SEATTLE CITY COUNCIL

Legislative Summary

CB 118450

Record No.: CB 118450
Version: 1
Type: Ordinance (Ord) 124825
Status: Passed
In Control: City Clerk
File Created: 06/23/2015
Final Action: 08/07/2015

Title: AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public Utilities to execute an interagency agreement with the Washington Department of Fish and Wildlife for provision of long-term monitoring and evaluation activities for the Cedar River Hatchery Program; and ratifying and confirming prior acts.

Notes:

Sponsors: Bagshaw

Attachments:

Drafter: bob.hennessey@seattle.gov

	Date
Filed with City Clerk:	8/7/2015
Mayor's Signature:	8/7/2015
Vetoed by Mayor:	
Veto Overridden:	
Veto Sustained:	

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published: ☐ Yes ☐ No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	07/14/2015	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk **Notes:**						
1	City Clerk	07/14/2015	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office **Notes:**						
1	Council President's Office	07/15/2015	sent for review	Seattle Public Utilities and Neighborhoods Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Seattle Public Utilities and Neighborhoods Committee **Notes:**						

1	Full Council	07/20/2015	referred	Seattle Public Utilities and Neighborhoods Committee	

Action Text: The Council Bill (CB) was referred. to the Seattle Public Utilities and Neighborhoods Committee
Notes:

1	Seattle Public Utilities and Neighborhoods Committee	07/28/2015	pass		Pass

Action Text: The Committee recommends that Full Council pass the Council Bill (CB).
In Favor: 3 Chair Bagshaw, Vice Chair Sawant, Member Harrell
Opposed: 0

1	Full Council	08/03/2015	passed		Pass

Action Text: The Council Bill (CB) was passed by the following vote and the President signed the Bill:
Notes:
In Favor: 8 Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Okamoto, Councilmember Sawant
Opposed: 0

1	City Clerk	08/04/2015	submitted for Mayor's signature	Mayor	

Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor
Notes:

1	Mayor	08/07/2015	Signed		

Action Text: The Council Bill (CB) was Signed.
Notes:

1	Mayor	08/07/2015	returned	City Clerk	

Action Text: The Council Bill (CB) was returned. to the City Clerk
Notes:

1	City Clerk	08/07/2015	attested by City Clerk		

Action Text: The Ordinance (Ord) was attested by City Clerk.
Notes:

CITY OF SEATTLE

ORDINANCE 124825

COUNCIL BILL 118450

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public Utilities to execute an interagency agreement with the Washington Department of Fish and Wildlife for provision of long-term monitoring and evaluation activities for the Cedar River Hatchery Program; and ratifying and confirming prior acts.

WHEREAS, several legal agreements (e.g., the Landsburg Mitigation Agreement and the Muckleshoot Settlement Agreement) and long-term plans (e.g., Sockeye Hatchery Adaptive Management Plan and Hatchery Strategic Plan) commit Seattle Public Utilities (SPU) to fund the operation of the Cedar River Hatchery and the required Monitoring and Research/Evaluation Program until 2050; and

WHEREAS, historically, the Washington Department of Fish and Wildlife (WDFW) has provided regular, annual monitoring and evaluation activities for the hatchery program for SPU under multiple, separate, annual agreements, an approach that has been time-consuming and has added considerable soft costs to the program; and

WHEREAS, WDFW has demonstrated the necessary expertise and experience to perform the monitoring and evaluation activities for the hatchery program on time and within budget and agrees to continue this support under a longer-term interagency agreement; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of Seattle Public Utilities is authorized to execute an interagency agreement for provision of monitoring and evaluation activities between the Washington Department of Fish and Wildlife and The City of Seattle, Seattle Public Utilities, substantially in the form attached to this ordinance as Attachment 1.

Section 2. Any act consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 3rd day of August, 2015, and signed by me in open session in authentication of its passage this 3rd day of August, 2015.

President _____ of the City Council

Approved by me this 7th day of August, 2015.

