

Ordinance No. 123549

The City of Seattle – Legislative Department

Council Bill No. 117107

Council Bill/Ordinance sponsored by: Richard Conlin

AN ORDINANCE relating to replacing the South Park Bridge; authorizing execution of an Interlocal Agreement between King County and the City of Seattle regarding mutual roles and responsibilities regarding the funding and construction of a new South Park Bridge; and ratifying and confirming prior acts.

Committee Action:

Date	Recommendation	Vote
2/15/11	pass 2 amendments (Y: RC, M, DB)	2-0
	pass out of comm. Hee	2-0

Related Legislation File: _____

This file is complete and ready for presentation to Full Council. RC 2/15/11

Date Introduced and Referred: 2.14.11	To: (committee): Regional Development + Sustainability
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: Feb. 28, 2011	Date Presented to Mayor: March 1, 2011
Date Signed by Mayor: 3.9.11	Date Returned to City Clerk: 3.9.11
Published by Title Only <input checked="" type="checkbox"/>	Date Vetoed by Mayor:
Published in Full Text	
Date Veto Published:	Date Passed Over Veto: <i>Legis Department</i>
Date Veto Sustained:	Date Returned Without Signature:

Full Council Action:

Date	Decision	Vote
Feb. 28, 2011	PASSED as Amended	8-0 (excused: Burgess)

ORDINANCE 123549

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4 AN ORDINANCE relating to replacing the South Park Bridge; authorizing execution of an
5 Interlocal Agreement between King County and the City of Seattle regarding mutual
6 roles and responsibilities regarding the funding and construction of a new South Park
7 Bridge; and ratifying and confirming prior acts.

8 WHEREAS the South Park Bridge has provided access for residents of the South Park
9 Neighborhood and for commercial and industrial freight traffic within the Duwamish
10 Industrial area for approximately 81 years and came to the end of its useful life and was
11 closed to the public on June 30, 2010; and

12 WHEREAS the South Park Bridge is partially located in an unincorporated area adjacent to the
13 City's South Park neighborhood and such unincorporated area may be considered for
14 annexation by the City; and

15 WHEREAS the County has secured funding for a replacement bridge, including grant funds and
16 funds from a broad group of partners; and

17 WHEREAS prior to closure, the South Park Bridge served a neighborhood with a high
18 percentage of low-income residents and businesses that relied on the access provided by
19 the bridge, including residents and businesses located within the City of Seattle; and

20 WHEREAS the bridge replacement will benefit the County and City and the industrial areas of
21 the Duwamish manufacturing and Industrial Center by reducing traffic congestion in and
22 around other county and City roadways; supporting new and existing jobs, and improving
23 safety for drivers bicyclists and pedestrians, while providing benefits to air quality and
24 waterway restoration; and

25 WHEREAS the City of Seattle's 2011- 2016 Adopted Capital Improvement Program
26 acknowledges the general intent to commit \$15,000,000 to the project; and

27 WHEREAS the County will be responsible for entering into and administering all construction
28 contracts for the project, will obtain all necessary permits, will coordinate with the City
on all elements of the project, and will seek concurrence of the city for design and
construction of the project; and

WHEREAS, the Parties are authorized by RCW Chapter 39.34 to enter into an interlocal
cooperation agreement; NOW, THEREFORE,



1 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**
2

3 Section 1. The Director of Transportation or his designee is hereby authorized to execute,
4 for and on behalf of the City, the Interlocal Agreement between King County and the City of
5 Seattle addressing the City's and County's mutual roles and responsibilities regarding the
6 funding, design, and construction of a replacement of the South Park Bridge, substantially in the
7 form attached hereto as Attachment 1.
8

9 Section 2. Any act consistent with the authority and prior to the effective date of this
10 ordinance is hereby ratified and confirmed.
11

12 Section 3. This ordinance shall take effect and be in force 30 days after its approval by
13 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
14 shall take effect as provided by Seattle Municipal Code Section 1.04.020.
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1 Passed by the City Council the 28th day of February, 2011, and signed by
2 me in open session in authentication of its passage this
3 28th day of February, 2011.



6 President _____ of the City Council

8 Approved by me this 9th day of March, 2011.



12 Michael McGinn, Mayor

13 Filed by me this 9th day of March, 2011.



17 City Clerk

18 (Seal)

21 Attachment 1: Interlocal Agreement Between King County and the City of Seattle



INTERLOCAL AGREEMENT BETWEEN KING COUNTY and THE CITY OF SEATTLE

This Interlocal Agreement (the "Agreement") is made and entered into by the City of Seattle, a municipal corporation of the State of Washington, hereinafter called the "City," and King County, a political subdivision of the State of Washington, hereinafter called the "County." As used in this Agreement, "Project" means the replacement of the now closed 81-year old South Park Bridge #3179 with a new double-leaf bascule bridge spanning the Duwamish River to the west of the existing bridge. The City and the County are also referred to in this Agreement collectively as "the Parties," and individually as a "Party."

RECITALS

WHEREAS, the South Park Bridge has provided access for residents of the South Park neighborhood and for commercial and industrial freight traffic within the Duwamish Manufacturing and Industrial area for the past 81 years; and

WHEREAS, the South Park Bridge came to the end of its useful life and was closed to the public on June 30, 2010; and

WHEREAS, the South Park Bridge is located on 14th/16th Avenue South across the Duwamish River (See Exhibit A – Vicinity Map, attached.) The south half of the Bridge is located in the County and the north half of the Bridge is located in the City of Tukwila. The northern and southern surface roadway approaches to the bridge and the South Park neighborhood immediately adjacent to the Bridge are located within the City of Seattle; and

WHEREAS, the County is responsible for the operation and maintenance of all County roads, bridges and rights-of-way located within the County until and unless they are annexed by other jurisdictions; and

WHEREAS, the County has an agreement with the City of Tukwila granting the County authority and responsibility for the operations, maintenance, repair and replacement of the South Park Bridge; and

WHEREAS, the South Park Bridge is partially located adjacent to the City of Seattle's South Park neighborhood in an unincorporated area of King County that may be considered for annexation by the City of Seattle; and

WHEREAS, the County has secured funding for a replacement bridge, including grant funds and funds from a broad group of partners; and

WHEREAS, prior to closure, the South Park Bridge served a neighborhood with a high percentage of low-income residents and businesses that relied on the access provided by the bridge, including residents and businesses located within the City of Seattle; and

WHEREAS, the County and City seek opportunities to support the residents and businesses in the South Park neighborhood; and

WHEREAS, the bridge replacement provides a clear benefit to the County and City and the industrial areas of the Duwamish Manufacturing and Industrial Center (as designated by the Puget Sound Regional Council), by reducing traffic congestion in and around other County and City roadways; and



WHEREAS, the City supported the County's efforts to replace the bridge, including the successful application for a \$34,000,000 Transportation Investment Generating Economic Recovery (TIGER II) grant; and

WHEREAS, the County has evaluated the economic impacts of the bridge closure and determined that the Project will reduce overall traffic congestion, especially for adjacent Duwamish River bridges, including the First Avenue South Bridge, resulting in \$158 million in savings to freight haulers who will not suffer from more congestion on the First Avenue South Bridge and \$157 million in travel time savings for users of the new South Park Bridge, over 30 years; and

WHEREAS, the County has evaluated the economic impacts of the bridge construction and determined that the Project will support both existing and new jobs in the Duwamish Manufacturing and Industrial Center and will create \$80 million in short-term construction jobs; and

WHEREAS, the Project will improve safety for drivers, bicyclists and pedestrians, while providing benefits to air quality and waterway restoration; and

WHEREAS, the 2011 City of Seattle's Capital Budget approved on November 22, 2010, acknowledges the general intent to commit \$15,000,000 to the Project; and

WHEREAS, the Parties are authorized by the Revised Code of Washington (RCW) Chapter 39.34 to enter into an interlocal cooperation agreement of this nature;

NOW, THEREFORE, the Parties agree as follows:

1. PURPOSE

- 1.1. Purpose of Interlocal Agreement: The purpose of this Agreement is to establish the mutual roles and responsibilities regarding the funding, design, and construction of a new South Park Bridge (the "Project").
- 1.2. Description of Project: The Project involves the replacement of the 81-year old South Park Bridge with a new double-leaf bascule bridge spanning the Duwamish River, including separated sidewalks and dedicated bicycle lanes in both directions, as well as travel lanes providing the same capacity for automobile and truck traffic as the old bridge provided prior to closure. The Project will meet guidelines as detailed in plans #316-63 and specifications being prepared by the County for construction as contract C00606C11. The project includes incorporation of historic and art elements, utility construction, riverbank mitigation, and other features required for the Project. The construction cost of the Project is currently estimated by the County to be \$137,894,642.
- 1.3. Schedule: Portions of the existing bridge were removed in late 2010. The Project was advertised for construction bids on January 11, 2011 with construction expected to begin by May 2011 with Beneficial Use expected mid-2013 and Substantial Completion expected at the end of 2013.

2. TERMS AND CONDITIONS

- 2.1. Administering Agency: The County shall be responsible for all Project administration. As the implementing agency, the County shall ensure Project compliance with the State Environmental Policy Act (SEPA) and National Environmental Policy Act (NEPA), and shall be responsible for obtaining all necessary federal, state and local permits, including but not limited to a City of Seattle Street Improvement Permit for work within the Seattle City right-of-way and any other required City of Seattle permits. Additionally, the County shall obtain all temporary agreements

and permanent property rights required for the Project. The County shall be responsible for accomplishing all aspects of the Project scope and for all Project costs, including costs associated with the City of Seattle Street Improvement Permit.

- 2.2. Compliance with Law: The County shall comply with all applicable federal, state, and local laws, statutes, rules, regulations and ordinances, including but not limited to RCW 39.12 and applicable public works requirements.
- 2.3. Contracts: The County shall be solely responsible for entering into and administering all contracts necessary to complete the Project. Notwithstanding the foregoing, the City shall have the following rights: (1) to consult with and make inquiries of the County Project Engineer or designee, (2) to attend meetings as approved by the County Project Engineer or designee, and (3) to have access to all documentation concerning the Project. The City shall not provide direction, directly or indirectly, to the County's consultant(s) or contractors. Except in the instances listed below in section 2.4, the City shall direct all communications to the County's Project Engineer or designee, including communications regarding compliance with City of Seattle's Street Improvement Permits for the quality of construction, and contractor performance.
- 2.4. Coordination: The County will manage any requests from the City that have contractual or scope-of-work impacts and will coordinate responses to the City. The County's consultants or contractors may work with the City to arrange for regulatory permitting and inspections made pursuant to permits issued by the City other than Street Improvement Permits, e.g. electrical permits or other permits obtained from the City by the consultant or contractor. The City may communicate directly with the contractor or consultants if necessary because of a threat to health or safety.
- 2.5. Contact Persons: The Parties to this Agreement shall each designate a person to act as liaison for the Project. The contact persons shall meet on a mutually-agreed-upon and regularly scheduled basis at a frequency appropriate to the phase and status of the Project.
- 2.6. Schedule/Scope: The scope and schedule for the Project has been mutually agreed upon by the Federal Highway Administration, the Washington State Department of Transportation and other funding partners. Any changes to the Project, as described in Section 1.2, that impact the operation, function or maintenance of the Project shall require coordination with the City. The County shall first obtain the review and concurrence of the City prior to making or implementing any such design revisions or deviations from the plans and specifications pertaining to elements of work. The City will accomplish these reviews in a timely manner in order to meet the schedule requirements of the Project. If concurrence is not reached, both Parties agree to use the dispute process included in Section 8.
- 2.7. Bridge Commissioning: The County and City shall establish a mutually agreed work plan that will detail the schedule, staffing and level of effort needed to ensure that the City is fully involved in the commissioning of the Project electrical, mechanical and movable bridge elements during the construction, including City review of submittals for all materials, installation phasing and procedures, testing and all elements of the commissioning process. At a minimum, commissioning includes all work described in Division 8-19 Bridge Electrical System and Division 10 Operating Machinery of the Project special provisions and the associated plans. The County shall reimburse the City for its costs associated with the commissioning effort.
- 2.8. Bridge Operations and Maintenance: The Parties shall negotiate in good faith with the goal of entering into an agreement prior to Beneficial Use Completion, defined in Exhibit B, regarding future operations and maintenance for the bridge. The agreement should ensure the City is reimbursed for all costs associated with any role the City has in the operations and maintenance of the bridge until annexation of any or all of the bridge if such annexation occurs. If the



annexation process occurs, it should include a separate agreement to address operation and maintenance of the bridge, including increased maintenance costs for any and all bridge elements that the County chooses to construct or place in service that do not adhere to the approved plans and specifications as defined in Section 1.2.

- 2.9. Public Involvement: The County shall be responsible for the public involvement and community outreach process for the Project.

3. BUDGET, FUNDING, CONDITIONS, PAYMENT SCHEDULE

- 3.1 Budget: The current estimated construction cost is shown in Exhibit C. Any increase to the estimated cost shall not increase the City's funding obligation under this Agreement.
- 3.2 City Funding: The City shall contribute a maximum of Fifteen-Million Dollars (\$15,000,000) in total for the South Park Bridge Replacement Project. The County shall be responsible for obtaining all other funding for the Project, and shall remain solely responsible for all cost overruns and for the cost of any required financing.
- 3.3 Conditions: The City's obligation to provide funding is strictly conditioned upon the following: (a) The Project must be awarded and completed in compliance with the terms and conditions of Section 2, and (b) the Project must be constructed in compliance with the plans and specifications described in Section 1.2 and approved by the City. The City has included the Project in the City's 2011-2016 Capital Improvement Program and intends to appropriate the funds for the Project in the City's 2013 and 2014 annual budgets.

3.4 Payment Schedule:

- (a) Initial Payment. Subject to the conditions in Section 3.3, the City will make a payment of Ten Million Dollars (\$10,000,000) to the County when the City receives documentation that the Project has reached the Beneficial Use Completion Date as described in Exhibit B, but no earlier than May 1, 2013.
- (b) Final Acceptance and Payment. The City shall make the adjusted final payment to the County when the City receives documentation that the Project has reached Final Acceptance as defined in Exhibit B. The adjusted final payment shall be \$5,000,000 less any cost savings allocated to the City under Section 3.4 (c).
- (c) Adjustments for Cost Savings. The final payment will be based on the total project construction phase costs estimated at the time of Final Acceptance. Any cost savings difference between the current estimated cost in Section 3.1 and the final costs will be distributed as follows: the County will first refund any savings to the Freight Mobility Strategic Investment Board (FMSIB) up to its total contribution of \$5,000,000. If there are cost savings in excess of \$5,000,000, the County will apportion the total savings amount between the Port of Seattle and the City of Seattle to reflect their respective proportional investments up to the full amount of their respective contributions of up to Five Million Dollars (\$5,000,000) to the Port of Seattle and up to Fifteen Million Dollars (\$15,000,000) to the City of Seattle.
- (d) Timing of City Payment. The City will make payment of each installment within forty-five (45) calendar days from receipt of documentation that milestone has been achieved, except as noted above.

