal Clean Water Act that requires a municipality to prevent or
31 minimize stormwater pollution discharges from its storm sewer systems
32 by means of local stormwater regulations and operational programs.

33
34 “Phosphorus control treatment” means the addition of chemicals,
35 such as aluminum sulfate (alum), with or without a buffer solution, to the
36 lake for the purpose of removing phosphorus and particulate matter
37 from the water column and inactivating phosphorus in the lake
38 sediments.

39
40 “Repair” means that aspect of aerator O/M involving restoration,
41 overhaul, or replacement of the air compressor, piping, aerators, and
42 other system components to return the hypolimnetic aeration system to

1 a sound working condition after damage or long-term wear and tear. A
2 major repair is one that costs in excess of \$10,000 in labor and materials.
3 A minor repair is one that costs less than \$10,000 in labor and materials.
4

5 “Surface water management services” means services to plan,
6 design, regulate, establish, acquire, develop, construct, maintain, and
7 improve stormwater control facilities and water pollution control
8 facilities; activities to monitor, rehabilitate, and restore lake and stream
9 water quality and drainage systems; activities to investigate and address
10 lake and stream water quality, quantity, and drainage problems,
11 including development of management plans; public education and
12 outreach activities; and activities to promote residential, commercial, and
13 agricultural best management practices.
14

15 III. LAKE PHOSPHORUS MANAGEMENT
16

17 A. Suspension of Aerator Operations and Aerator Removal –
18 The City and the County have determined that continued
19 operation of the hypolimnetic aeration system is not currently
20 practical or warranted. During 2013, the City shall winterize and
21 secure the individual elements of the aeration system until such
22 time as the City and County decide that the aeration system
23 should be re-activated or should be removed from Lake Stevens.
24

25 B. Aerator Ownership and Management Responsibility – The
26 City is the legal owner of the hypolimnetic aeration system. The
27 City shall be responsible for management of the hypolimnetic
28 aeration system, including aerator O/M, security, any future
29 operations or repairs, and future aerator removal. The City shall
30 consider the recommendations of the County through the Lake
31 Management Advisory Team regarding aerator management. The
32 City shall have the authority to contract, at its discretion, with the
33 County, or with an outside party, or with both the County and an
34 outside party, to perform any or all of its aerator management
35 responsibilities. The City shall also be responsible for securing and
36 maintaining liability and comprehensive insurance for the
37 aeration system.
38

39 C. Phosphorus Control Treatments – Beginning in 2013, the
40 City may implement periodic phosphorus control treatments of
41 Lake Stevens, such as alum treatments, to control excess
42 phosphorus in the water column and limit algae growth. The City

1 shall consider the recommendations of the County through the
2 Lake Management Advisory Team regarding phosphorus control
3 treatments. The City shall have the authority to contract, at its
4 discretion, with the County, or with an outside party, or with both
5 the County and an outside party, to perform any or all aspects of
6 the phosphorus control treatments.
7

8 D. Education and Outreach – The City and County may jointly
9 or individually implement other phosphorus control activities,
10 such as public education and outreach, within the Lake Stevens
11 watershed to protect and improve the water quality of the lake.
12

13 E. Lake Management Advisory Team – A Lake Management
14 Advisory Team shall be maintained for the duration of this
15 Agreement. The team shall consist of the City Public Works
16 Director and the County Surface Water Management Director or
17 designee. The team shall meet every three months, or more
18 frequently at the request of either of the team members. The
19 responsibilities and powers of the team shall be to determine the
20 timing and nature of management activities for the hypolimnetic
21 aeration system, phosphorus control treatments, aquatic plant
22 control activities, watershed-wide public outreach and education,
23 and lake monitoring.
24

25 F. Lake Phosphorus Management Cost Sharing –
26

27 1. The County shall be obligated to pay ten and
28 seven-tenths percent (10.7%) and the City shall be
29 obligated to pay eighty-nine and three-tenths percent
30 (89.3%) of the total costs of lake phosphorus control
31 treatments commenced on or after May 1, 2013, up to a
32 combined maximum of \$100,000 per year, subject to the
33 provisions described below.
34

35 2. The County and the City shall also be obligated to
36 pay 10.7% and 89.3%, respectively, of additional
37 phosphorus control treatment costs in excess of \$100,000
38 per year, provided that such additional costs are
39 pre-approved by both the County and the City. Such
40 pre-approval may be withheld for any reason, including
41 but not limited to the County's and City's availability of
42 funds. Additional phosphorus control treatment costs may

1 include higher than anticipated materials and labor costs,
2 the need for larger phosphorus control treatments, testing
3 and monitoring treatment results, and other
4 contingencies.