Edward B. Murray, Mayor

Filed by me this 7th day of August, 2015.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments: Attachment 1 - Interagency Agreement (SPU Agreement #14-185-A) Between Seattle Public Utilities and Washington State Department of Fish and Wildlife for Sockeye Hatchery Program Monitoring and Evaluation Services

Attachment 1

INTERAGENCY AGREEMENT
(SPU Agreement #14-185-A)
BETWEEN
SEATTLE PUBLIC UTILITIES
AND
WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE
FOR
Sockeye Hatchery Program Monitoring and Evaluation Services

1. PARTIES TO THE AGREEMENT

This Interagency Agreement (hereinafter referred to as "Agreement") is made by and between The City of Seattle ("City"), a Washington municipal corporation, acting through its Seattle Public Utilities Department ("SPU"), and the State of Washington, acting through its Washington Department of Fish and Wildlife ("WDFW"). SPU and WDFW may also be referred to in this Agreement as "Party" or, collectively, as "Parties."

2. PURPOSE

The purpose of this Agreement is to act as a master services agreement between WDFW and SPU. The Agreement defines the commitment, expectations, roles and relationships for WDFW to provide fish marking; fish tagging; fish and habitat monitoring and evaluation studies; fish collections and transport services. The specific activities to be conducted under this Agreement will be referenced as uniquely numbered TASK ORDERS.

3. PERIOD OF PERFORMANCE

The term of this Agreement shall begin when fully executed by all parties, and shall end on December 31, 2020, unless amended by written agreement or terminated earlier pursuant to the provisions hereof.

4. STATEMENT OF WORK

TASK ORDERS will be designed to answer key questions in the Cedar River Sockeye Hatchery Adaptive Management Plan and more fully described in the Cedar River Sockeye Hatchery Monitoring and Evaluation Plan (under development). Each project will fall under four life history stages for sockeye salmon: fry, presmolt (parr), smolt, and adult. In general, sockeye in these life history stages will be evaluated at a number of census points: Cedar River Hatchery, Cedar River, Lake Washington, other Lake Washington Tributaries (i.e., Bear Creek), and the Hiram Chittenden Locks.

TASK ORDERS shall provide a detailed description of work, deliverables, budget, and timelines with milestones. Unless otherwise noted, WDFW shall provide all materials, equipment, and labor necessary to conduct the TASK ORDER activities for SPU.

TASK ORDERS will be negotiated on an individual basis, and depending on activities, may vary in length. Scheduling flexibility may be allowed through mutual agreement between the WDFW and SPU. All work may proceed when applicable permits are in place. The WDFW project manager will be responsible for acquiring all necessary permits, unless specified otherwise within a TASK ORDER.

Agreed upon TASK ORDER schedules and deliverables may be altered only by mutual agreement of the WDFW project manager and the SPU Aquatic Resources Manager. The altered TASK ORDER shall be in writing and signed by both parties as an amendment to the TASK ORDER.

Alterations to the TASK ORDERS are limited to:

a) Scope of Work
b) Timeline (schedule)
c) Deliverables
d) Budget

5. COMPENSATION

Budgets shall be detailed in each approved TASK ORDER and subtask and will include costs for materials; equipment; labor by hour and position; incidentals; benefits; travel; vehicle mileage; and an indirect rate. The indirect rate is applied on all costs other than capital expenditures and fish feed. Recognizing that actual costs may differ from the budgeted amount contained in the TASK ORDER, depending on access and working conditions when the activities are executed or due to changes in labor, equipment and incidental costs, TASK ORDER budgets may be altered, as noted in Section 4.