- (e) Reimbursement for City Services. The City will invoice the County monthly for reimbursement of services described under sections 2.1 (City Permits), 2.6 (not to exceed \$125,000 without further agreement) and 2.7 (as established for the Work Plan) above and provide documentation to support the invoice.
- (f) Timing of County Payment. The County will make payment to the City within forty-five (45) calendar days from receipt of the invoice from the City.

4. OWNERSHIP

Upon completion, the South Park Bridge shall be the property of the County, and the City will acquire no ownership rights or obligations with respect to the Project through this Agreement; however, the City may acquire the bridge in the future through annexation or any other lawful means.

5. COMPLETE AGREEMENT; AMENDMENT

This Agreement, including exhibits, represents the full and final agreement of both the City and the County with respect to the Project and there are no other agreements, whether oral or written, between the Parties. Either Party may request changes to the provisions contained in this Agreement. Any subsequent modification or amendment shall only be binding if reduced to writing and signed by an authorized representative of the County and the City.

6. NOTIFICATION

Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the following addresses unless otherwise indicated by the Parties to this Agreement:

To the County: King County, DOT, Road Services
 201 S Jackson Street, KSC TR 0317
 Seattle, WA 98104

To the City: City of Seattle Department of Transportation
 South Park Bridge Project Manager
 700 Fifth Ave, Suite 3900
 PO Box 4996
 Seattle, WA 98124-4996

7. RECORDS RETENTION AND AUDIT

During the progress of the work on the Project and for a period not less than six (6) years from the date of final payment by the City to the County, the records and accounts pertaining to the Project and accounting thereof are to be kept available for inspection and audit by the City, and the County shall provide the City with copies of all records, accounts, documents, or other data pertaining to the Project upon the City's request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit findings have been resolved, even though such litigation, claim, or audit continues past the typical six year retention period. This provision is not intended to alter or amend records retention requirements established by applicable state and federal laws.

8. DISPUTES

The designated representatives under Section 2.5 CONTACT PERSONS shall use their best efforts to resolve disputes between the Parties. If the designated representatives are unable to resolve a dispute,



then the County Engineering Services Section Manager and the City's Alaskan Way Viaduct and Seawall Replacement Program Manager shall review the matter and attempt to resolve it. If they are unable to resolve the dispute, the matter shall be reviewed by the applicable department directors of each Party or his or her designee. The Parties agree to exhaust each of these procedural steps when seeking to resolve disputes.

9. EFFECTIVENESS AND DURATION

This Agreement is effective upon the date of execution by both Parties following a validly enacted ordinance of the City of Seattle and will remain in effect until Final Acceptance of the Project and completion of any final payment obligations between the Parties, unless otherwise stated herein or unless amended.

10. INDEMNIFICATION; WAIVER; LIMITATION OF LIABILITY; INSURANCE

- 10.1 County Indemnification: The County shall defend, indemnify and hold harmless the City and its officers, agents and employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any act or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.
- 10.2 City Indemnification: The City shall defend, indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any act or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.
- 10.3 Concurrent Negligence: The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.
- 10.4 Waiver: The City and the County agree that their obligations under this section extend to any claim, any demand and any cause of action brought by, or on behalf of, any of their employees or agents. For this purpose, the Parties hereby waive, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provision of Title 51 RCW to the extent necessary to provide indemnification as required under this Agreement.
- 10.5 Limitation of City's Liability: Except as arising out of the City's role in acts as a governmental regulating and permitting authority, the City's review or approval of the County's plans or

specifications, the City's inspection of work, and the City's coordination with the County relating to the Project are for the City's sole benefit and shall not be construed as an opinion or representation by the City to the County regarding the Project's compliance with any law, ordinance, rule, or regulation, nor shall it be an opinion or representation regarding the adequacy of the design or construction of the Project other than for the City's own purposes. The City's review, approval, inspection and coordination with the County shall not create or form the basis of any liability on the part of the City or any of its officials, officers, employees, or agents.

10.6 The obligations described in Sections 10.1 through 10.5 shall survive the expiration of this Agreement.

10.7 Insurance: The County shall require in writing that the County's contractors on the Project include the City of Seattle as an additional insured for primary and non-contributory limits of liability for Commercial General Liability, Commercial Automobile Liability, and Completed Operations coverage following the completion of the Project. Prior to commencing construction, the County shall provide the City with an Acord certificate or other reasonably acceptable evidence demonstrating the City's additional insured status under the contractor's insurance policies as required by this Section 10.7.

11. VENUE

This Agreement shall be deemed to be made in the County of King, State of Washington, and the legal rights and obligations of the County and City shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the County of King, State of Washington.

12. OTHER PROVISIONS

12.1 Severability: A determination by a court of competent jurisdiction that any provision of this Agreement or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision of this Agreement, which shall remain in full force and effect.

12.2 Interpretation: The captions of the Sections or Paragraphs of this Agreement are not a part of the terms or provisions of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other.

12.3 Waivers: All waivers shall be in writing and signed by the waiving Party. Either Party's failure to enforce any provision of this Agreement shall not be construed as a waiver and shall not prevent either Party from enforcing that provision or any other provision of this Agreement in the future.

12.4 Force Majeure: If either Party cannot perform any of its obligations due to events beyond its reasonable control (other than the payment of money), the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond a Party's reasonable control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or materials, government regulations or restrictions and weather conditions.

12.5 Joint Drafting Effort: This Contract shall be considered for all purposes as prepared by the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

12.6 Third Party Beneficiaries: Nothing in this Agreement is intended to, nor shall be construed to



give any rights or benefits in the Agreement to anyone other than the City and the County, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the City and the County and not for the benefit of any other Party.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement which shall be effective upon the date of recording.

CITY OF SEATTLE

King County

Peter Hahn, Director
Seattle Department of Transportation

Harold S. Taniguchi, Director
King County Department of Transportation

Date: _____

Date: _____

APPROVED AS TO FORM:

County Attorney

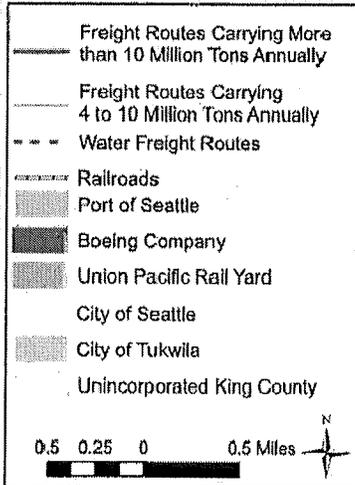
Date: _____

ATTEST:

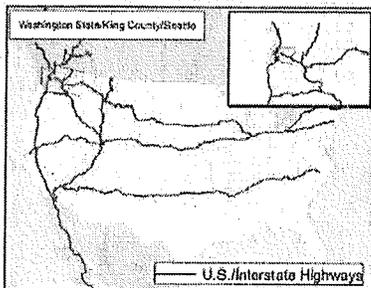


Exhibit A - Vicinity Map

Freight Delays Hurt the U.S. Economy



- ✓ Trucks crossing the South Park Bridge carried up to 10 million tons of cargo each year.
- ✓ Traffic now diverts to surrounding routes already carrying over 10 million tons of cargo each year.
- ✓ Up to 20,000 more cars and trucks must use the 1st Avenue South Bridge waterway crossing every day.
- ✓ Freight delays on the 1st Avenue South Bridge will surpass \$4 million in 2011 and grow to almost \$50 million by 2040.



Washington is the most trade-dependent state in the U.S. More congestion in the Seattle manufacturing area will slow freight delivery nationwide.

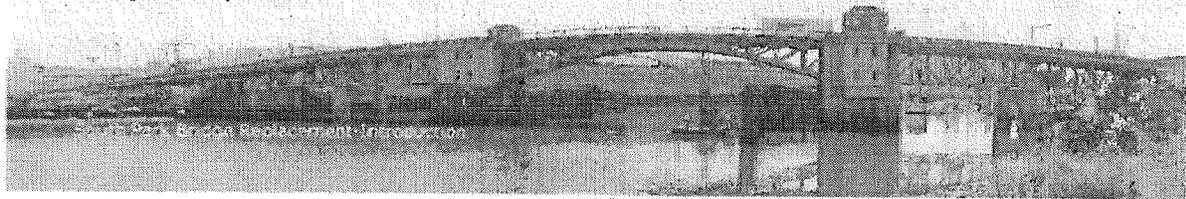
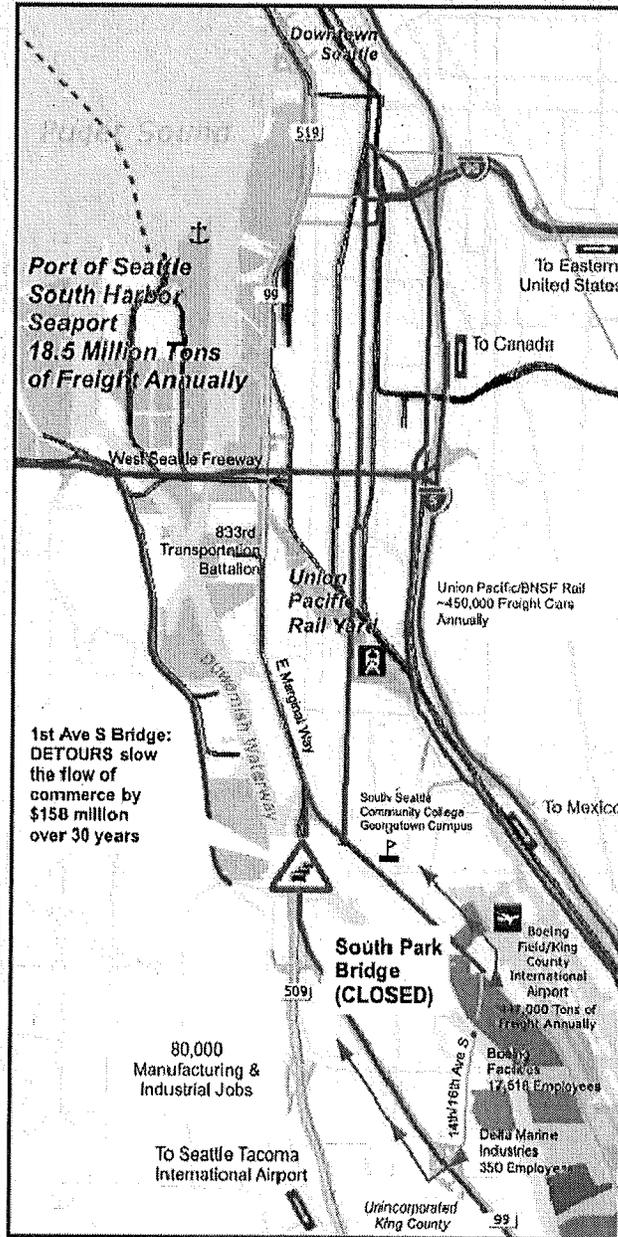


Exhibit B – Definition of Beneficial Use and Final Acceptance

Definition of “Beneficial Use Completion” per the Project Specifications:

Beneficial Use Completion Date is the day the Engineer determines that: (1) two-way vehicular traffic (minimum one unobstructed lane in each direction), pedestrian and bicycle traffic can be routed onto the bridge and approaches; (2) the bridge is fully operational and open to marine traffic utilizing the new and permanent mechanical and electrical systems; and (3) the Contractor has provided the County a certificate of final electrical inspection and acceptance.

Definition of “Final Acceptance” per the Project Specifications:

The Contractor must perform all the obligations under the contract before a completion date and final acceptance can occur. Failure of the Contractor to perform all the obligations under the contract shall not bar King County from unilaterally accepting the contract as provided in Section 1-09.9.

The Director of Transportation, or a duly authorized assistant, accepts the completed contract and the items of work shown in the Comparison of Quantities by signature of the Notice of Completion and Acceptance. The date of that signature constitutes the acceptance date. Progress estimates or payments shall not be construed as acceptance of any work under the contract.

The Contractor agrees that Final Acceptance shall not relieve the Contractor of the responsibility to indemnify, defend and protect King County against any claim or loss resulting from the failure of the Contractor (or the subcontractors or lower-tier subcontractors) to pay all laborers, mechanics, subcontractors, material persons or any other person who provides labor, supplies or provisions for carrying out the work. Final Acceptance shall not constitute acceptance of any unauthorized or defective work or material. King County shall not be barred from requiring the Contractor to remove, replace, repair or dispose of any unauthorized or defective work or material or from recovering damages for any such work or material.