5
6 3. The County and the City shall also be obligated to
7 pay 10.7% and 89.3%, respectively, of the costs for
8 phosphorus control education and outreach activities
9 undertaken on a watershed-wide basis up to a combined
10 maximum of \$10,000 per year, provided that such costs
11 are pre-approved by both the County Surface Water
12 Management Director or the Director's designee and the
13 City and subject to the provisions described below.

14
15 4. The aeration system equipment replacement and
16 major repair reserve fund account established under the
17 previous interlocal agreement between the County and
18 the City dated April 27, 2007, ("the account") shall be
19 maintained and continued under this Agreement. The
20 account was established for the following purposes:
21 equipment replacement and major repair of the
22 hypolimnetic aeration system, including the compressor
23 and structural, mechanical, and electrical components of
24 the system. In addition to these purposes, funds from the
25 account may also be used to cover the costs of securing
26 and removing the hypolimnetic aeration system from the
27 lake. The City shall maintain the account and shall invest
28 monies in the account in the normal manner of investing
29 reserve accounts, and all interest accrued shall remain in
30 the account. All expenditures for equipment replacement,
31 major repairs, or aerator removal from the account shall
32 be pre-approved by both the County Surface Water
33 Management Director or the Director's designee and the
34 City. Should the County and the City by mutual agreement
35 decide to permanently remove the aeration system from
36 Lake Stevens, the County and the City may, after
37 completion of the aerator removal, use any or all
38 remaining funds in the account for other phosphorus
39 control activities, including phosphorus control treatments
40 and watershed-wide education and outreach. If any funds
41 remain in the account two years after completion of the
42 aerator removal, the City shall distribute all remaining

funds, including interest, to the respective parties, in proportion to their contributions.

5. As of May 1, 2013, all funds in excess of \$101,000 in the account may be used for the purpose of phosphorus control treatments in Lake Stevens. Beginning in 2014, the County and City shall deposit the following amounts in the account each year:

Year	County Contribution (10.7%)	City Contribution (89.3%)	Total Contributions
2014	\$856	\$7,144	\$8,000
2015	\$1,070	\$8,930	\$10,000
2016	\$1,070	\$8,930	\$10,000
2017	\$1,498	\$12,502	\$14,000
2018	\$1,712	\$14,288	\$16,000
2019	\$1,926	\$16,074	\$18,000

Deposits into the account shall be due and payable by January 31st of each year.

6. If the County and the City, through the Lake Management Advisory Team, decide to re-activate the hypolimnetic aeration system, the County and the City shall be obligated to pay 10.7% and 89.3%, respectively, up to a combined maximum of \$75,000 per year, of the costs of aerator O/M, including minor repairs, but excluding those certain equipment replacement and major repair expenses, which shall be paid with funds in the account, as described in Sections III.F.4 and III.F.7.

7. The City shall be responsible for maintaining accurate records of all phosphorus control treatment, aerator O/M, and watershed-wide education and outreach expenses. Except for certain equipment replacement, major repair, and aerator removal expenses, which shall be paid with funds in the account after pre-approval by both the County and the City, as provided in Section III.F.4, the City shall document and bill the County quarterly for the County's percentage share of phosphorus control treatment, aerator O/M, and watershed-wide education and outreach expenses the City has incurred under this

1 Section III. Except for certain equipment replacement,
2 major repair, and aerator removal expenses, which shall
3 be paid with funds in the account after pre-approval by
4 both the County and the City, as provided in Section III.F.4,
5 the County shall document and bill the City quarterly for
6 the City's percentage share of phosphorus control
7 treatment, aerator O/M, and watershed-wide education
8 and outreach expenses the County has incurred under this
9 Section III.