Requests for payment under this Agreement shall be submitted as monthly invoices as follows:

Invoices under this Contract shall clearly display the following information:	
Address Invoices to: *If submitted by email, a hard copy will not be needed.*	Accounts Payable Department Seattle Public Utilities PO Box 34018 Seattle WA 98124-4018
Accounts Payable Information:	Email: SPU_AP_Agreements@seattle.gov Phone: (206) 684-4626
Invoice References: (Sub-consultants' invoices shall also include this information)	☐ SPU Project/Agreement Manager ☐ SPU Agreement Number ☐ SPU Task Order Number ☐ Agreement Title ☐ Invoice Date ☐ Invoice Number ☐ Invoice Amount ☐ Period covered by the invoice
Invoice Details: (Sub-consultants' invoices shall also include this	☐ Employee's name and classification ☐ Employee's all-inclusive hourly rate and # of hours worked

information)	☐ Total labor costs per task ☐ Itemization of direct, non-salary costs (per task, if so allocated) ☐ If applicable, the following Sub-consultant payment information will be provided in the invoice (with Sub-consultant invoices attached as backup): o Amount Paid to all Sub-consultants for the invoice period (list separate totals for each Sub-consultant). o Cumulative To-Date amount paid to all Sub-consultants (list separate totals for each Sub-consultant). ☐ Cumulative costs per task and for the total Project

6. CONTRACT REPRESENTATIVES

All official notices under this Agreement shall be delivered to the following addresses (or such other addresses as either party may designate in writing):

The SPU Manager is:	The WDFW Project Manager is:
Michele Koehler, Project Manager Seattle Public Utilities PO BOX 34018 SEATTLE WA 98124-4018 Phone: 206-733-9447 Email: Michele.Koehler@seattle.gov	Jeffrey R. Hugdahl Contracts & Purchasing Manager Washington Department of Fish & Wildli 600 Capitol Way North Olympia, WA 98501-1091 Phone: (360) 902-2230

7. COMMUNICATIONS

The contract representatives will designate persons as points of contact for the individual TASK ORDERS. One individual may be the designated point of contract for multiple TASK ORDERS. Both parties will provide contact information, including phone numbers and email addresses, for the designated points of contact. In the event a contact person for either party changes, notification shall be provided in a timely manner.

One of the goals of this Agreement is to ensure that communication between the parties is well maintained and that no public blame is placed on either party by the other. Any news releases, information pamphlets, brochures, or other significant informational media prepared by the WDFW shall acknowledge SPU, or, if prepared by SPU, shall acknowledge WDFW.

8. DISPUTES

Every attempt shall be made by both parties to resolve disputes arising from the implementation of this Agreement at a technical level. In the event a dispute cannot be resolved at a technical level, the dispute shall be elevated through the appropriate levels of authority, up to and including the Director of the WDFW and the Director of SPU, for

resolution. In the event that the matter remains unresolved, either party may obtain the services of a professional mediator. The mediator shall be chosen by agreement of both parties, but the party requesting the services shall cover the costs, unless the parties agree otherwise.

If dispute resolution is not successful, any party may seek administrative or judicial relief to enforce this Agreement or resolve the dispute.

8. TERMINATION

Either party may terminate this Agreement upon 30 days' written notification to the other party. Unless otherwise agreed by SPU, WDFW shall complete any Task Order in effect, pursuant to the originally agreed upon schedules.

9. NONDISCRIMINATION AND EQUAL BENEFITS

WDFW shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. WDFW shall affirmatively try to ensure applicants are employed, and employees are treated during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identify, political ideology, creed, religion, ancestry, national origin, or any sensory, mental or physical handicap. Such efforts include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training.

10. INDEMNIFICATION

To the fullest extent permitted by law WDFW does hereby release all claims WDFW may have against the City and shall defend, indemnify, and hold the City and its employees and agents harmless from all losses, liabilities, claims (including claims arising under federal, state or local environmental laws), costs (including attorneys' fees), actions or damages of any sort whatsoever arising out of WDFW's performance of the services contemplated by this Agreement to the extent attributable to the negligent acts or omissions, willful misconduct or breach of this Agreement by WDFW, its servants, agents, and employees. In furtherance of these obligations, and only with respect to the City, its employees and agents, WDFW waives any immunity it may have or limitation on the amount or type of damages imposed under any industrial insurance, worker's compensation, disability, employee benefit or similar laws. WDFW acknowledges that the foregoing waiver of immunity was mutually negotiated and agrees that the indemnification provided for in this section shall survive any termination or expiration of this Agreement.