EXHIBIT C - Opinion of Probable Bid Price			
Project:	South Park Bridge Replacement #3179 - Final Design - Revision 3		
For:	King County		
Design Stage:	Final		
Deliverable:	Opinion of Probable Bid Price		
Cost Index Date:	Nov. 2010: - Escalated to Mid-point of Construction (April 2012) @3.5%		
CATEGORY	DETAILS	EST. COST	% Total \$
PREPARATION		\$ 25,112,356	23.3%
MOBILIZATION	\$ 6,327,600		
WORK ACCESS - TEMPORARY TRESTLE	\$ 6,190,870		
REMOVING EXISTING BRIDGE	\$ 2,213,530		
HAZARDOUS MATERIAL HANDLING AND DISPOSAL	\$ 1,088,292		
CONTAMINATED MATERIAL HANDLING AND DISPOSAL	\$ 2,598,198		
ADDITIONAL HAZARDOUS AND CONTAMINATED HANDLING	\$ 100,000		
TIME RELATED OVERHEAD	\$ 5,878,787		
OTHER	\$ 715,081		
GRADING		\$ 919,230	0.9%
SELECT BORROW INCL. HAUL	\$ 415,984		
OTHER	\$ 503,245		
DRAINAGE		\$ 868,990	0.8%
STORM SEWER		\$ 497,330	0.5%
SANITARY SEWER		\$ 132,416	0.1%
STRUCTURE		\$ 74,417,843	69.0%
EARTHQUAKE DRAINS SYSTEM	\$ 1,259,160		
STRUCTURAL EARTH WALL	\$ 738,447		
SUPERSTRUCTURE - SOUTH APPROACH SPAN	\$ 2,385,583		
SUPERSTRUCTURE - NORTH APPROACH SPAN	\$ 2,385,583		
FURNISHING ST. PILING	\$ 1,856,442		
SPECIAL EXCAVATION	\$ 796,102		
EXCAVATION FOR CAISSON	\$ 9,283,234		
STR. CARBON ST. - CAISSON CUTTING EDGE	\$ 1,433,784		
EPOXY-COATED ST. REINF. BAR FOR CAISSON	\$ 2,263,458		
ST. REINF. BAR FOR CAISSON	\$ 1,796,024		
CONC. CLASS 4000W	\$ 1,367,762		
CONC. CLASS 4000WT	\$ 1,490,284		
CONC. CLASS 4000MP	\$ 5,196,133		
SUBMARINE CONDUIT SYSTEM	\$ 1,364,090		
SUPERSTRUCTURE - BASCULE PIER	\$ 3,147,900		
SUPERSTRUCTURE - BASCULE SPAN	\$ 16,788,799		
DRIVE MACHINERY	\$ 7,450,029		
BRIDGE ELECTRICAL SYSTEM	\$ 4,197,200		
OTHER	\$ 9,217,828		
SURFACING		\$ 165,602	0.2%
CEMENT CONCRETE PAVEMENT		\$ 964,438	0.9%
HOT MIX ASPHALT		\$ 102,944	0.1%
EROSION CONTROL AND PLANTING		\$ 1,845,446	1.7%
TRAFFIC		\$ 875,721	0.8%
OTHER		\$ 1,932,552	1.8%
	HNTB's Opinion of Probable Bid Price:	\$ 107,834,867	
Reported Final Design Probable Construction Cost:		\$ 107,835,000	
Construction Management and Administration:		\$ 18,112,000	
Others (Utility Relocation and Art Elements):		\$ 1,164,142	
Contingency @ 10%:		\$ 10,783,500	
TOTAL CONSTRUCTION COST:		\$ 137,894,642	

Note: Excludes cost of pedestrian railing fabrication.



FISCAL NOTE FOR CAPITAL PROJECTS ONLY

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation, Seattle Public Utilities, Seattle City Light	John Arnesen 684-8921	Stephen Barham 733-9084

Legislation Title: AN ORDINANCE relating to replacing the South Park Bridge; authorizing execution of an Interlocal Agreement between King County and the City of Seattle regarding mutual roles and responsibilities regarding the funding and construction of a new South Park Bridge; and ratifying and confirming prior acts.

Summary and background of the Legislation: The proposed Council Bill authorizes execution of an interlocal agreement with King County for partial funding to replace the South Park Bridge with a new double-leaf bascule bridge spanning the Duwamish River to the west of the existing bridge.

Construction of the bridge is expected to start in the summer of 2011.

Project Name:	Project I.D.	Project Location:	Start Date:	End Date
South Park Bridge	TC365780	16 th Ave S / E Marginal Way S / S Cloverdale St.	Q1 2010	Q4 2013

- *Please check any of the following that apply:*

 This legislation creates, funds, or anticipates a new CIP Project.

 X **This legislation has financial implications.**

Note: The City's contribution to the project is a maximum of \$15 million. The City will make payments no earlier than May 1, 2013. The City's 2011-2016 Adopted Capital Improvement Program acknowledges the general intent to commit \$15,000,000 to the project, however, the source of the funds have not yet been identified. The interlocal agreement strengthens the City's financial commitment to the project.

King County is responsible for obtaining all other funding for the project and is responsible for all overruns and financing costs. Additionally, the County will reimburse the City for all permitting and inspection costs for construction within City limits, bridge commissioning and bridge operations and maintenance costs as defined in Section 2 of the agreement. Finally, the



City will not acquire rights or obligations with respect to this agreement. Responsibility for the ongoing maintenance and operation of the bridge is established in the agreement. The City does not assume any financial responsibility for these costs.

What is the financial cost of not implementing the legislation: If the legislation is not implemented, King County will not have full funding for the project, thereby delaying the schedule, which may jeopardize other funding sources.

What are the possible alternatives to the legislation that could achieve the same or similar objectives: None.

Is the legislation subject to public hearing requirements: No.

Other Issues (*including long-term implications of the legislation*): None.

Please list attachments to the fiscal note below: None.



City of Seattle
Office of the Mayor

February 15, 2011

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill authorizing the City to enter into an interlocal agreement with King County to participate in the funding of a new South Park Bridge. The City would contribute a maximum of \$15 million, joining the County, the Federal Government and the Port of Seattle in this effort to build a new double-leaf bascule bridge across the Duwamish River.

With the City investment, King County has full funding for the project. The replacement bridge will make a positive difference to the City and region. It will provide many benefits to the City of Seattle, including improved access to surrounding communities and businesses in the South Park area and reduced traffic congestion. Construction of the bridge is expected to start this summer.

The attached legislation is necessary for the project to remain on its current schedule. The City is willing to work collaboratively with the County to implement the project as efficiently and effectively as possible.

Thank you for your consideration of this legislation. Should you have questions, please contact John Arnesen at 684-8921.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike M. Ginn". The signature is stylized and cursive.

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council



INTERLOCAL AGREEMENT BETWEEN KING COUNTY and THE CITY OF SEATTLE

This Interlocal Agreement (the "Agreement") is made and entered into by the City of Seattle, a municipal corporation of the State of Washington, hereinafter called the "City," and King County, a political subdivision of the State of Washington, hereinafter called the "County." As used in this Agreement, "Project" means the replacement of the now closed 81-year old South Park Bridge #3179 with a new double-leaf bascule bridge spanning the Duwamish River to the west of the existing bridge. The City and the County are also referred to in this Agreement collectively as "the Parties," and individually as a "Party."

RECITALS

WHEREAS, the South Park Bridge has provided access for residents of the South Park neighborhood and for commercial and industrial freight traffic within the Duwamish Manufacturing and Industrial area for the past 81 years; and

WHEREAS, the South Park Bridge came to the end of its useful life and was closed to the public on June 30, 2010; and

WHEREAS, the South Park Bridge is located on 14th/16th Avenue South across the Duwamish River (See Exhibit A – Vicinity Map, attached.) The south half of the Bridge is located in the County and the north half of the Bridge is located in the City of Tukwila. The northern and southern surface roadway approaches to the bridge and the South Park neighborhood immediately adjacent to the Bridge are located within the City of Seattle; and

WHEREAS, the County is responsible for the operation and maintenance of all County roads, bridges and rights-of-way located within the County until and unless they are annexed by other jurisdictions; and

WHEREAS, the County has an agreement with the City of Tukwila granting the County authority and responsibility for the operations, maintenance, repair and replacement of the South Park Bridge; and

WHEREAS, the South Park Bridge is partially located adjacent to the City of Seattle's South Park neighborhood in an unincorporated area of King County that may be considered for annexation by the City of Seattle; and

WHEREAS, the County has secured funding for a replacement bridge, including grant funds and funds from a broad group of partners; and

WHEREAS, prior to closure, the South Park Bridge served a neighborhood with a high percentage of low-income residents and businesses that relied on the access provided by the bridge, including residents and businesses located within the City of Seattle; and

WHEREAS, the County and City seek opportunities to support the residents and businesses in the South Park neighborhood; and

WHEREAS, the bridge replacement provides a clear benefit to the County and City and the industrial areas of the Duwamish Manufacturing and Industrial Center (as designated by the Puget Sound Regional Council), by reducing traffic congestion in and around other County and City roadways; and

THIS VERSION IS NOT ADOPTED

WHEREAS, the City supported the County's efforts to replace the bridge, including the successful application for a \$34,000,000 Transportation Investment Generating Economic Recovery (TIGER II) grant; and

WHEREAS, the County has evaluated the economic impacts of the bridge closure and determined that the Project will reduce overall traffic congestion, especially for adjacent Duwamish River bridges, including the First Avenue South Bridge, resulting in \$158 million in savings to freight haulers who will not suffer from more congestion on the First Avenue South Bridge and \$157 million in travel time savings for users of the new South Park Bridge, over 30 years; and

WHEREAS, the County has evaluated the economic impacts of the bridge construction and determined that the Project will support both existing and new jobs in the Duwamish Manufacturing and Industrial Center and will create \$80 million in short-term construction jobs; and

WHEREAS, the Project will improve safety for drivers, bicyclists and pedestrians, while providing benefits to air quality and waterway restoration; and

WHEREAS, the 2011 City of Seattle's Capital Budget approved on November 22, 2010, acknowledges the general intent to commit \$15,000,000 to the Project; and

WHEREAS, the Parties are authorized by the Revised Code of Washington (RCW) Chapter 39.34 to enter into an interlocal cooperation agreement of this nature;

NOW, THEREFORE, the Parties agree as follows:

1. PURPOSE

- 1.1. Purpose of Interlocal Agreement: The purpose of this Agreement is to establish the mutual roles and responsibilities regarding the funding, design, and construction of a new South Park Bridge (the "Project").
- 1.2. Description of Project: The Project involves the replacement of the 81-year old South Park Bridge with a new double-leaf bascule bridge spanning the Duwamish River, including separated sidewalks and dedicated bicycle lanes in both directions, as well as travel lanes providing the same capacity for automobile and truck traffic as the old bridge provided prior to closure. The Project will meet guidelines as detailed in plans #316-63 and specifications being prepared by the County for construction as contract C00606C11. The project includes incorporation of historic and art elements, utility construction, riverbank mitigation, and other features required for the Project. The construction cost of the Project is currently estimated by the County to be \$137,894,642.
- 1.3. Schedule: Portions of the existing bridge were removed in late 2010. The Project was advertised for construction bids on January 11, 2011 with construction expected to begin by May 2011 with Beneficial Use expected mid-2013 and Substantial Completion expected at the end of 2013.

2. TERMS AND CONDITIONS

- 2.1. Administering Agency: The County shall be responsible for all Project administration. As the implementing agency, the County shall ensure Project compliance with the State Environmental Policy Act (SEPA) and National Environmental Policy Act (NEPA), and shall be responsible for obtaining all necessary federal, state and local permits, including but not limited to a City of Seattle Street Improvement Permit for work within the Seattle City right-of-way and any other required City of Seattle permits. Additionally, the County shall obtain all temporary agreements

and permanent property rights required for the Project. The County shall be responsible for accomplishing all aspects of the Project scope and for all Project costs, including costs associated with the City of Seattle Street Improvement Permit.

- 2.2. Compliance with Law: The County shall comply with all applicable federal, state, and local laws, statutes, rules, regulations and ordinances, including but not limited to RCW 39.12 and applicable public works requirements.
- 2.3. Contracts: The County shall be solely responsible for entering into and administering all contracts necessary to complete the Project. Notwithstanding the foregoing, the City shall have the following rights: (1) to consult with and make inquiries of the County Project Engineer or designee, (2) to attend meetings as approved by the County Project Engineer or designee, and (3) to have access to all documentation concerning the Project. The City shall not provide direction, directly or indirectly, to the County's consultant(s) or contractors. Except in the instances listed below in section 2.4, the City shall direct all communications to the County's Project Engineer or designee, including communications regarding compliance with City of Seattle's Street Improvement Permits for the quality of construction, and contractor performance.
- 2.4. Coordination: The County will manage any requests from the City that have contractual or scope-of-work impacts and will coordinate responses to the City. The County's consultants or contractors may work with the City to arrange for regulatory permitting and inspections made pursuant to permits issued by the City other than Street Improvement Permits, e.g. electrical permits or other permits obtained from the City by the consultant or contractor. The City may communicate directly with the contractor or consultants if necessary because of a threat to health or safety.
- 2.5. Contact Persons: The Parties to this Agreement shall each designate a person to act as liaison for the Project. The contact persons shall meet on a mutually-agreed-upon and regularly scheduled basis at a frequency appropriate to the phase and status of the Project.
- 2.6. Schedule/Scope: The scope and schedule for the Project has been mutually agreed upon by the Federal Highway Administration, the Washington State Department of Transportation and other funding partners. Any changes to the Project, as described in Section 1.2, that impact the operation, function or maintenance of the Project shall require coordination with the City. The County shall first obtain the review and concurrence of the City prior to making or implementing any design revisions or deviations from the plans and specifications pertaining to elements of work. The City will accomplish these reviews in a timely manner in order to meet the schedule requirements of the Project. If concurrence is not reached, both Parties agree to use the dispute process included in Section 8.
- 2.7. Bridge Commissioning: The County and City shall establish a mutually agreed work plan that will detail the schedule, staffing and level of effort needed to ensure that the City is fully involved in the commissioning of the Project electrical, mechanical and movable bridge elements during the construction, including City review of submittals for all materials, installation phasing and procedures, testing and all elements of the commissioning process. At a minimum, commissioning includes all work described in Division 8-19 Bridge Electrical System and Division 10 Operating Machinery of the Project special provisions and the associated plans. The County shall reimburse the City for its costs associated with the commissioning effort.
- 2.8. Bridge Operations and Maintenance: The County shall enter into an agreement with the City regarding future operations and maintenance for the bridge prior to Beneficial Use Completion, defined in Exhibit B. The agreement shall ensure the City is reimbursed for all costs associated with any role the City has in the operations and maintenance of the bridge until annexation of any or all of the bridge if such annexation occurs. If the annexation process occurs, it will

THIS VERSION IS NOT ADOPTED



include a separate agreement to address operation and maintenance of the bridge, including increased maintenance costs for any and all bridge elements that the County chooses to construct or place in service that do not adhere to the approved plans and specifications as defined in Section 1.2.

- 2.9. Public Involvement: The County shall be responsible for the public involvement and community outreach process for the Project.

3. BUDGET, FUNDING, CONDITIONS, PAYMENT SCHEDULE

- 3.1 Budget: The current estimated construction cost is shown in Exhibit C. Any increase to the estimated cost shall not increase the City's funding obligation under this Agreement.

- 3.2 City Funding: The City shall contribute a maximum of Fifteen-Million Dollars (\$15,000,000) in total for the South Park Bridge Replacement Project. The County shall be responsible for obtaining all other funding for the Project, and shall remain solely responsible for all cost overruns and for the cost of any required financing.

- 3.3 Conditions: The City's obligation to provide funding is strictly conditioned upon the following: (a) The Project must be awarded in compliance with the terms and conditions of Section 2, (b) must be constructed in compliance with the plans and specifications described in Section 1.2 and approved by the City, and (c) the City's funding obligation under this Agreement is conditioned upon a valid and sufficient budget appropriation by the Seattle City Council.

