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PIERCE COUNTY, WASHINGTON

When Recorded, Return To:

City of Tacoma
City Clerk's Office
747 Market Street, Room 220
Tacoma WA 98402-3769

Confirmation
COPY

DOCUMENT TITLE

Interlocal Agreement

Grantor

City of Tacoma

Grantees

Pierce County

Description

Interlocal Cooperative Agreement with Pierce County for the U.S. Army Corps of Engineers' General Investigation Project for the Puyallup River Basin.

Reference Number

Assessor's Parcel Number

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**INTERLOCAL AGREEMENT BETWEEN
PIERCE COUNTY AND (CITY/TOWN)
REGARDING FUNDING THE LOCAL OBLIGATION FOR THE CORPS OF
ENGINEERS' GENERAL INVESTIGATION PROJECT**

THIS AGREEMENT is entered into this day by and between **PIERCE COUNTY**, a political subdivision of the State of Washington (herein referred to as "COUNTY") and the City of Tacoma, a municipal corporation of the State of Washington (herein referred to as "CITY/TOWN").

WHEREAS, the United States Congress authorized a Corps of Engineers General Investigation New Start (GI) for the Puyallup/White watershed area dated 21 June 2000; and

WHEREAS, Corps of Engineers (Corps) staff completed a Puyallup River 905(b) Reconnaissance Report, dated 18 March 2009, which found there is a federal interest in pursuing a feasibility phase study to plan for flood damage reduction and fish and wildlife habitat restoration of the Puyallup River Basin; and

WHEREAS, a Feasibility Report is the next step in the Corps GI process and it requires a 50/50 cost share between the federal agency and the local sponsors; and

WHEREAS, and the feasibility report will be a complete decision document in sufficient detail to form the basis for the Local sponsor, Corps of Engineers, and ultimately the U.S. Congress, to consider approving authorization and construction of the recommended plan; and

WHEREAS, the Corps would prefer to have one local agency act as the contact for all local participation and accounting; and

WHEREAS, Pierce County has agreed to perform the role of "Local Sponsor" with support from the other participating agencies which will provide review of GI materials and actively participate in the process through the Pierce County Rivers Executive Task Force, in addition to providing financial support; and

WHEREAS, the Corps has indicated the Feasibility study will take approximately six (6) years to complete and cost approximately \$6 million dollars of which the local sponsors are responsible for \$3 million dollars; and

WHEREAS, the participating agencies have agreed to adistribution of the required local share (Attachment A); and

WHEREAS, the parties are authorized to enter into such agreements by virtue of RCW Chapter 39.34;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, it is

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mutually agreed by and between the COUNTY and (CITY/TOWN) as follows:

SECTION 1. PURPOSE. Purpose of this agreement is to provide for the funding for the local match of the Corps of Engineers' General Investigation and to memorialize the agreement between the parties relating to this process.

SECTION 2. COUNTY OBLIGATIONS. The COUNTY shall be responsible for coordinating the local parties in the GI process and for transmitting the Local financial match to the Corps. The COUNTY shall also be responsible for invoicing the (CITY/TOWN). The COUNTY shall invoice the CITY annually on a schedule agreed to between the (CITY/TOWN) and the COUNTY, but no more frequently than twice a calendar year.

SECTION 3. (CITY/TOWN) OBLIGATIONS. The (CITY/TOWN) shall be responsible for actively participating in the GI process. The (CITY/TOWN) shall also be responsible to remit the agreed to payment (ATTACHMENT A) when invoiced to:

Pierce County Public Works and Utilities
Surface Water Management
2702 South 42nd, Suite 201
Tacoma, WA 98409-7322

SECTION 4. TERM OF THE AGREEMENT. This Agreement shall have a term commencing on the date of execution of this Agreement and terminating on December 31, 2015.

SECTION 5. INDEMNIFICATION AND DEFENSE. The COUNTY shall defend, indemnify, and save harmless the (CITY/TOWN), its officers, employees, and agents from any and all costs, claims, judgments, or awards of damages, resulting from the acts or omissions of the COUNTY, its officers, employees, or agents associated with this Agreement. In executing this Agreement, the COUNTY does not assume liability or responsibility for or in any way release the (CITY/TOWN) from any liability or responsibility which arises in whole or in part from the existence or effect of (CITY/TOWN) ordinances, rules, regulations, resolutions, customs, policies, or practices. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such (CITY/TOWN) ordinance, rule, regulation, resolution, custom, policy or practice is at issue, the (CITY/TOWN) shall defend the same at its sole expense, and if judgment is entered or damages are awarded against the (CITY/TOWN), the COUNTY, or both, the (CITY/TOWN) shall satisfy the same, including all chargeable costs and attorney's service charges.