11. INDEPENDENT CONTRACTOR STATUS

The services and deliverables shall be furnished by WDFW as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer/

employee or master/servant. No payroll or employment taxes of any kind shall be withheld or paid by SPU with respect to payments to WDFW. The payroll or employment taxes that are the subject of this paragraph include, but are not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax, and state unemployment insurance tax. By reason of WDFW's status as an independent contractor hereunder, no workers' compensation insurance has been or will be obtained by SPU on account of WDFW. WDFW may be required to provide proof of payment of said taxes and benefits. If SPU is assessed or deemed liable in any manner for those charges or taxes, WDFW agrees to hold SPU harmless from those costs, including attorney's fees.

12. CHANGES, MODIFICATIONS AND AMENDMENTS

This Agreement may be changed, modified, or amended only by written agreement executed by both parties in the form of an amendment to this Agreement.

13. PUBLIC RECORDS

Both Parties are public entities subject to the public disclosure laws of the State of Washington. Neither party shall release any record that would, in the judgment of the party, be subject to an exemption from disclosure under the Public Records Act, without first providing notice to the other party within ten business days of the receipt of the request. The parties will discuss appropriate action to be taken, including release of the requested information, seeking a protective order, or other action prior to release of records. Should one party choose to seek a protective order, it shall do so at its sole expense.

14. OWNERSHIP OF WORK /RIGHTS IN DATA

To the extent that WDFW creates any Work subject to the protections of the Copyright Act (Title 17 U.S.C) in its performance of this Agreement, WDFW agrees to the following: The Work has been specially ordered and commissioned by SPU. WDFW agrees that the Work is a "work made for hire" for copyright purposes, with all copyrights in the Work owned by SPU. To the extent that the Work does not qualify as a work made for hire under applicable law, and to the extent that the Work includes material subject to copyright, WDFW hereby assigns to SPU, its successors and assigns, all right, title and interest in and to the Work, including but not limited to, all patent, trade secret, and other proprietary rights and all rights, title and interest in and to any inventions and designs embodied in the Work or developed during the course of WDFW's creation of the Work. WDFW shall execute and deliver such instruments and take such other action as may be required and requested by SPU to carry out the assignment made pursuant to this section. Any documents, magnetically or optically encoded media, data or other materials or information created by WDFW pursuant to this Contract shall be owned by SPU and subject to the terms of this sub-section. To the maximum extent permitted by law, WDFW waives all moral rights in the Work. The rights granted hereby to SPU shall survive the expiration or termination of this Contract

15. ENTIRE AGREEMENT

This Agreement, the attached exhibits and the approved TASK ORDERS, contain all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

16. GOVERNING LAW AND VENUE

Washington state law shall govern the interpretation of this Agreement. The King County Superior Courts in Seattle shall be the exclusive venue of any litigation arising out of this Agreement. Any other agreed upon alternative dispute resolution process shall occur in Seattle, Washington.

17. ASSIGNMENT

WDFW shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Agreement or for any of the compensation due hereunder without the prior written consent of SPU. Naming of subcontractors in budget submittals and TASK ORDERS approved by SPU will satisfy the written consent requirements of this provision.

18. AUDIT

During the term of the Agreement and for a period of no less than three years from the Completion Date, each party will keep and make available for each other's inspection and audit all records pertaining to the Project, including accounting records. The parties shall furnish to each other copies of these records upon request and shall maintain the records in accordance with work order accounting procedures prescribed by the Division of Municipal Corporations of the State Auditor's Office.

19. SEVERABILITY AND SURVIVAL

If any term, condition, or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.

IN WITNESS WHEREOF the parties hereto have accepted and executed this Agreement by having their representatives affix their signatures below.