3.4 Payment Schedule:

- (a) Initial Payment. Subject to the conditions in Section 3.3, the City will make a payment of Ten Million Dollars (\$10,000,000) to the County when the City receives documentation that the Project has reached the Beneficial Use Completion Date as described in Exhibit B, but no earlier than May 1, 2013.
- (b) Final Acceptance and Payment. The City shall make the adjusted final payment to the County when the City receives documentation that the Project has reached Final Acceptance as defined in Exhibit B. The adjusted final payment shall be \$5,000,000 less any cost savings allocated to the City under Section 3.4 (c).
- (c) Adjustments for Cost Savings. The final payment will be based on the total project construction phase costs estimated at the time of Final Acceptance. Any cost savings difference between the current estimated cost in Section 3.1 and the final costs will be distributed as follows: the County will first refund any savings to the Freight Mobility Strategic Investment Board (FMSIB) up to its total contribution of \$5,000,000. If there are cost savings in excess of \$5,000,000, the County will apportion the total savings amount between the Port of Seattle and the City of Seattle to reflect their respective proportional investments up to the full amount of their respective cash contributions.
- (d) Timing of City Payment. The City will make payment of each installment within forty-five (45) calendar days from receipt of documentation that milestone has been achieved, except as noted above.
- (e) Reimbursement for City Services. The City will invoice the County monthly for reimbursement of services described under sections 2.1 (City Permits), 2.6 (not to exceed \$125,000 without

THIS VERSION IS NOT ADOPTED

further agreement) and 2.7 (as established for the Work Plan) above and provide documentation to support the invoice.

- (f) Timing of County Payment. The County will make payment to the City within forty-five (45) calendar days from receipt of the invoice from the City.

4. OWNERSHIP

Upon completion, the South Park Bridge shall be the property of the County, and the City will acquire no ownership rights or obligations with respect to the Project through this Agreement; however, the City may acquire the bridge in the future through annexation or any other lawful means.

5. COMPLETE AGREEMENT; AMENDMENT

This Agreement, including exhibits, represents the full and final agreement of both the City and the County with respect to the Project and there are no other agreements, whether oral or written, between the Parties. Either Party may request changes to the provisions contained in this Agreement. Any subsequent modification or amendment shall only be binding if reduced to writing and signed by an authorized representative of the County and the City.

6. NOTIFICATION

Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the following addresses unless otherwise indicated by the Parties to this Agreement:

To the County: King County, DOT, Road Services
201 S Jackson Street, KSC TR 0317
Seattle, WA 98104

To the City: City of Seattle Department of Transportation
South Park Bridge Project Manager
700 Fifth Ave, Suite 3900
PO Box 4996
Seattle, WA 98124-4996

7. RECORDS RETENTION AND AUDIT

During the progress of the work on the Project and for a period not less than six (6) years from the date of final payment by the City to the County, the records and accounts pertaining to the Project and accounting thereof are to be kept available for inspection and audit by the City, and the County shall provide the City with copies of all records, accounts, documents, or other data pertaining to the Project upon the City's request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit findings have been resolved, even though such litigation, claim, or audit continues past the typical six year retention period. This provision is not intended to alter or amend records retention requirements established by applicable state and federal laws.

8. DISPUTES

The designated representatives under Section 2.5 CONTACT PERSONS shall use their best efforts to resolve disputes between the Parties. If the designated representatives are unable to resolve a dispute, then the County Engineering Services Section Manager and the City's Alaskan Way Viaduct and Seawall Replacement Program Manager shall review the matter and attempt to resolve it. If they are unable to



Joyce C. Kling
SDOT South Park Bridge Interlocal Agreement ATT 1
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resolve the dispute, the matter shall be reviewed by the applicable department directors of each Party or his or her designee. The Parties agree to exhaust each of these procedural steps when seeking to resolve disputes.

9. EFFECTIVENESS AND DURATION

This Agreement is effective upon the date of execution by both Parties following a validly enacted ordinance of the City of Seattle and will remain in effect until Final Acceptance of the Project and completion of any final payment obligations between the Parties, unless otherwise stated herein or unless amended or terminated.

THIS VERSION IS NOT ADOPTED



10. INDEMNIFICATION; WAIVER; LIMITATION OF LIABILITY; INSURANCE

- 10.1 County Indemnification: The County shall defend, indemnify and hold harmless the City and its officers, agents and employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any act or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.
- 10.2 City Indemnification: The City shall defend, indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any act or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.
- 10.3 Concurrent Negligence: The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.
- 10.4 Waiver: The City and the County agree that their obligations under this section extend to any claim, any demand and any cause of action brought by, or on behalf of, any of their employees or agents. For this purpose, the Parties hereby waive, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provision of Title 51 RCW to the extent necessary to provide indemnification as required under this Agreement.
- 10.5 Limitation of City's Liability: Except as arising out of the City's role in acts as a governmental regulating and permitting authority, the City's review or approval of the County's plans or specifications, the City's inspection of work, and the City's coordination with the County relating to the Project are for the City's sole benefit and shall not be construed as an opinion or representation by the City to the County regarding the Project's compliance with any law, ordinance, rule, or regulation, nor shall it be an opinion or representation regarding the adequacy of the design or construction of the Project other than for the City's own purposes. The City's review, approval, inspection and coordination with the County shall not create or form the basis of any liability on the part of the City or any of its officials, officers, employees, or agents.
- 10.6 The obligations described in Sections 10.1 through 10.5 shall survive the termination or expiration of this Agreement.

THIS VERSION IS NOT ADOPTED

10.7 Insurance: The County shall require in writing that the County's contractors on the Project include the City of Seattle as an additional insured for primary and non-contributory limits of liability for Commercial General Liability, Commercial Automobile Liability, and Completed Operations coverage following the completion of the Project. Prior to commencing construction, the County shall provide the City with an Acord certificate or other reasonably acceptable evidence demonstrating the City's additional insured status under the contractor's insurance policies as required by this Section 10.7.

11. VENUE

This Agreement shall be deemed to be made in the County of King, State of Washington, and the legal rights and obligations of the County and City shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the County of King, State of Washington.

12. OTHER PROVISIONS

- 12.1 Severability: A determination by a court of competent jurisdiction that any provision of this Agreement or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision of this Agreement, which shall remain in full force and effect.
- 12.2 Interpretation: The captions of the Sections or Paragraphs of this Agreement are not a part of the terms or provisions of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other.
- 12.3 Waivers: All waivers shall be in writing and signed by the waiving Party. Either Party's failure to enforce any provision of this Agreement shall not be construed as a waiver and shall not prevent either Party from enforcing that provision or any other provision of this Agreement in the future.
- 12.4 Force Majeure: If either Party cannot perform any of its obligations due to events beyond its reasonable control (other than the payment of money), the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond a Party's reasonable control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or materials, government regulations or restrictions and weather conditions.
- 12.5 Joint Drafting Effort: This Contract shall be considered for all purposes as prepared by the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.
- 12.6 Third Party Beneficiaries: Nothing in this Agreement is intended to, nor shall be construed to give any rights or benefits in the Agreement to anyone other than the City and the County, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the City and the County and not for the benefit of any other Party.

THIS VERSION IS NOT ADOPTED



Joyce C. Kling
SDOT South Park Bridge Interlocal Agreement ATT 1
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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement which shall be effective upon the date of recording.

CITY OF SEATTLE

King County

Peter Hahn, Director
Seattle Department of Transportation

Harold S. Taniguchi, Director
King County Department of Transportation

Date: _____

Date: _____

APPROVED AS TO FORM:

County Attorney

Date: _____

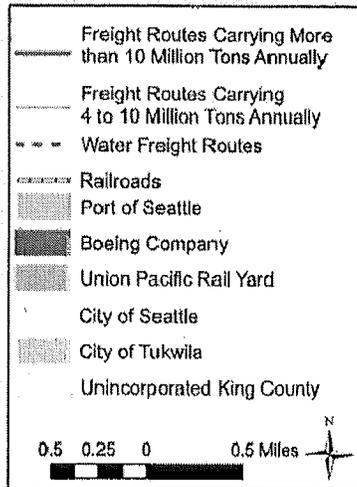
ATTEST:

THIS VERSION IS NOT ADOPTED

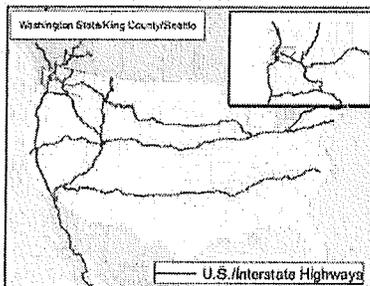


Exhibit A - Vicinity Map

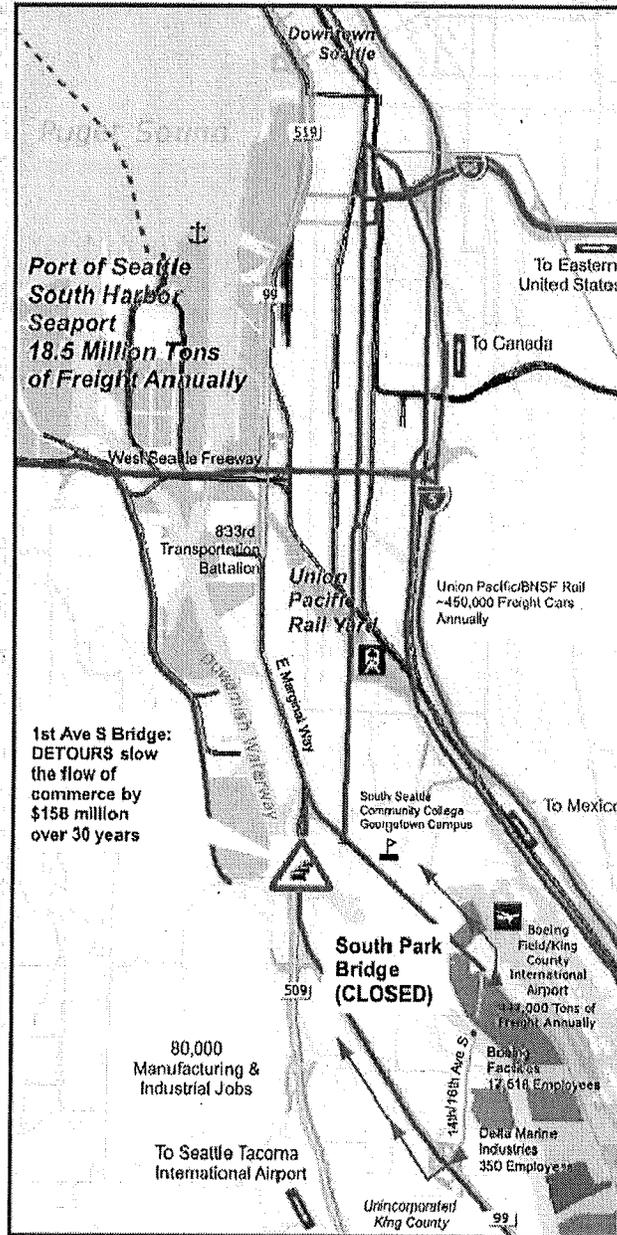
Freight Delays Hurt the U.S. Economy



- Trucks crossing the South Park Bridge carried up to 10 million tons of cargo each year.
- Traffic now diverts to surrounding routes already carrying over 10 million tons of cargo each year.
- Up to 20,000 more cars and trucks must use the 1st Avenue South Bridge waterway crossing every day.
- Freight delays on the 1st Avenue South Bridge will surpass \$4 million in 2011 and grow to almost \$50 million by 2040.



Washington is the most trade-dependent state in the U.S. More congestion in the Seattle manufacturing area will slow freight delivery nationwide.



THIS VERSION IS NOT ADOPTED



Exhibit B – Definition of Beneficial Use Completion and Final Acceptance

Definition of “Beneficial Use Completion” per the Project Specifications:

Beneficial Use Completion Date is the day the Engineer determines that: (1) two-way vehicular traffic (minimum one unobstructed lane in each direction), pedestrian and bicycle traffic can be routed onto the bridge and approaches; (2) the bridge is fully operational and open to marine traffic utilizing the new and permanent mechanical and electrical systems; and (3) the Contractor has provided the County a certificate of final electrical inspection and acceptance.

Definition of “Final Acceptance” per the Project Specifications:

The Contractor must perform all the obligations under the contract before a completion date and final acceptance can occur. Failure of the Contractor to perform all the obligations under the contract shall not bar King County from unilaterally accepting the contract as provided in Section 1-09.9.

The Director of Transportation, or a duly authorized assistant, accepts the completed contract and the items of work shown in the Comparison of Quantities by signature of the Notice of Completion and Acceptance. The date of that signature constitutes the acceptance date. Progress estimates or payments shall not be construed as acceptance of any work under the contract.

The Contractor agrees that Final Acceptance shall not relieve the Contractor of the responsibility to indemnify, defend and protect King County against any claim or loss resulting from the failure of the Contractor (or the subcontractors or lower-tier subcontractors) to pay all laborers, mechanics, subcontractors, material persons or any other person who provides labor, supplies or provisions for carrying out the work. Final Acceptance shall not constitute acceptance of any unauthorized or defective work or material. King County shall not be barred from requiring the Contractor to remove, replace, repair or dispose of any unauthorized or defective work or material or from recovering damages for any such work or material.