The (CITY/TOWN) shall defend, indemnify and save harmless the COUNTY, its officers, employees and agents from any and all costs, claims, judgments, or awards of damages, resulting from the acts or omissions of the (CITY/TOWN), its officers, employees or agents associated with this Agreement. In executing this Agreement, the (CITY/TOWN) does not assume liability or responsibility for or in any way release the COUNTY from any liability or responsibility which arises in whole or in part from the existence or effect of COUNTY

ordinances, rules, regulations, resolutions, customs, policies, or practices. If any cause, claim, suit, action, or administrative proceeding is commenced in which the enforceability and/or validity of any such COUNTY ordinance, rule, regulation, resolution, custom, policy, or practice is at issue, the COUNTY shall defend the same at its sole expense, and if judgment is entered or damages are awarded against the COUNTY, the _____(CITY/TOWN), or both, the COUNTY shall satisfy the same, including all chargeable costs and attorney's service charges.

SECTION 6. NON-DISCRIMINATION. The COUNTY and the (CITY/TOWN) certify that they are Equal Opportunity Employers.

SECTION 7. ASSIGNMENT. Neither the COUNTY nor the (CITY/TOWN) shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

SECTION 8. NOTICE. Any formal notice or communication to be given by the COUNTY to the (CITY/TOWN) under this Agreement shall be deemed properly given, if delivered to:

Mr. Charlie Solverson, P.E. Building Official, Building & Land Use Services,
Community and Economic Development Department, 3rd Floor, City of Tacoma, 747 Market
Street, Tacoma, WA 98402

or if mailed postage prepaid and addressed to:

Building & Land Use Services, Community and Economic Development
Department, 3rd Floor, City of Tacoma, 747 Market Street, Tacoma, WA 98402

ATTN: Mr. Charlie Solverson, P.E., Building Official,

Any formal notice or communication to be given by the (CITY/TOWN) to the COUNTY under this Agreement shall be deemed properly given, if delivered, or if mailed postage prepaid and addressed to:

Pierce County Public Works and Utilities
Surface Water Management
2702 South 42nd, Suite 201
Tacoma, WA 98409-7322

Attention: Harold Smelt, Surface Water Management Manager

The name and address to which notices and communications shall be directed may be changed at any time, and from time to time, by either the (CITY/TOWN) or the COUNTY giving notice thereof to the other as herein provided.

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SECTION 9. COUNTY AS INDEPENDENT CONTRACTOR. The COUNTY is, and shall at all times be deemed to be, an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between (CITY/TOWN) and COUNTY or any of the COUNTY's agents or employees. The COUNTY shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by COUNTY pursuant to this Agreement.

Nothing in this Agreement shall make any employee of the (CITY/TOWN) a COUNTY employee or any employee of the COUNTY a (CITY/TOWN) employee for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded COUNTY or (CITY/TOWN) employees by virtue of their employment.

SECTION 10. WAIVER. No waiver by either party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this Agreement.

SECTION 11. ENTIRE AGREEMENT. This Agreement contains all of the Agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

SECTION 12. AMENDMENT. Provisions within this Agreement may be amended with the mutual consent of the parties hereto. No additions to, or alteration of, the terms of this Agreement shall be valid unless made in writing, formally approved, and executed by duly authorized agents of both parties.

SECTION 13. NO REAL PROPERTY ACQUISITION OR JOINT FINANCING. This Interlocal Agreement does not provide for the acquisition, holding or disposal of real property. Nor does this Agreement contemplate the financing of any joint or cooperative undertaking. There shall be no budget maintained for any joint or cooperative undertaking pursuant to this Interlocal Agreement. In addition, the City's agreement to the distribution of the required local share (Attachment A) for this Corps Feasibility Study does not establish any precedent for funding any implementation activities associated with this Study.

SECTION 14. FILING. Copies of this Interlocal Agreement, together with the resolution of the Pierce County Council and the (CITY/TOWN) Council approving and ratifying this Agreement, shall be filed with the (CITY/TOWN) Clerk, the Pierce County Auditor, and the Secretary of State of Washington after execution of the Agreement by both parties.

SECTION 15. SEVERABILITY. If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

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IN WITNESS WHERE OF, the parties have caused this Agreement to be executed on this 1st day of May, 2010.

CITY/TOWN

Marilyn Strickland
Marilyn Strickland, Mayor

Eric A. Anderson
Eric A. Anderson, City Manager

Ryan Petty
Ryan Petty, Director, Community and Economic Development

Robert K. Biles
Robert K. Biles, Director, Finance
AO

Debbie Dahlstrom
Debbie Dahlstrom, Risk Manager

Approved as to Form:

Martina P. Lantz
Deputy City Attorney

Doris Sorum 2-2-11
Doris Sorum, City Clerk

PIERCE COUNTY

[Signature] 4/27/11
DEPARTMENT DIRECTOR Date

[Signature] 5-2-11
DEP. PROSECUTING ATTY Date
(as to form only)

[Signature] 5/18/11
BUDGET AND FINANCE Date

[Signature] 5/24/11
COUNTY EXECUTIVE Date
(if over \$50,000)

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