10
11 8. The financial obligations under this Agreement for
12 phosphorus control treatments, aerator O/M, equipment
13 replacement, major repair, and aerator removal, and
14 watershed-wide education and outreach shall be adjusted
15 if, after January 1, 2013, the City annexes additional
16 properties within the Lake Stevens watershed. For each
17 seven (7) acres of property annexed by the City, the
18 County's obligations for phosphorus control treatments,
19 aerator O/M, equipment replacement, major repair, and
20 aerator removal, and watershed-wide education and
21 outreach costs shall be reduced by one-tenth percent
22 (0.1%) of the total. Reductions in the County's obligations
23 shall become effective on January 1st of the year after
24 each annexation is finalized. All financial obligations
25 removed from the County by virtue of annexation shall be
26 assumed by the City. However, in recognition of the
27 regional benefits of Lake Stevens, the County's share of
28 phosphorus control treatment, aerator O/M, equipment
29 replacement, major repair, and aerator removal, and
30 watershed-wide education and outreach costs shall not be
31 reduced to less than ten percent (10%) by annexation
32 adjustments. The County shall maintain an ongoing record
33 of annexations and the resultant shifts in obligations and
34 shall provide such record to the City.

35
36 IV. WATER QUALITY MONITORING

37
38 The County shall be responsible for conducting regular water
39 quality monitoring of the lake and, as needed, additional monitoring of
40 the effectiveness of phosphorus control treatments and lake and stream
41 conditions, provided that the City has approved the County's monitoring
42 plans. The City shall be obligated to reimburse the County for eighty-nine

1 and three-tenths percent (89.3%) of the monitoring costs incurred by the
2 County. The County shall document costs and bill the City quarterly for
3 the City's share of water quality monitoring costs. If the City annexes
4 additional properties after January 1, 2013, the City's obligations for
5 monitoring costs shall be adjusted in the same manner as set forth in
6 Section III.F.8 for lake phosphorus management cost sharing.
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10 V. LAKE LEVEL MANAGEMENT
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12 The City shall continue to be responsible for the operation and
13 maintenance of the outlet weir of Lake Stevens and for managing water
14 levels within Lake Stevens. The County shall be responsible for operating
15 a recording lake level gage. The County shall be obligated to pay for
16 twenty percent (20%) and the City shall be obligated to pay for eighty
17 percent (80%) of the costs of lake level gaging, outlet weir operation, and
18 lake level management. The County shall document costs and bill the
19 City annually for the City's share of lake gaging expenses the County has
20 incurred. The City shall document costs and bill the County annually for
21 the County's share of outlet weir operation and lake level management
22 expenses incurred by the City. If the City annexes additional properties
23 on the Lake Stevens lake front after January 1, 2013, the County's
24 obligations for lake level management costs shall be reduced by one
25 percent (1%) and the City's obligations increased by one percent (1%) for
26 each three hundred seventy (370) feet of lake front annexed by the City.
27 Reductions in the County's obligations shall become effective on January
28 1st of the year after annexation is finalized.
29

30 VI. DRAINAGE INFRASTRUCTURE, HABITAT RESTORATION, AND
31 NPDES PERMIT COMPLIANCE
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33 A. Technical and Engineering Assistance – On an on-call basis,
34 as requested by the City, the County shall provide technical and
35 engineering assistance to the City for drainage infrastructure,
36 habitat restoration, and NPDES permit compliance services.
37 Drainage infrastructure assistance may include detention facility
38 inspections, coordination of detention facility maintenance,
39 drainage complaint investigations, field staff training, drainage
40 project design, drainage facility construction, drainage plan
41 review, and basin analyses including HSPF modeling. Habitat
42 restoration assistance may include design, construction, and

1 native plant installation, monitoring, and maintenance. NPDES
2 permit compliance assistance may include water quality problem
3 investigations, assistance with revisions to grading, drainage, and
4 water pollution regulations including low impact development
5 standards, illicit discharge identification, NPDES public education
6 and outreach activities, and assistance with the stormwater
7 monitoring program. The City shall reimburse the County for the
8 cost of such technical and engineering assistance.
9

10 B. Capital Projects – The County designed and constructed
11 the Parkway Crossing detention pond water quality retrofit
12 project. This project is located within the Frontier Village
13 annexation area. The City will reimburse the County \$10,700 per
14 year through 2021 to cover a portion of the cost of this project.
15 By September 15th of each year, the County shall bill the City for
16 the yearly payment, which shall be due and payable by the City on
17 or before November 15th of each year. Advance payments of the
18 yearly amounts shall not be allowed. Prior to beginning design of
19 any additional surface water management capital project within
20 the Lake Stevens urban growth area, the County shall consult with
21 the City to develop a project design and cost-sharing agreement
22 satisfactory to both parties.
23