THIS VERSION IS NOT ADOPTED



EXHIBIT C - Opinion of Probable Bid Price			
Project:	South Park Bridge Replacement #3179 - Final Design - Revision 3		
For:	King County		
Design Stage:	Final		
Deliverable:	Opinion of Probable Bid Price		
Cost Index Date:	Nov. 2010: - Escalated to Mid-point of Construction (April 2012) @3.5%		
CATEGORY	DETAILS	EST. COST	% Total \$
PREPARATION		\$ 25,112,356	23.3%
	MOBILIZATION	\$ 6,327,600	
	WORK ACCESS - TEMPORARY TRESTLE	\$ 6,190,870	
	REMOVING EXISTING BRIDGE	\$ 2,213,530	
	HAZARDOUS MATERIAL HANDLING AND DISPOSAL	\$ 1,088,292	
	CONTAMINATED MATERIAL HANDLING AND DISPOSAL	\$ 2,598,198	
	ADDITIONAL HAZARDOUS AND CONTAMINATED HANDLING	\$ 100,000	
	TIME RELATED OVERHEAD	\$ 5,878,787	
	OTHER	\$ 715,081	
GRADING		\$ 919,230	0.9%
	SELECT BORROW INCL. HAUL	\$ 415,984	
	OTHER	\$ 503,245	
DRAINAGE		\$ 868,990	0.8%
STORM SEWER		\$ 497,330	0.5%
SANTIARY SEWER		\$ 132,416	0.1%
STRUCTURE		\$ 74,417,843	69.0%
	EARTHQUAKE DRAINS SYSTEM	\$ 1,259,160	
	STRUCTURAL EARTH WALL	\$ 738,447	
	SUPERSTRUCTURE - SOUTH APPROACH SPAN	\$ 2,385,583	
	SUPERSTRUCTURE - NORTH APPROACH SPAN	\$ 2,385,583	
	FURNISHING ST. PILING	\$ 1,856,442	
	SPECIAL EXCAVATION	\$ 796,102	
	EXCAVATION FOR CAISSON	\$ 9,283,234	
	STR. CARBON ST. - CAISSON CUTTING EDGE	\$ 1,433,784	
	EPOXY-COATED ST. REINF. BAR FOR CAISSON	\$ 2,263,458	
	ST. REINF. BAR FOR CAISSON	\$ 1,796,024	
	CONC. CLASS 4000W	\$ 1,367,762	
	CONC. CLASS 4000WT	\$ 1,490,284	
	CONC. CLASS 4000MP	\$ 5,196,133	
	SUBMARINE CONDUIT SYSTEM	\$ 1,364,090	
	SUPERSTRUCTURE - BASCULE PIER	\$ 3,147,900	
	SUPERSTRUCTURE - BASCULE SPAN	\$ 16,788,799	
	DRIVE MACHINERY	\$ 7,450,029	
	BRIDGE ELECTRICAL SYSTEM	\$ 4,197,200	
	OTHER	\$ 9,217,828	
SURFACING		\$ 165,602	0.2%
CEMENT CONCRETE PAVEMENT		\$ 964,438	0.9%
HOT MIX ASPHALT		\$ 102,944	0.1%
EROSION CONTROL AND PLANTING		\$ 1,845,446	1.7%
TRAFFIC		\$ 875,721	0.8%
OTHER		\$ 1,932,552	1.8%
	HNTB's Opinion of Probable Bid Price:	\$ 107,834,867	
	Reported Final Design Probable Construction Cost:	\$ 107,835,000	
	Construction Management and Administration:	\$ 18,112,000	
	Others (Utility Relocation and Art Elements):	\$ 1,164,142	
	Contingency @ 10%:	\$ 10,783,500	
	TOTAL CONSTRUCTION COST:	\$ 137,894,642	

THIS VERSION IS NOT ADOPTED

Note: Excludes cost of pedestrian railing fabrication.

INTERLOCAL AGREEMENT BETWEEN KING COUNTY and THE CITY OF SEATTLE

This Interlocal Agreement (the "Agreement") is made and entered into by the City of Seattle, a municipal corporation of the State of Washington, hereinafter called the "City," and King County, a political subdivision of the State of Washington, hereinafter called the "County." As used in this Agreement, "Project" means the replacement of the now closed 81-year old South Park Bridge #3179 with a new double-leaf bascule bridge spanning the Duwamish River to the west of the existing bridge. The City and the County are also referred to in this Agreement collectively as "the Parties," and individually as a "Party."

RECITALS

WHEREAS, the South Park Bridge has provided access for residents of the South Park neighborhood and for commercial and industrial freight traffic within the Duwamish Manufacturing and Industrial area for the past 81 years; and

WHEREAS, the South Park Bridge came to the end of its useful life and was closed to the public on June 30, 2010; and

WHEREAS, the South Park Bridge is located on 14th/16th Avenue South across the Duwamish River (See Exhibit A – Vicinity Map, attached.) The south half of the Bridge is located in the County and the north half of the Bridge is located in the City of Tukwila. The northern and southern surface roadway approaches to the bridge and the South Park neighborhood immediately adjacent to the Bridge are located within the City of Seattle; and

WHEREAS, the County is responsible for the operation and maintenance of all County roads, bridges and rights-of-way located within the County until and unless they are annexed by other jurisdictions; and

WHEREAS, the County has an agreement with the City of Tukwila granting the County authority and responsibility for the operations, maintenance, repair and replacement of the South Park Bridge; and

WHEREAS, the South Park Bridge is partially located adjacent to the City of Seattle's South Park neighborhood in an unincorporated area of King County that may be considered for annexation by the City of Seattle; and

WHEREAS, the County has secured funding for a replacement bridge, including grant funds and funds from a broad group of partners; and

WHEREAS, prior to closure, the South Park Bridge served a neighborhood with a high percentage of low-income residents and businesses that relied on the access provided by the bridge, including residents and businesses located within the City of Seattle; and

WHEREAS, the County and City seek opportunities to support the residents and businesses in the South Park neighborhood; and

WHEREAS, the bridge replacement provides a clear benefit to the County and City and the industrial areas of the Duwamish Manufacturing and Industrial Center (as designated by the Puget Sound Regional Council), by reducing traffic congestion in and around other County and City roadways; and

THIS VERSION IS NOT ADOPTED



WHEREAS, the City supported the County's efforts to replace the bridge, including the successful application for a \$34,000,000 Transportation Investment Generating Economic Recovery (TIGER II) grant; and

WHEREAS, the County has evaluated the economic impacts of the bridge closure and determined that the Project will reduce overall traffic congestion, especially for adjacent Duwamish River bridges, including the First Avenue South Bridge, resulting in \$158 million in savings to freight haulers who will not suffer from more congestion on the First Avenue South Bridge and \$157 million in travel time savings for users of the new South Park Bridge, over 30 years; and

WHEREAS, the County has evaluated the economic impacts of the bridge construction and determined that the Project will support both existing and new jobs in the Duwamish Manufacturing and Industrial Center and will create \$80 million in short-term construction jobs; and

WHEREAS, the Project will improve safety for drivers, bicyclists and pedestrians, while providing benefits to air quality and waterway restoration; and

WHEREAS, the 2011 City of Seattle's Capital Budget approved on November 22, 2010, acknowledges the general intent to commit \$15,000,000 to the Project; and

WHEREAS, the Parties are authorized by the Revised Code of Washington (RCW) Chapter 39.34 to enter into an interlocal cooperation agreement of this nature;

NOW, THEREFORE, the Parties agree as follows:

1. PURPOSE

- 1.1. Purpose of Interlocal Agreement: The purpose of this Agreement is to establish the mutual roles and responsibilities regarding the funding, design, and construction of a new South Park Bridge (the "Project").
- 1.2. Description of Project: The Project involves the replacement of the 81-year old South Park Bridge with a new double-leaf bascule bridge spanning the Duwamish River, including separated sidewalks and dedicated bicycle lanes in both directions, as well as travel lanes providing the same capacity for automobile and truck traffic as the old bridge provided prior to closure. The Project will meet guidelines as detailed in plans #316-63 and specifications being prepared by the County for construction as contract C00606C11. The project includes incorporation of historic and art elements, utility construction, riverbank mitigation, and other features required for the Project. The construction cost of the Project is currently estimated by the County to be \$137,894,642.
- 1.3. Schedule: Portions of the existing bridge were removed in late 2010. The Project was advertised for construction bids on January 11, 2011 with construction expected to begin by May 2011 with Beneficial Use expected mid-2013 and Substantial Completion expected at the end of 2013.

2. TERMS AND CONDITIONS

- 2.1. Administering Agency: The County shall be responsible for all Project administration. As the implementing agency, the County shall ensure Project compliance with the State Environmental Policy Act (SEPA) and National Environmental Policy Act (NEPA), and shall be responsible for obtaining all necessary federal, state and local permits, including but not limited to a City of Seattle Street Improvement Permit for work within the Seattle City right-of-way and any other required City of Seattle permits. Additionally, the County shall obtain all temporary agreements and permanent property rights required for the Project. The County shall be responsible for

accomplishing all aspects of the Project scope and for all Project costs, including costs associated with the City of Seattle Street Improvement Permit.

- 2.2. Compliance with Law: The County shall comply with all applicable federal, state, and local laws, statutes, rules, regulations and ordinances, including but not limited to RCW 39.12 and applicable public works requirements.
- 2.3. Contracts: The County shall be solely responsible for entering into and administering all contracts necessary to complete the Project. Notwithstanding the foregoing, the City shall have the following rights: (1) to consult with and make inquiries of the County Project Engineer or designee, (2) to attend meetings as approved by the County Project Engineer or designee, and (3) to have access to all documentation concerning the Project. The City shall not provide direction, directly or indirectly, to the County's consultant(s) or contractors. Except in the instances listed below in section 2.4, the City shall direct all communications to the County's Project Engineer or designee, including communications regarding compliance with City of Seattle's Street Improvement Permits for the quality of construction, and contractor performance.
- 2.4. Coordination: The County will manage any requests from the City that have contractual or scope-of-work impacts and will coordinate responses to the City. The County's consultants or contractors may work with the City to arrange for regulatory permitting and inspections made pursuant to permits issued by the City other than Street Improvement Permits, e.g. electrical permits or other permits obtained from the City by the consultant or contractor. The City may communicate directly with the contractor or consultants if necessary because of a threat to health or safety.
- 2.5. Contact Persons: The Parties to this Agreement shall each designate a person to act as liaison for the Project. The contact persons shall meet on a mutually-agreed-upon and regularly scheduled basis at a frequency appropriate to the phase and status of the Project.
- 2.6. Schedule/Scope: The scope and schedule for the Project has been mutually agreed upon by the Federal Highway Administration, the Washington State Department of Transportation and other funding partners. Any changes to the Project, as described in Section 1.2, that impact the operation, function or maintenance of the Project shall require coordination with the City. The County shall first obtain the review and concurrence of the City prior to making or implementing any design revisions or deviations from the plans and specifications pertaining to elements of work. The City will accomplish these reviews in a timely manner in order to meet the schedule requirements of the Project. If concurrence is not reached, both Parties agree to use the dispute process included in Section 8.
- 2.7. Bridge Commissioning: The County and City shall establish a mutually agreed work plan that will detail the schedule, staffing and level of effort needed to ensure that the City is fully involved in the commissioning of the Project electrical, mechanical and movable bridge elements during the construction, including City review of submittals for all materials, installation phasing and procedures, testing and all elements of the commissioning process. At a minimum, commissioning includes all work described in Division 8-19 Bridge Electrical System and Division 10 Operating Machinery of the Project special provisions and the associated plans. The County shall reimburse the City for its costs associated with the commissioning effort.
- 2.8. Bridge Operations and Maintenance: The County shall enter into an agreement with the City regarding future operations and maintenance for the bridge prior to Beneficial Use Completion, defined in Exhibit B. The agreement shall ensure the City is reimbursed for all costs associated with any role the City has in the operations and maintenance of the bridge until annexation of any or all of the bridge if such annexation occurs. If the annexation process occurs, it will include a separate agreement to address operation and maintenance of the bridge, including

THIS VERSION IS NOT ADOPTED



increased maintenance costs for any and all bridge elements that the County chooses to construct or place in service that do not adhere to the approved plans and specifications as defined in Section 1.2.

- 2.9. Public Involvement: The County shall be responsible for the public involvement and community outreach process for the Project.

3. BUDGET, FUNDING, CONDITIONS, PAYMENT SCHEDULE

- 3.1 Budget: The current estimated construction cost is shown in Exhibit C. Any increase to the estimated cost shall not increase the City's funding obligation under this Agreement.

- 3.2 City Funding: The City shall contribute a maximum of Fifteen-Million Dollars (\$15,000,000) in total for the South Park Bridge Replacement Project. The County shall be responsible for obtaining all other funding for the Project, and shall remain solely responsible for all cost overruns and for the cost of any required financing.

- 3.3 Conditions: The City's obligation to provide funding is strictly conditioned upon the following: (a) The Project must be awarded in compliance with the terms and conditions of Section 2.3, (b) must be constructed in compliance with the plans and specifications described in Section 1.2 and approved by the City, and (c) the City's funding obligation under this Agreement is conditioned upon a valid and sufficient budget appropriation by the Seattle City Council.

3.4 Payment Schedule:

- (a) Initial Payment. Subject to the conditions in Section 3.3, the City will make a payment of Ten Million Dollars (\$10,000,000) to the County when the City receives documentation that the Project has reached the Beneficial Use Completion Date as described in Exhibit B, but no earlier than May 1, 2013.
- (b) Final Acceptance and Payment. The City shall make the adjusted final payment to the County when the City receives documentation that the Project has reached Final Acceptance as defined in Exhibit B. The adjusted final payment shall be \$5,000,000 less any cost savings allocated to the City under Section 3.4 (c).
- (c) Adjustments for Cost Savings. The final payment will be based on the total project construction phase costs estimated at the time of Final Acceptance. Any cost savings difference between the current estimated cost in Section 3.1 and the final costs will be distributed as follows: the County will first refund any savings to the Freight Mobility Strategic Investment Board (FMSIB) up to its total contribution of \$5,000,000. If there are cost savings in excess of \$5,000,000, the County will apportion the total savings amount between the Port of Seattle and the City of Seattle to reflect their respective proportional investments up to the full amount of their respective cash contributions.
- (d) Timing of City Payment. The City will make payment of each installment within forty-five (45) calendar days from receipt of documentation that milestone has been achieved, except as noted above.
- (e) Reimbursement for City Services. The City will invoice the County monthly for reimbursement of services described under sections 2.1 (City Permits), 2.6 (not to exceed \$125,000 without further

THIS VERSION IS NOT ADOPTED



agreement) and 2.7 (as established for the Work Plan) above and provide documentation to support the invoice.

- (f) Timing of County Payment. The County will make payment to the City within forty-five (45) calendar days from receipt of the invoice from the City.

4. OWNERSHIP

Upon completion, the South Park Bridge shall be the property of the County, and the City will acquire no ownership rights or obligations with respect to the Project through this Agreement; however, the City may acquire the bridge in the future through annexation or any other lawful means.

5. COMPLETE AGREEMENT; AMENDMENT

This Agreement, including exhibits, represents the full and final agreement of both the City and the County with respect to the Project and there are no other agreements, whether oral or written, between the Parties. Either Party may request changes to the provisions contained in this Agreement. Any subsequent modification or amendment shall only be binding if reduced to writing and signed by an authorized representative of the County and the City.

6. NOTIFICATION

Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the following addresses unless otherwise indicated by the Parties to this Agreement:

To the County: King County, DOT, Road Services
201 S Jackson Street, KSC TR 0317
Seattle, WA 98104

To the City: City of Seattle Department of Transportation
South Park Bridge Project Manager
700 Fifth Ave, Suite 3900
PO Box 4996
Seattle, WA 98124-4996

7. RECORDS RETENTION AND AUDIT

During the progress of the work on the Project and for a period not less than six (6) years from the date of final payment by the City to the County, the records and accounts pertaining to the Project and accounting thereof are to be kept available for inspection and audit by the City, and the County shall provide the City with copies of all records, accounts, documents, or other data pertaining to the Project upon the City's request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit findings have been resolved, even though such litigation, claim, or audit continues past the typical six year retention period. This provision is not intended to alter or amend records retention requirements established by applicable state and federal laws.

