

RENEWED AGREEMENT BETWEEN
THE DEPARTMENT OF ECOLOGY
AND
THE CITY OF MOUNTLAKE TERRACE
REGARDING THE REGULATION OF THE LEVEL OF LAKE BALLINGER

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WHEREAS, the Superior Court of the State of Washington for Snohomish County in, In The Matter of Fixing the Level of Lake McAleer, also known and being the same as Lake Ballinger, by Final Order entered in cause number 39542 on December 17, 1942, as amended by Order No. 81-02004228-5 of March 10, 1982, did adjudicate the level of Lake Ballinger, and

WHEREAS, such adjudication ordered the Department of Ecology to appoint a suitable person or agency to perform normal, continuing maintenance on the outlet stream channel from the lake for a distance of 1,700 feet downstream, and

WHEREAS, the City of Mountlake Terrace has the capability to operate the control apparatus by current city employees and has the capability to maintain the outlet channel by either the use of city forces or by contract.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

The Department of Ecology hereby appoints the City of Mountlake Terrace as an independent consultant, to operate the outlet structure and to perform normal, continuing maintenance on the outlet stream channel from the lake for a distance of 1,700 feet downstream, and the City of Mountlake Terrace hereby agrees to such appointment under the following terms and conditions:

1. The City of Mountlake Terrace agrees to exert reasonable effort to regulate the outlet structure of Lake Ballinger, within the constraints of the limited outflow allowable through the I-5 culvert, and the associated maintenance of the outlet stream to comply with the Order of the Superior Court of the State of Washington for Snohomish County.
2. Each party shall be responsible for the action and inactions of itself and its own officers, employees, and agents within the scope of their authority.
3. The City of Mountlake Terrace agrees to submit to the Department of Ecology an annual budget indicating expenses anticipated to be incurred by the City during the relevant fiscal year for operation of the Lake Ballinger control structure, or for maintenance necessary to regulate the water level of Lake Ballinger. The City agrees to submit the annual budget to the Department by October 31, of the year such that the budget can be timely certified by the Department to the Snohomish County Treasurer. The City further agrees to authorize a city employee to sign

payment requests to be submitted to the Snohomish County Treasurer and to provide necessary proof of said authorization to the Treasurer.


4. The Department of Ecology agrees to certify to the Treasurer of Snohomish County an annual budget received from the City of Mountlake Terrace covering payment of expenses required for operation of the Lake Ballinger control structure, or required for maintenance necessary to regulate the water level of Lake Ballinger.

The parties recognize that the responsibility for payment of said expenses is on the property owners identified in the petition filed with the court according to the 1942 order entered by the court. The parties further recognize that the property owners contribute to the "Lake McAleer Improvement Fund" (Lake McAleer also known and being the same as Lake Ballinger) for this purpose.


5. TERMINATION OF AGREEMENT:

Each Party acknowledges and stipulates that either Party may terminate this Agreement at any time with or without cause by providing 60 (sixty) calendar days written notice to the other Party prior to the effective termination date.

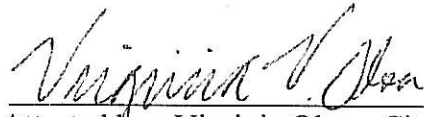
This Agreement shall remain in effect until January 1, 2020, unless sooner terminated as provided herein.



Jay Manning, Director
Washington State Department of Ecology



John J. Caulfield, City Manager
City of Mountlake Terrace



Attested by: Virginia Olsen, City Clerk

Dated: 11/28/06

Dated: 12/15/06