24 VII. INVASIVE AQUATIC PLANT MANAGEMENT
25

26 A. Implementation Responsibility - The City shall be
27 responsible for implementing the Integrated Aquatic Plant Control
28 Plan, dated January 2011, incorporated herein by this reference,
29 to eradicate Eurasian watermilfoil from Lake Stevens, provided
30 that the City shall coordinate with the County on implementation
31 activities and expenses and shall consider recommendations from
32 the County. The City shall have the authority to contract, at its
33 discretion and under its sole control and responsibility, with
34 outside parties to perform aquatic plant management
35 implementation activities. The City may request that the County
36 perform specific implementation activities.
37

38 B. Cost Sharing - The County shall be obligated to pay twenty
39 percent (20%) of the total costs incurred by both the City and the
40 County for implementing the Integrated Aquatic Plant Control
41 Plan, up to a maximum of \$11,200 per year in 2013 and 2014, and
42 \$11,000 per year from 2015 through 2020. The City shall be

1 obligated to pay eighty percent (80%) of the costs incurred by
2 both the City and the County. The County shall also pay twenty
3 percent (20%) of any additional costs for implementation in
4 excess of the amounts set forth above, provided that such
5 additional costs are pre-approved by the County Surface Water
6 Management Director or the Director's designee. Such pre-
7 approval may be withheld for any reason including, but not
8 limited to, the County's availability of funds. Additional costs may
9 include higher than anticipated treatment costs, greater acreage
10 of treatment, the need for more frequent or different treatment
11 measures, and other contingencies. Both the County and the City
12 shall document and report to the other jurisdiction on a quarterly
13 basis all aquatic plant management expenses that have been
14 incurred.

15
16 C. Annexation Adjustments - If the City annexes additional
17 properties on the Lake Stevens lake front after January 1, 2013,
18 the County's obligations for aquatic plant management
19 implementation costs described in subsection VII B shall be
20 reduced by one percent (1%) and the City's obligations increased
21 by one percent (1%) for each three hundred seventy (370) feet of
22 lake front annexed by the City. However, in recognition of the
23 regional benefits of Lake Stevens, the County's share of aquatic
24 plant management costs shall not be reduced to less than ten
25 percent (10%) by annexation adjustments. Reductions in the
26 County's obligations shall become effective on January 1st of the
27 year after annexation is finalized.

28
29 VIII. REIMBURSEMENTS FOR LAKE AND SURFACE WATER
30 MANAGEMENT SERVICES

31
32 All reimbursements from the City to the County or from the
33 County to the City for surface water management services described in
34 this Agreement shall include the costs of salaries, benefits, and direct
35 costs. No indirect or overhead costs shall be eligible for reimbursement.
36 Unless otherwise stated, billings shall be prepared on a quarterly basis.
37 Bills shall be due and payable within sixty (60) days after receipt, unless
38 otherwise approved by both parties to exceed this period due to funding
39 issues. Billing statements shall identify and itemize all costs incurred for
40 that billing period.

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42 IX. EFFECTIVENESS AND DURATION

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- A. This Agreement shall become effective after the following:
 - 1. Approval of this Agreement by the official action of the governing bodies of each of the parties hereto;
 - 2. Execution of this Agreement by the duly authorized representative of each of the parties hereto; and
 - 3. The filing of a copy of this Agreement with the Snohomish County Auditor or posting of the Agreement on the County’s web site pursuant to RCW 39.34.040.

- B. This Agreement, once effective as provided in Section IX.A, shall govern the activities, cost-sharing, and reimbursement between the City and the County described in Section III of this Agreement as of May 1, 2013.

- C. This Agreement shall terminate on December 31, 2021, unless terminated earlier pursuant to Section X.

X. AMENDMENTS, EXTENSION, OR TERMINATION

This Agreement may be amended, altered, clarified, or extended only by written agreement of both parties. Either party may terminate this Agreement upon written notice received ninety (90) days prior to the requested date of termination.

Should termination of this Agreement occur prior to December 31, 2021, the City may seek other means of funding for phosphorus control treatments and the hypolimnetic aeration system. If the City determines that other funding sources are not available, the City may cease phosphorus control treatments and remove the hypolimnetic aeration system, or take such other action, if any, it deems appropriate.

XI. MUTUAL TERMINATION OF PRIOR INTERLOCAL AGREEMENT

The City and the County hereby mutually agree that upon the effective date of this Agreement as provided in Section IX, that “Interlocal Agreement for Surface Water Management Services By and Between Snohomish County and the City of Lake Stevens,” dated April 27, 2007, as amended on December 2, 2009, and August 8, 2011, shall terminate.

1 XII. CONTINGENCY

2

3 The obligations of each party to this Agreement are contingent upon local legislative
4 appropriation of necessary funds in accordance with the law.