8. DISPUTES

The designated representatives under Section 2.5 CONTACT PERSONS shall use their best efforts to resolve disputes between the Parties. If the designated representatives are unable to resolve a dispute, then the County Engineering Services Section Manager and the City's Alaskan Way Viaduct and Seawall Replacement Program Manager shall review the matter and attempt to resolve it. If they are unable to

THIS VERSION IS NOT ADOPTED



resolve the dispute, the matter shall be reviewed by the applicable department directors of each Party or his or her designee. The Parties agree to exhaust each of these procedural steps when seeking to resolve disputes.

9. EFFECTIVENESS AND DURATION

This Agreement is effective upon the date of execution by both Parties following a validly enacted ordinance of the City of Seattle and will remain in effect until Final Acceptance of the Project and completion of any final payment obligations between the Parties, unless otherwise stated herein or unless amended or terminated.

THIS VERSION IS NOT ADOPTED



10. INDEMNIFICATION; WAIVER; LIMITATION OF LIABILITY; INSURANCE

- 10.1 County Indemnification: The County shall defend, indemnify and hold harmless the City and its officers, agents and employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any act or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.
- 10.2 City Indemnification: The City shall defend, indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any act or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.
- 10.3 Concurrent Negligence: The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.
- 10.4 Waiver: The City and the County agree that their obligations under this section extend to any claim, any demand and any cause of action brought by, or on behalf of, any of their employees or agents. For this purpose, the Parties hereby waive, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provision of Title 51 RCW to the extent necessary to provide indemnification as required under this Agreement.
- 10.5 Limitation of City's Liability: Except as arising out of the City's role in acts as a governmental regulating and permitting authority, the City's review or approval of the County's plans or specifications, the City's inspection of work, and the City's coordination with the County relating to the Project are for the City's sole benefit and shall not be construed as an opinion or representation by the City to the County regarding the Project's compliance with any law, ordinance, rule, or regulation, nor shall it be an opinion or representation regarding the adequacy of the design or construction of the Project other than for the City's own purposes. The City's review, approval, inspection and coordination with the County shall not create or form the basis of any liability on the part of the City or any of its officials, officers, employees, or agents.
- 10.6 The obligations described in Sections 10.1 through 10.5 shall survive the termination or expiration of this Agreement.

THIS VERSION IS NOT ADOPTED



10.7 Insurance: The County shall require in writing that the County's contractors on the Project include the City of Seattle as an additional insured for primary and non-contributory limits of liability for Commercial General Liability, Commercial Automobile Liability, and Completed Operations coverage following the completion of the Project. Prior to commencing construction, the County shall provide the City with an Acord certificate or other reasonably acceptable evidence demonstrating the City's additional insured status under the contractor's insurance policies as required by this Section 10.7.

11. VENUE

This Agreement shall be deemed to be made in the County of King, State of Washington, and the legal rights and obligations of the County and City shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the County of King, State of Washington.

12. OTHER PROVISIONS

- 12.1 Severability: A determination by a court of competent jurisdiction that any provision of this Agreement or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision of this Agreement, which shall remain in full force and effect.
- 12.2 Interpretation: The captions of the Sections or Paragraphs of this Agreement are not a part of the terms or provisions of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other.
- 12.3 Waivers: All waivers shall be in writing and signed by the waiving Party. Either Party's failure to enforce any provision of this Agreement shall not be construed as a waiver and shall not prevent either Party from enforcing that provision or any other provision of this Agreement in the future.
- 12.4 Force Majeure: If either Party cannot perform any of its obligations due to events beyond its reasonable control (other than the payment of money), the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond a Party's reasonable control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or materials, government regulations or restrictions and weather conditions.
- 12.5 Joint Drafting Effort: This Contract shall be considered for all purposes as prepared by the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.
- 12.6 Third Party Beneficiaries: Nothing in this Agreement is intended to, nor shall be construed to give any rights or benefits in the Agreement to anyone other than the City and the County, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the City and the County and not for the benefit of any other Party.

THIS VERSION IS NOT ADOPTED



Joyce C. Kling
SDOT South Park Bridge Interlocal Agreement ATT 1
February 10, 2011
Version #2

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement which shall be effective upon the date of recording.

CITY OF SEATTLE

King County

Peter Hahn, Director
Seattle Department of Transportation

Harold S. Taniguchi, Director
King County Department of Transportation

Date: _____

Date: _____

APPROVED AS TO FORM:

County Attorney

Date: _____

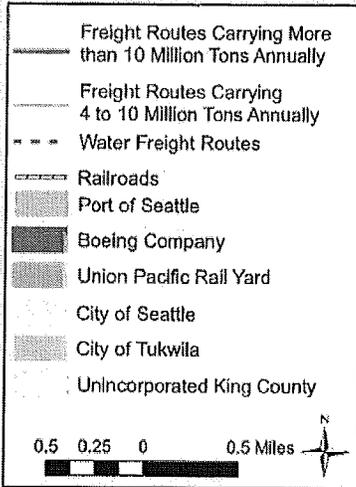
ATTEST:

THIS VERSION IS NOT ADOPTED

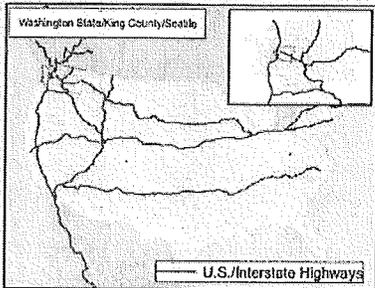


Exhibit A - Vicinity Map

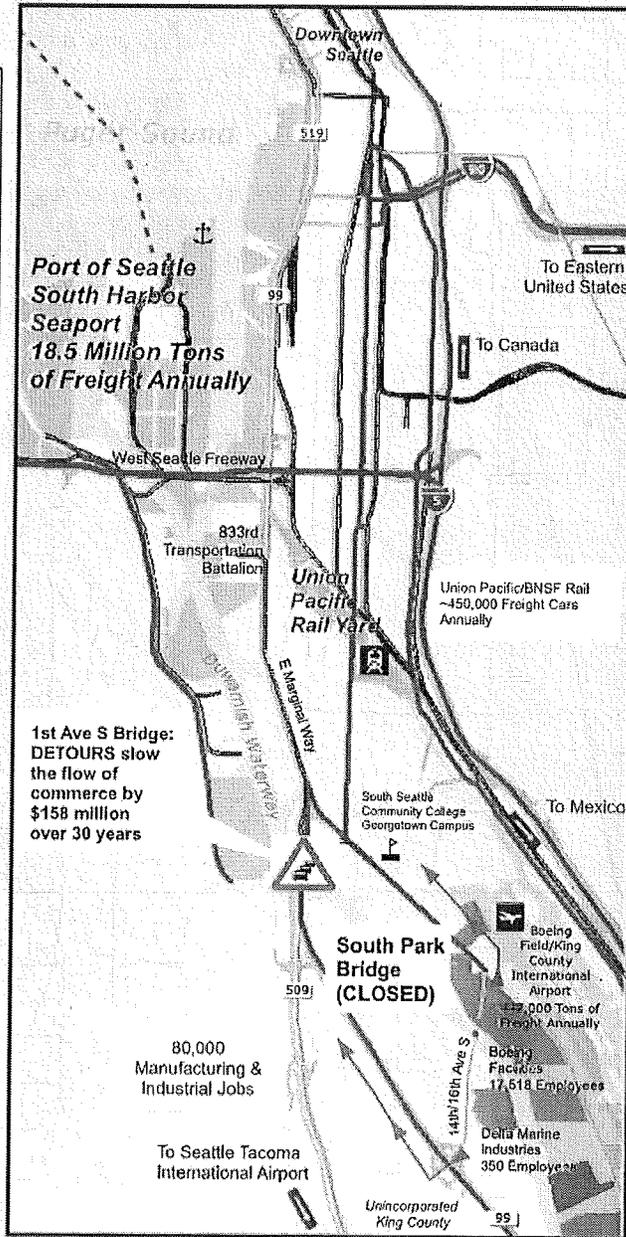
Freight Delays Hurt the U.S. Economy



- Trucks crossing the South Park Bridge carried up to 10 million tons of cargo each year.
- Traffic now diverts to surrounding routes already carrying over 10 million tons of cargo each year.
- Up to 20,000 more cars and trucks must use the 1st Avenue South Bridge waterway crossing every day.
- Freight delays on the 1st Avenue South Bridge will surpass \$4 million in 2011 and grow to almost \$50 million by 2040.



Washington is the most trade-dependent state in the U.S. More congestion in the Seattle manufacturing area will slow freight delivery nationwide.



THIS VERSION IS NOT ADOPTED

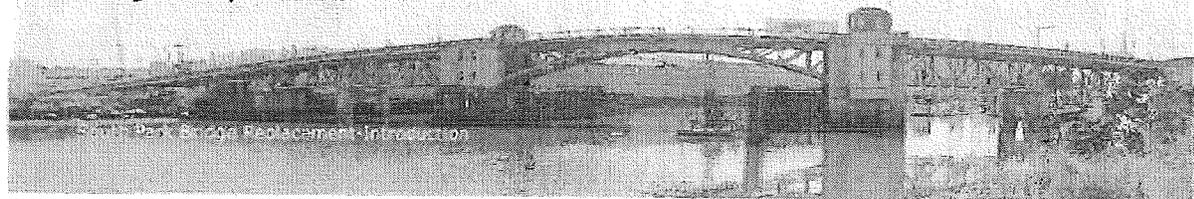


Exhibit B – Definition of Substantial Completion and Final Acceptance

Definition of “Substantial Completion” per the Project Specifications:

Beneficial Use Completion Date is the day the Engineer determines that: (1) two-way vehicular traffic (minimum one unobstructed lane in each direction), pedestrian and bicycle traffic can be routed onto the bridge and approaches; (2) the bridge is fully operational and open to marine traffic utilizing the new and permanent mechanical and electrical systems; and (3) the Contractor has provided the County a certificate of final electrical inspection and acceptance.

Definition of “Final Acceptance” per the Project Specifications:

The Contractor must perform all the obligations under the contract before a completion date and final acceptance can occur. Failure of the Contractor to perform all the obligations under the contract shall not bar King County from unilaterally accepting the contract as provided in Section 1-09.9.

The Director of Transportation, or a duly authorized assistant, accepts the completed contract and the items of work shown in the Comparison of Quantities by signature of the Notice of Completion and Acceptance. The date of that signature constitutes the acceptance date. Progress estimates or payments shall not be construed as acceptance of any work under the contract.

The Contractor agrees that Final Acceptance shall not relieve the Contractor of the responsibility to indemnify, defend and protect King County against any claim or loss resulting from the failure of the Contractor (or the subcontractors or lower-tier subcontractors) to pay all laborers, mechanics, subcontractors, material persons or any other person who provides labor, supplies or provisions for carrying out the work. Final Acceptance shall not constitute acceptance of any unauthorized or defective work or material. King County shall not be barred from requiring the Contractor to remove, replace, repair or dispose of any unauthorized or defective work or material or from recovering damages for any such work or material.

THIS VERSION IS NOT ADOPTED



EXHIBIT C - Opinion of Probable Bid Price

Project: South Park Bridge Replacement #3179 - Final Design - Revision 3
 For: King County
 Design Stage: Final
 Deliverable: Opinion of Probable Bid Price
 Cost Index Date: Nov. 2010: - Escalated to Mid-point of Construction (April 2012) @3.5%

CATEGORY	DETAILS	EST. COST	% Total \$
PREPARATION		\$ 25,112,356	23.3%
MOBILIZATION	\$ 6,327,600		
WORK ACCESS - TEMPORARY TRESTLE	\$ 6,190,870		
REMOVING EXISTING BRIDGE	\$ 2,213,530		
HAZARDOUS MATERIAL HANDLING AND DISPOSAL	\$ 1,088,292		
CONTAMINATED MATERIAL HANDLING AND DISPOSAL	\$ 2,598,198		
ADDITIONAL HAZARDOUS AND CONTAMINATED HANDLING	\$ 100,000		
TIME RELATED OVERHEAD	\$ 5,878,787		
OTHER	\$ 715,081		
GRADING		\$ 919,230	0.9%
SELECT BORROW INCL. HAUL	\$ 415,984		
OTHER	\$ 503,245		
DRAINAGE		\$ 868,990	0.8%
STORM SEWER		\$ 497,330	0.5%
SANTIARY SEWER		\$ 132,416	0.1%
STRUCTURE		\$ 74,417,843	69.0%
EARTHQUAKE DRAINS SYSTEM	\$ 1,259,160		
STRUCTURAL EARTH WALL	\$ 738,447		
SUPERSTRUCTURE - SOUTH APPROACH SPAN	\$ 2,385,583		
SUPERSTRUCTURE - NORTH APPROACH SPAN	\$ 2,385,583		
FURNISHING ST. PILING	\$ 1,856,442		
SPECIAL EXCAVATION	\$ 796,102		
EXCAVATION FOR CAISSON	\$ 9,283,234		
STR. CARBON ST. - CAISSON CUTTING EDGE	\$ 1,433,784		
EPOXY-COATED ST. REINF. BAR FOR CAISSON	\$ 2,263,458		
ST. REINF. BAR FOR CAISSON	\$ 1,796,024		
CONC. CLASS 4000W	\$ 1,367,762		
CONC. CLASS 4000WT	\$ 1,490,284		
CONC. CLASS 4000MP	\$ 5,196,133		
SUBMARINE CONDUIT SYSTEM	\$ 1,364,090		
SUPERSTRUCTURE - BASCULE PIER	\$ 3,147,900		
SUPERSTRUCTURE - BASCULE SPAN	\$ 16,788,799		
DRIVE MACHINERY	\$ 7,450,029		
BRIDGE ELECTRICAL SYSTEM	\$ 4,197,200		
OTHER	\$ 9,217,828		
SURFACING		\$ 165,602	0.2%
CEMENT CONCRETE PAVEMENT		\$ 964,438	0.9%
HOT MIX ASPHALT		\$ 102,944	0.1%
EROSION CONTROL AND PLANTING		\$ 1,845,446	1.7%
TRAFFIC		\$ 875,721	0.8%
OTHER		\$ 1,932,552	1.8%
	HNTB's Opinion of Probable Bid Price:	\$ 107,834,867	
Reported Final Design Probable Construction Cost:		\$ 107,835,000	
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Others (Utility Relocation and Art Elements):		\$ 1,164,142	
Contingency @ 10%:		\$ 10,783,500	
TOTAL CONSTRUCTION COST:		\$ 137,894,642	

THIS VERSION IS NOT ADOPTED

Note: Excludes cost of pedestrian railing fabrication.