THE STATE OF WASHINGTON **WASHINGTON DEPARTMENT OF FISH AND WILDLIFE**	**THE CITY OF SEATTLE** **SEATTLE PUBLIC UTILITIES**
By_____	By_____

Signature Date

_____
Type or Print Name

_____
Type or Print Title

Signature Date

RICK SCOTT, DEPUTY DIRECTOR
WATER LINE OF BUSINESS

By_____
Signature Date

RAY HOFFMAN, DIRECTOR
SEATTLE PUBLIC UTILITIES

Exhibit A (EXAMPLE TASK ORDER)

Task Order Number **TO-001**	**Task Order Title**
Requesting Party **Seattle Public Utilities (SPU)**	**Provider** **Washington Department of Fish and Wildlife ("WDFW")**
Start Date	**Task Order Amount** **$**
End Date	

Task Order Provisions

The Parties shall issue, conduct and administer this Task Order in compliance with the provisions of the Interagency Agreement (SPU #14-185-A) between Seattle Public Utilities (SPU) and Washington Department of Fish and Wildlife ("WDFW") for Sockeye Hatchery Program Monitoring and Evaluation Services

The provisions of this Task Order can only be revised through a mutually executed amendment to this Task Order.

1.0 Background

2.0 Scope of Services

Scope of services under this task order consists of:

3.0 Deliverables and Schedule

Deliverables and/or Milestones	Dates

4.0 Assumptions and Exclusions

5.0 Task Order Amount

The WDFW will be reimbursed at the following rates. Total compensation under this Task Order shall not exceed _____ Dollars ($_____) herein after referred to as the "Task Order Amount".

Task	Staff, Title	Hours	All-Inclusive Rate	Totals
#			$0	$0
			$0	$0
Task Total				$0

Add more as needed....

Not to Exceed Amount of this Task Order	$0

6.0 Designated Representatives

Agency	Staff Name	Phone
Washington Department of Fish and Wildlife		
Seattle Public Utilities		

In consideration of the provisions contained herein, or attached and incorporated and made part hereof, the Parties have executed this Task Order as of the last date written below.

The State of Washington
Washington Department of Fish and Wildlife

By _____
Signature Date

_____
Type or Print Name

_____
Type or Print Title

The City of Seattle
Seattle Public Utilities

By _____
Signature Date

Rick Scott, Deputy Director
Water Line of Business

STATE OF WASHINGTON -- KING COUNTY

--ss.

327420 No.

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:124822-825 TITLE ONLY

was published on

08/13/15

The amount of the fee charged for the foregoing publication is the sum of $85.25 which amount has been paid in full.

Subscribed and sworn to before me on

08/13/2015

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on August 3, 2015, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar. Contact: Office of the City Clerk at (206) 684-8344.

Ordinance 124822

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 124823

AN ORDINANCE relating to the Summit Re-Implementation project in the Department of Finance and Administrative Services; amending Ordinance 124648, which adopted the 2015 Budget; establishing the 2016 Multipurpose LTGO Bond Fund; authorizing the loan of funds from the City's Consolidated (Residual) Cash Pool, or its participating funds, in the amount of $22,000,000, to the 2016 and 2017 Multipurpose LTGO Bond Funds for bridge financing of the Summit Re-Implementation project; establishing a budget control level in the 2016 Multipurpose LTGO Bond Fund; increasing appropriations in the 2016 Multipurpose LTGO Bond Fund; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Ordinance 124824

AN ORDINANCE relating to the Seattle Public Utilities; declaring certain real property rights as being surplus to the City's municipal utility needs; granting a non-exclusive easement to Puget Sound Energy, for electrical power distribution purposes, a portion of the City's Tolt Pipeline right of way, located in the South One-half of Section 17 and the Northeast Quarter of Section 20, Township 26 North, Range 6 East, W.M., King County, Washington; and ratifying and confirming certain prior acts.

Ordinance 124825

AN ORDINANCE relating to Seattle Public Utilities; authorizing the Director of Seattle Public Utilities to execute an interagency agreement with the Washington Department of Fish and Wildlife for provision of long-term monitoring and evaluation activities for the Cedar River Hatchery Program; and ratifying and confirming prior acts.

Date of publication in the Seattle Daily Journal of Commerce, August 13, 2015.

8/13(327420)