5

6 XIII. DIRECTION AND CONTROL

7

8 The parties agree that each party will perform the services under this Agreement as an
9 independent contractor and not as an agent, employee, or servant of the other. The parties
10 agree that each party is not entitled to any benefits or rights enjoyed by employees of the other.
11 Each party specifically has the right to direct and control its own activities in providing the
12 agreed services in accordance with specifications set out in this Agreement. The other party
13 shall only have the right to ensure performance.

14

15 XIV. ACCESS TO BOOKS/RECORDS

16

17 Each party may, at reasonable times, inspect the books and records of the other party
18 relating to performance of this Agreement. Each party shall keep all records required by this
19 Agreement for five years after termination of this Agreement.

20

21 XV. LIABILITY

22

23 No liability shall attach to either the County or the City by reason
24 of entering into this Agreement except as expressly provided herein. This
25 Agreement does not create any rights in third parties except as expressly
26 provided herein.

27

28 XVI. INDEMNIFICATION AND HOLD HARMLESS

29

30 Each party shall protect, defend, hold harmless and indemnify the
31 other party, their officers, elected officials, agents and employees, while
32 acting within the scope of their employment as such, from and against
33 any and all claims (including demands, suits, penalties liabilities,
34 damages, costs, expenses, or losses of any kind or nature whatsoever)
35 arising out of or in any way resulting from such party's own negligent acts
36 or omissions related to such party's participation and obligations under
37 this Agreement. Each party agrees that its obligations under this
38 subsection extend to any claim, demand, and/or cause of action brought
39 by or on behalf of any of its employees or agents. For this purpose, each
40 party, by mutual negotiation, hereby waives, with respect to the other
41 party only, any immunity that would otherwise be available against such
42 claims under the industrial insurance act provision of Title 51 RCW.

43

44 XVII. SAVINGS CLAUSE

1
2 Nothing in this Agreement shall be construed so as to require the
3 commission of any act contrary to law, and wherever there is any conflict
4 between any provisions of this Agreement and any statute, law, public
5 regulation or ordinance, the latter shall prevail, but in such event, the
6 provisions of this Agreement affected shall be curtailed and limited only
7 to the extent necessary to bring it within legal requirements.
8

9 XVIII. SEVERABILITY

10
11 Should any part, term or provision of this Agreement be
12 determined by a court of competent jurisdiction to be invalid, the
13 remainder of this Agreement shall not be affected, and the same shall be
14 continued in full force and effect.
15

16 XIX. FILING OR POSTING

17
18 This Agreement shall be filed with the Snohomish County
19 Auditor's Office or posted on the County's web site pursuant to RCW
20 39.34.040.
21

22 XX. NOTICE

23
24 All notices and payments shall be made to:

25
26 Snohomish County
27 Surface Water Management Division
28 3000 Rockefeller Avenue, MS 607
29 Everett, Washington 98201
30

31 City of Lake Stevens
32 1812 Main Street, PO Box 257
33 Lake Stevens, Washington 98258
34

35 XXI. INTERLOCAL COOPERATION ACT

36
37 The parties agree that no separate legal or administrative entities
38 are necessary in order to carry out this Agreement. If determined by a
39 court to be necessary for purposes of the Interlocal Cooperation Act, Ch.
40 39.34 RCW, an administrator or joint board responsible for administering
41 the Agreement will be established by mutual agreement. Any real or
42 personal property used by either party in connection with this Agreement

1 will be acquired, held, and disposed of by that party in its discretion, and
2 the other party will have no joint or other interest herein.

3
4 **XXII. ENTIRE AGREEMENT**

5
6 This Agreement represents the entire integrated agreement between the
7 parties and supercedes all prior negotiations, representations or agreements,
8 either written or oral.

9
10 IN WITNESS WHEREOF, the parties hereto have executed this Agreement
11 as of the day and year first above written.

12
13
14 **ATTEST:** CITY OF LAKE STEVENS

15
16 **BY:** _____
17 _____

BY:

TITLE:

18
19
20 _____
21
22
23 **APPROVED AS TO FORM ONLY:**

24
25
26 _____
27 City Attorney

28
29
30
31 **ATTEST:**

SNOHOMISH COUNTY:

32
33 **BY:** _____
34 _____

BY:

TITLE:

35
36
37 _____
38
39
40 **APPROVED AS TO FORM ONLY:**

1
2
3

Deputy Prosecuting Attorney