MEMORANDUM

Date: March 29, 2011
To: City Clerk
From: Brandon Bolinger, SDOT Director's Office
Subject: Interlocal Agreements with King County

FILED
CITY OF SEATTLE
2011 MAR 29 PM 4:28
CITY CLERK

Attached are original copies of two interlocal agreements to be filed:

- 1) Interlocal Agreement between King County and the City of Seattle, effective June 17, 2010, for the purpose of acquiring property and easements in support of the design and construction of a new South Park Bridge, as authorized by Ordinance 123101.
- 2) Interlocal Agreement between King County and the City of Seattle, effective February 28, 2011, regarding mutual roles and responsibilities regarding the funding and construction of a new South Park Bridge, as authorized by Ordinance 123549.



**INTERLOCAL AGREEMENT BETWEEN
KING COUNTY and THE CITY OF SEATTLE**

ORIGINAL

This Interlocal Agreement (the "Agreement") is made and entered into by the City of Seattle, a municipal corporation of the State of Washington, hereinafter called the "City," and King County, a political subdivision of the State of Washington, hereinafter called the "County." As used in this Agreement, "Project" means the replacement of the now closed 81-year old South Park Bridge #3179 with a new double-leaf bascule bridge spanning the Duwamish River to the west of the existing bridge. The City and the County are also referred to in this Agreement collectively as "the Parties," and individually as a "Party."

RECITALS

WHEREAS, the South Park Bridge has provided access for residents of the South Park neighborhood and for commercial and industrial freight traffic within the Duwamish Manufacturing and Industrial area for the past 81 years; and

WHEREAS, the South Park Bridge came to the end of its useful life and was closed to the public on June 30, 2010; and

WHEREAS, the South Park Bridge is located on 14th/16th Avenue South across the Duwamish River (See Exhibit A – Vicinity Map, attached.) The south half of the Bridge is located in the County and the north half of the Bridge is located in the City of Tukwila. The northern and southern surface roadway approaches to the bridge and the South Park neighborhood immediately adjacent to the Bridge are located within the City of Seattle; and

WHEREAS, the County is responsible for the operation and maintenance of all County roads, bridges and rights-of-way located within the County until and unless they are annexed by other jurisdictions; and

WHEREAS, the County has an agreement with the City of Tukwila granting the County authority and responsibility for the operations, maintenance, repair and replacement of the South Park Bridge; and

WHEREAS, the South Park Bridge is partially located adjacent to the City of Seattle's South Park neighborhood in an unincorporated area of King County that may be considered for annexation by the City of Seattle; and

WHEREAS, the County has secured funding for a replacement bridge, including grant funds and funds from a broad group of partners; and

WHEREAS, prior to closure, the South Park Bridge served a neighborhood with a high percentage of low-income residents and businesses that relied on the access provided by the bridge, including residents and businesses located within the City of Seattle; and

WHEREAS, the County and City seek opportunities to support the residents and businesses in the South Park neighborhood; and

WHEREAS, the bridge replacement provides a clear benefit to the County and City and the industrial areas of the Duwamish Manufacturing and Industrial Center (as designated by the Puget Sound Regional Council), by reducing traffic congestion in and around other County and City roadways; and

WHEREAS, the City supported the County's efforts to replace the bridge, including the successful application for a \$34,000,000 Transportation Investment Generating Economic Recovery (TIGER II) grant; and

WHEREAS, the County has evaluated the economic impacts of the bridge closure and determined that the Project will reduce overall traffic congestion, especially for adjacent Duwamish River bridges, including the First Avenue South Bridge, resulting in \$158 million in savings to freight haulers who will not suffer from more congestion on the First Avenue South Bridge and \$157 million in travel time savings for users of the new South Park Bridge, over 30 years; and

WHEREAS, the County has evaluated the economic impacts of the bridge construction and determined that the Project will support both existing and new jobs in the Duwamish Manufacturing and Industrial Center and will create \$80 million in short-term construction jobs; and

WHEREAS, the Project will improve safety for drivers, bicyclists and pedestrians, while providing benefits to air quality and waterway restoration; and

WHEREAS, the 2011 City of Seattle's Capital Budget approved on November 22, 2010, acknowledges the general intent to commit \$15,000,000 to the Project; and

WHEREAS, the Parties are authorized by the Revised Code of Washington (RCW) Chapter 39.34 to enter into an interlocal cooperation agreement of this nature;

NOW, THEREFORE, the Parties agree as follows:

1. PURPOSE

- 1.1. Purpose of Interlocal Agreement: The purpose of this Agreement is to establish the mutual roles and responsibilities regarding the funding, design, and construction of a new South Park Bridge (the "Project").
- 1.2. Description of Project: The Project involves the replacement of the 81-year old South Park Bridge with a new double-leaf bascule bridge spanning the Duwamish River, including separated sidewalks and dedicated bicycle lanes in both directions, as well as travel lanes providing the same capacity for automobile and truck traffic as the old bridge provided prior to closure. The Project will meet guidelines as detailed in plans #316-63 and specifications being prepared by the County for construction as contract C00606C11. The project includes incorporation of historic and art elements, utility construction, riverbank mitigation, and other features required for the Project. The construction cost of the Project is currently estimated by the County to be \$137,894,642.
- 1.3. Schedule: Portions of the existing bridge were removed in late 2010. The Project was advertised for construction bids on January 11, 2011 with construction expected to begin by May 2011 with Beneficial Use expected mid-2013 and Substantial Completion expected at the end of 2013.

2. TERMS AND CONDITIONS

- 2.1. Administering Agency: The County shall be responsible for all Project administration. As the implementing agency, the County shall ensure Project compliance with the State Environmental Policy Act (SEPA) and National Environmental Policy Act (NEPA), and shall be responsible for obtaining all necessary federal, state and local permits, including but not limited to a City of Seattle Street Improvement Permit for work within the Seattle City right-of-way and any other required City of Seattle permits. Additionally, the County shall obtain all temporary agreements and permanent property rights required for the Project. The County shall be responsible for accomplishing all aspects of the Project scope and for all Project costs, including costs associated with the City of Seattle Street Improvement Permit.

- 2.2. Compliance with Law: The County shall comply with all applicable federal, state, and local laws, statutes, rules, regulations and ordinances, including but not limited to RCW 39.12 and applicable public works requirements.
- 2.3. Contracts: The County shall be solely responsible for entering into and administering all contracts necessary to complete the Project. Notwithstanding the foregoing, the City shall have the following rights: (1) to consult with and make inquiries of the County Project Engineer or designee, (2) to attend meetings as approved by the County Project Engineer or designee, and (3) to have access to all documentation concerning the Project. The City shall not provide direction, directly or indirectly, to the County's consultant(s) or contractors. Except in the instances listed below in section 2.4, the City shall direct all communications to the County's Project Engineer or designee, including communications regarding compliance with City of Seattle's Street Improvement Permits for the quality of construction, and contractor performance.
- 2.4. Coordination: The County will manage any requests from the City that have contractual or scope-of-work impacts and will coordinate responses to the City. The County's consultants or contractors may work with the City to arrange for regulatory permitting and inspections made pursuant to permits issued by the City other than Street Improvement Permits, e.g. electrical permits or other permits obtained from the City by the consultant or contractor. The City may communicate directly with the contractor or consultants if necessary because of a threat to health or safety.
- 2.5. Contact Persons: The Parties to this Agreement shall each designate a person to act as liaison for the Project. The contact persons shall meet on a mutually-agreed-upon and regularly scheduled basis at a frequency appropriate to the phase and status of the Project.
- 2.6. Schedule/Scope: The scope and schedule for the Project has been mutually agreed upon by the Federal Highway Administration, the Washington State Department of Transportation and other funding partners. Any changes to the Project, as described in Section 1.2, that impact the operation, function or maintenance of the Project shall require coordination with the City. The County shall first obtain the review and concurrence of the City prior to making or implementing any such design revisions or deviations from the plans and specifications pertaining to elements of work. The City will accomplish these reviews in a timely manner in order to meet the schedule requirements of the Project. If concurrence is not reached, both Parties agree to use the dispute process included in Section 8.
- 2.7. Bridge Commissioning: The County and City shall establish a mutually agreed work plan that will detail the schedule, staffing and level of effort needed to ensure that the City is fully involved in the commissioning of the Project electrical, mechanical and movable bridge elements during the construction, including City review of submittals for all materials, installation phasing and procedures, testing and all elements of the commissioning process. At a minimum, commissioning includes all work described in Division 8-19 Bridge Electrical System and Division 10 Operating Machinery of the Project special provisions and the associated plans. The County shall reimburse the City for its costs associated with the commissioning effort.
- 2.8. Bridge Operations and Maintenance: The Parties shall negotiate in good faith with the goal of entering into an agreement prior to Beneficial Use Completion, defined in Exhibit B, regarding future operations and maintenance for the bridge. The agreement should ensure the City is reimbursed for all costs associated with any role the City has in the operations and maintenance of the bridge until annexation of any or all of the bridge if such annexation occurs. If the annexation process occurs, it should include a separate agreement to address operation and maintenance of the bridge, including increased maintenance costs for any and all bridge elements that the County chooses to construct or place in service that do not adhere to the approved plans and specifications as defined in Section 1.2.

- 2.9. Public Involvement: The County shall be responsible for the public involvement and community outreach process for the Project.

3. BUDGET, FUNDING, CONDITIONS, PAYMENT SCHEDULE

- 3.1 Budget: The current estimated construction cost is shown in Exhibit C. Any increase to the estimated cost shall not increase the City's funding obligation under this Agreement.
- 3.2 City Funding: The City shall contribute a maximum of Fifteen-Million Dollars (\$15,000,000) in total for the South Park Bridge Replacement Project. The County shall be responsible for obtaining all other funding for the Project, and shall remain solely responsible for all cost overruns and for the cost of any required financing.
- 3.3 Conditions: The City's obligation to provide funding is strictly conditioned upon the following: (a) The Project must be awarded and completed in compliance with the terms and conditions of Section 2, and (b) the Project must be constructed in compliance with the plans and specifications described in Section 1.2 and approved by the City. The City has included the Project in the City's 2011-2016 Capital Improvement Program and intends to appropriate the funds for the Project in the City's 2013 and 2014 annual budgets.
- 3.4 Payment Schedule:
- (a) Initial Payment. Subject to the conditions in Section 3.3, the City will make a payment of Ten Million Dollars (\$10,000,000) to the County when the City receives documentation that the Project has reached the Beneficial Use Completion Date as described in Exhibit B, but no earlier than May 1, 2013.
- (b) Final Acceptance and Payment. The City shall make the adjusted final payment to the County when the City receives documentation that the Project has reached Final Acceptance as defined in Exhibit B. The adjusted final payment shall be \$5,000,000 less any cost savings allocated to the City under Section 3.4 (c).
- (c) Adjustments for Cost Savings. The final payment will be based on the total project construction phase costs estimated at the time of Final Acceptance. Any cost savings difference between the current estimated cost in Section 3.1 and the final costs will be distributed as follows: the County will first refund any savings to the Freight Mobility Strategic Investment Board (FMSIB) up to its total contribution of \$5,000,000. If there are cost savings in excess of \$5,000,000, the County will apportion the total savings amount between the Port of Seattle and the City of Seattle to reflect their respective proportional investments up to the full amount of their respective contributions of up to Five Million Dollars (\$5,000,000) to the Port of Seattle and up to Fifteen Million Dollars (\$15,000,000) to the City of Seattle.
- (d) Timing of City Payment. The City will make payment of each installment within forty-five (45) calendar days from receipt of documentation that milestone has been achieved, except as noted above.
- (e) Reimbursement for City Services. The City will invoice the County monthly for reimbursement of services described under sections 2.1 (City Permits), 2.6 (not to exceed \$125,000 without further agreement) and 2.7 (as established for the Work Plan) above and provide documentation to support the invoice.
- (f) Timing of County Payment. The County will make payment to the City within forty-five (45) calendar days from receipt of the invoice from the City.

4. OWNERSHIP

Upon completion, the South Park Bridge shall be the property of the County, and the City will acquire no ownership rights or obligations with respect to the Project through this Agreement; however, the City may acquire the bridge in the future through annexation or any other lawful means.

5. COMPLETE AGREEMENT; AMENDMENT

This Agreement, including exhibits, represents the full and final agreement of both the City and the County with respect to the Project and there are no other agreements, whether oral or written, between the Parties. Either Party may request changes to the provisions contained in this Agreement. Any subsequent modification or amendment shall only be binding if reduced to writing and signed by an authorized representative of the County and the City.

6. NOTIFICATION

Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the following addresses unless otherwise indicated by the Parties to this Agreement:

To the County: King County, DOT, Road Services
 201 S Jackson Street, KSC TR 0317
 Seattle, WA 98104

To the City: City of Seattle Department of Transportation
 South Park Bridge Project Manager
 700 Fifth Ave, Suite 3900
 PO Box 4996
 Seattle, WA 98124-4996

7. RECORDS RETENTION AND AUDIT

During the progress of the work on the Project and for a period not less than six (6) years from the date of final payment by the City to the County, the records and accounts pertaining to the Project and accounting thereof are to be kept available for inspection and audit by the City, and the County shall provide the City with copies of all records, accounts, documents, or other data pertaining to the Project upon the City's request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit findings have been resolved, even though such litigation, claim, or audit continues past the typical six year retention period. This provision is not intended to alter or amend records retention requirements established by applicable state and federal laws.

8. DISPUTES

The designated representatives under Section 2.5 CONTACT PERSONS shall use their best efforts to resolve disputes between the Parties. If the designated representatives are unable to resolve a dispute, then the County Engineering Services Section Manager and the City's Alaskan Way Viaduct and Seawall Replacement Program Manager shall review the matter and attempt to resolve it. If they are unable to resolve the dispute, the matter shall be reviewed by the applicable department directors of each Party or his or her designee. The Parties agree to exhaust each of these procedural steps when seeking to resolve disputes.

9. EFFECTIVENESS AND DURATION

This Agreement is effective upon the date of execution by both Parties following a validly enacted ordinance of the City of Seattle and will remain in effect until Final Acceptance of the Project and completion of any final payment obligations between the Parties, unless otherwise stated herein or unless amended.

10. INDEMNIFICATION; WAIVER; LIMITATION OF LIABILITY; INSURANCE

- 10.1 County Indemnification: The County shall defend, indemnify and hold harmless the City and its officers, agents and employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any act or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.
- 10.2 City Indemnification: The City shall defend, indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any act or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.
- 10.3 Concurrent Negligence: The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.
- 10.4 Waiver: The City and the County agree that their obligations under this section extend to any claim, any demand and any cause of action brought by, or on behalf of, any of their employees or agents. For this purpose, the Parties hereby waive, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provision of Title 51 RCW to the extent necessary to provide indemnification as required under this Agreement.
- 10.5 Limitation of City's Liability: Except as arising out of the City's role in acts as a governmental regulating and permitting authority, the City's review or approval of the County's plans or specifications, the City's inspection of work, and the City's coordination with the County relating to the Project are for the City's sole benefit and shall not be construed as an opinion or representation by the City to the County regarding the Project's compliance with any law, ordinance, rule, or regulation, nor shall it be an opinion or representation regarding the adequacy of the design or construction of the Project other than for the City's own purposes. The City's

review, approval, inspection and coordination with the County shall not create or form the basis of any liability on the part of the City or any of its officials, officers, employees, or agents.

10.6 The obligations described in Sections 10.1 through 10.5 shall survive the expiration of this Agreement.

10.7 Insurance: The County shall require in writing that the County's contractors on the Project include the City of Seattle as an additional insured for primary and non-contributory limits of liability for Commercial General Liability, Commercial Automobile Liability, and Completed Operations coverage following the completion of the Project. Prior to commencing construction, the County shall provide the City with an Acord certificate or other reasonably acceptable evidence demonstrating the City's additional insured status under the contractor's insurance policies as required by this Section 10.7.

11. VENUE

This Agreement shall be deemed to be made in the County of King, State of Washington, and the legal rights and obligations of the County and City shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the County of King, State of Washington.

12. OTHER PROVISIONS

12.1 Severability: A determination by a court of competent jurisdiction that any provision of this Agreement or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision of this Agreement, which shall remain in full force and effect.

12.2 Interpretation: The captions of the Sections or Paragraphs of this Agreement are not a part of the terms or provisions of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other.

12.3 Waivers: All waivers shall be in writing and signed by the waiving Party. Either Party's failure to enforce any provision of this Agreement shall not be construed as a waiver and shall not prevent either Party from enforcing that provision or any other provision of this Agreement in the future.

12.4 Force Majeure: If either Party cannot perform any of its obligations due to events beyond its reasonable control (other than the payment of money), the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond a Party's reasonable control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or materials, government regulations or restrictions and weather conditions.

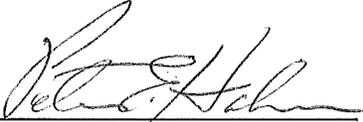
12.5 Joint Drafting Effort: This Contract shall be considered for all purposes as prepared by the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

12.6 Third Party Beneficiaries: Nothing in this Agreement is intended to, nor shall be construed to give any rights or benefits in the Agreement to anyone other than the City and the County, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the City and the County and not for the benefit of any other Party.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement which shall be effective upon the date of recording.

CITY OF SEATTLE

King County

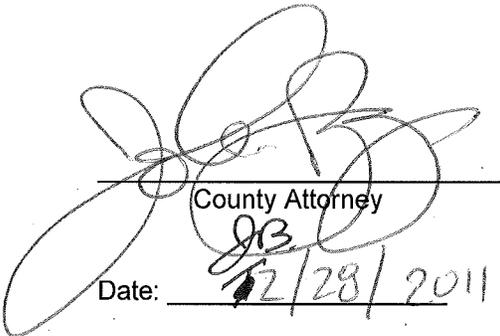

Peter Hahn, Director
Seattle Department of Transportation


Harold S. Taniguchi, Director
King County Department of Transportation

Date: 2-28-11

Date: 2/28/2011

APPROVED AS TO FORM:


County Attorney
JB
Date: 2/28/2011

ATTEST:

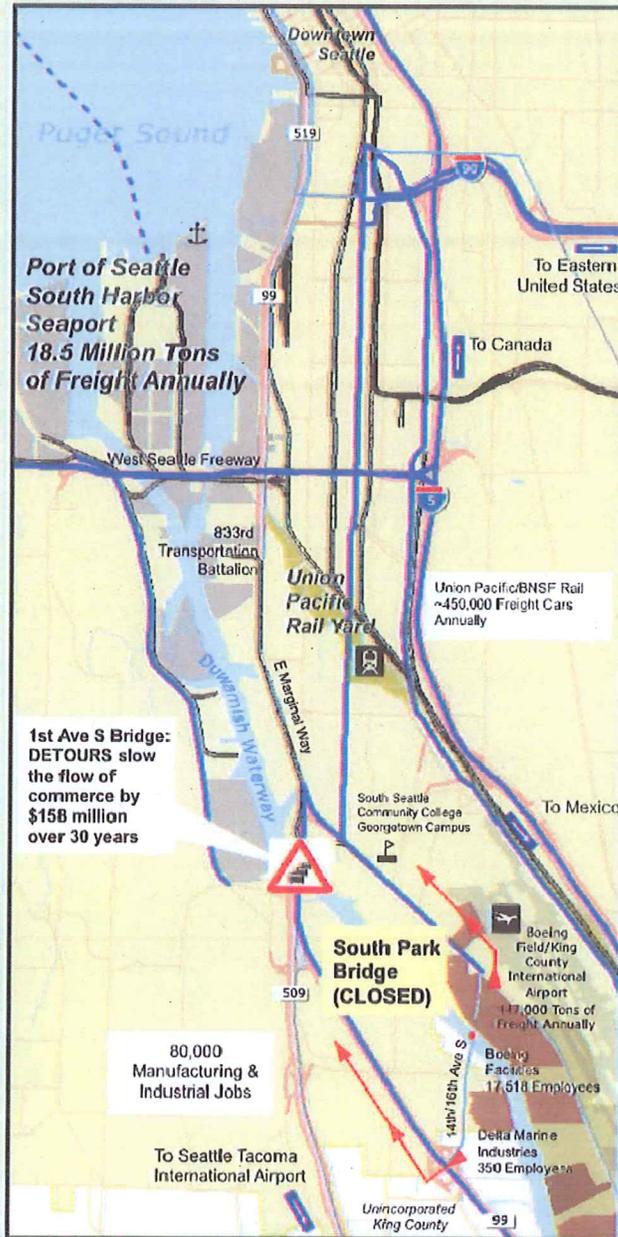
Freight Delays Hurt the U.S. Economy



- Trucks crossing the South Park Bridge carried up to 10 million tons of cargo each year.
- Traffic now diverts to surrounding routes already carrying over 10 million tons of cargo each year.
- Up to 20,000 more cars and trucks must use the 1st Avenue South Bridge waterway crossing every day.
- Freight delays on the 1st Avenue South Bridge will surpass \$4 million in 2011 and grow to almost \$50 million by 2040.



Washington is the most trade-dependent state in the U.S. More congestion in the Seattle manufacturing area will slow freight delivery nationwide.



South Park Bridge Replacement-Introduction

Exhibit B – Definition of Beneficial Use and Final Acceptance

Definition of “Beneficial Use Completion” per the Project Specifications:

Beneficial Use Completion Date is the day the Engineer determines that: (1) two-way vehicular traffic (minimum one unobstructed lane in each direction), pedestrian and bicycle traffic can be routed onto the bridge and approaches; (2) the bridge is fully operational and open to marine traffic utilizing the new and permanent mechanical and electrical systems; and (3) the Contractor has provided the County a certificate of final electrical inspection and acceptance.

Definition of “Final Acceptance” per the Project Specifications:

The Contractor must perform all the obligations under the contract before a completion date and final acceptance can occur. Failure of the Contractor to perform all the obligations under the contract shall not bar King County from unilaterally accepting the contract as provided in Section 1-09.9.

The Director of Transportation, or a duly authorized assistant, accepts the completed contract and the items of work shown in the Comparison of Quantities by signature of the Notice of Completion and Acceptance. The date of that signature constitutes the acceptance date. Progress estimates or payments shall not be construed as acceptance of any work under the contract.

The Contractor agrees that Final Acceptance shall not relieve the Contractor of the responsibility to indemnify, defend and protect King County against any claim or loss resulting from the failure of the Contractor (or the subcontractors or lower-tier subcontractors) to pay all laborers, mechanics, subcontractors, material persons or any other person who provides labor, supplies or provisions for carrying out the work. Final Acceptance shall not constitute acceptance of any unauthorized or defective work or material. King County shall not be barred from requiring the Contractor to remove, replace, repair or dispose of any unauthorized or defective work or material or from recovering damages for any such work or material.

EXHIBIT C - Opinion of Probable Bid Price

Project: South Park Bridge Replacement #3179 - Final Design - Revision 3
 For: King County
 Design Stage: Final
 Deliverable: Opinion of Probable Bid Price
 Cost Index Date: Nov. 2010: - Escalated to Mid-point of Construction (April 2012) @3.5%

CATEGORY	DETAILS	EST. COST	% Total \$
PREPARATION		\$ 25,112,356	23.3%
MOBILIZATION	\$ 6,327,600		
WORK ACCESS - TEMPORARY TRESTLE	\$ 6,190,870		
REMOVING EXISTING BRIDGE	\$ 2,213,530		
HAZARDOUS MATERIAL HANDLING AND DISPOSAL	\$ 1,088,292		
CONTAMINATED MATERIAL HANDLING AND DISPOSAL	\$ 2,598,198		
ADDITIONAL HAZARDOUS AND CONTAMINATED HANDLING	\$ 100,000		
TIME RELATED OVERHEAD	\$ 5,878,787		
OTHER	\$ 715,081		
GRADING		\$ 919,230	0.9%
SELECT BORROW INCL. HAUL	\$ 415,984		
OTHER	\$ 503,245		
DRAINAGE		\$ 868,990	0.8%
STORM SEWER		\$ 497,330	0.5%
SANTIARY SEWER		\$ 132,416	0.1%
STRUCTURE		\$ 74,417,843	69.0%
EARTHQUAKE DRAINS SYSTEM	\$ 1,259,160		
STRUCTURAL EARTH WALL	\$ 738,447		
SUPERSTRUCTURE - SOUTH APPROACH SPAN	\$ 2,385,583		
SUPERSTRUCTURE - NORTH APPROACH SPAN	\$ 2,385,583		
FURNISHING ST. PILING	\$ 1,856,442		
SPECIAL EXCAVATION	\$ 796,102		
EXCAVATION FOR CAISSON	\$ 9,283,234		
STR. CARBON ST. - CAISSON CUTTING EDGE	\$ 1,433,784		
EPOXY-COATED ST. REINF. BAR FOR CAISSON	\$ 2,263,458		
ST. REINF. BAR FOR CAISSON	\$ 1,796,024		
CONC. CLASS 4000W	\$ 1,367,762		
CONC. CLASS 4000WT	\$ 1,490,284		
CONC. CLASS 4000MP	\$ 5,196,133		
SUBMARINE CONDUIT SYSTEM	\$ 1,364,090		
SUPERSTRUCTURE - BASCULE PIER	\$ 3,147,900		
SUPERSTRUCTURE - BASCULE SPAN	\$ 16,788,799		
DRIVE MACHINERY	\$ 7,450,029		
BRIDGE ELECTRICAL SYSTEM	\$ 4,197,200		
OTHER	\$ 9,217,828		
SURFACING		\$ 165,602	0.2%
CEMENT CONCRETE PAVEMENT		\$ 964,438	0.9%
HOT MIX ASPHALT		\$ 102,944	0.1%
EROSION CONTROL AND PLANTING		\$ 1,845,446	1.7%
TRAFFIC		\$ 875,721	0.8%
OTHER		\$ 1,932,552	1.8%
	HNTB's Opinion of Probable Bid Price:	\$ 107,834,867	
Reported Final Design Probable Construction Cost:		\$ 107,835,000	
Construction Management and Administration:		\$ 18,112,000	
Others (Utility Relocation and Art Elements):		\$ 1,164,142	
Contingency @ 10%:		\$ 10,783,500	
TOTAL CONSTRUCTION COST:		\$ 137,894,642	

Note: Excludes cost of pedestrian railing fabrication.

STATE OF WASHINGTON – KING COUNTY

--SS.

268254
CITY OF SEATTLE, CLERKS OFFICE

No. 123546-552

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: TITLE ONLY ORDINANCE

was published on

03/11/11

The amount of the fee charged for the foregoing publication is the sum of \$ 109.20, which amount has been paid in full.



Affidavit of Publication

A handwritten signature in blue ink, appearing to be "Mel".

Subscribed and sworn to before me on

03/11/11

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on February 28, 2011, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 123546

AN ORDINANCE relating to habitable and vacant buildings; amending Sections 22.206.040, 22.206.090, 22.206.130, 22.206.160, 22.206.200, and 23.91.002 of the Seattle Municipal Code to update habitable and vacant building regulations and related enforcement provisions.

ORDINANCE NO. 123547

AN ORDINANCE related to land use and zoning, adopting new development standards for solid waste transfer stations and utility services uses, amending Seattle Municipal Code Sections 23.44.022, 23.45.504, 23.47A.016, 23.48.024, 23.49.029, 23.50.034, 23.50.036, and 23.50.038, and adopting new Sections 23.44.036 and 23.50.040.

ORDINANCE NO. 123548

AN ORDINANCE relating to grant funds from the US Department of Justice (DOJ), Bureau of Justice Assistance; authorizing the Mayor or his designee to execute related agreements; increasing an appropriation in the 2011 Adopted Budget for the Police Department; and ratifying and confirming certain prior acts; all by a three-fourths vote of the City Council.

ORDINANCE NO. 123549

AN ORDINANCE relating to replacing the South Park Bridge; authorizing execution of an Interlocal Agreement between King County and the City of Seattle regarding mutual roles and responsibilities regarding the funding and construction of a new South Park Bridge, and ratifying and confirming prior acts.

ORDINANCE NO. 123550

AN ORDINANCE relating to the Multifamily Housing Property Tax Exemption Program; amending Sections 5.73.040, 5.73.050, 5.73.060, 5.73.065, 5.73.080, 5.73.090, and 5.73.120 of the Seattle Municipal Code; amending Section 2 of Ordinance 121415; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123551

AN ORDINANCE relating to security from terrorism; authorizing the City to partner with the State of Washington and King County to receive financial assistance from the Department of Homeland Security (DHS), Office for State and Local Government Coordination and Preparedness under the Urban Areas Security Initiative Grant for Federal Fiscal Year (FFY) 2010 (UASI FFY '10), authorizing an application for allocation of funds under that agreement, increasing appropriations to the Police Department and Fire Department in the 2011 Budget, and ratifying and confirming prior acts; all by a three-fourths vote of the City Council.

ORDINANCE NO. 123552

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

Date of publication in the Seattle Daily Journal of Commerce, March 11, 2011.

3/11(268254)