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733 Market Street, Room 11

Tacoma, WA 98402-3769

Washington State Recorder's Cover Sheet (RCW 65.04) Please print legibly or type information.

Document Title(s) First Amendment to Interlocal Agreement - Resolution No. 41124
Grantor(s) City of Tacoma ____ Additional Names on Page ____ of Document
Grantee(s) Pierce County Flood Control Zone District ____ Additional Names on Page ____ of Document
Legal Description (Abbreviated: i.e., lot, block & subdivision name or number OR section/township/range and quarter/quarter section) First Amendment to the Interlocal Agreement to improve the Leach Creek Stormwater Holding Basin per Resolution No. 41124 - to extend the funding through December 31, 2024. Complete Legal Description on Page ____ of Document
Auditor's Reference Number(s)
Assessor's Property Tax Parcel/Account Number(s)
Non Standard Fee \$50.00 By signing below, you agree to pay the \$50.00 non standard fee. I am requesting an emergency non standard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. _____ Signature of Party Requesting Non Standard Recording NOTE: Do not sign above or pay additional \$50.00 fee if document meets margin/formatting requirements. The Auditor/Recorder will rely on the information provided on this cover sheet. Staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

**FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN
THE PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT AND
THE CITY OF TACOMA FOR DISTRICT GRANT FUNDED PROJECTS**

THIS FIRST AMENDMENT to the Interlocal Agreement ("Agreement") between CITY OF TACOMA a City in the State of Washington ("Municipality"), and the PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT, a quasi-municipal corporation of the State of Washington ("District") ("Parties" or when singular "Party") is effective on the later of the two signature dates appearing below.

WHEREAS, pursuant to Resolution No. 2022-3, the District and Municipality entered the Agreement, which provided up to \$650,000 in funding for the Leach Creek Stormwater Holding Basin Modification project ("Project") through calendar year 2023.; and

WHEREAS, The Parties now desire to amend the Agreement to extend the funding duration through December 31, 2024.

NOW, THEREFORE, in consideration of the mutual benefits and advantages derived by the parties, the adequacy and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. Section 7 of the Agreement is changed to read as follows:

The District shall provide Funds for the budget years 2023-2024. ~~Only applicable~~ Project work completed in 2023 through 2024 shall be eligible for reimbursement. This Agreement shall terminate automatically on March December 31, 2024, ~~ninety (90) days after the close of the current budget year, which ends December 31 of each year. The Municipality may submit to the Board, in writing, no later than December 1, 2023 a request to be granted an extension.~~

2. ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT, AND ALL SUPPLEMENTS, MODIFICATION AND AMENDMENTS THERETO SHALL REMAIN IN FULL FORCE AND EFFECT.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces below:

CITY OF TACOMA

PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT

DocuSigned by:
Elizabeth Pauli
04DC6935E7F348B...

[Signature]
Name: David Morell

Elizabeth Pauli

Title: FCZD Chair

Date: 10/04/2023

Date: Sept 12 2023

City Manager

Approved as to Form:

Approved as to Form:
[Signature]
PLFCZD Attorney

DocuSigned by:
Chris Bacha
145CE15470AD49B1
Chris Bacha
Chief Deputy Attorney

Attested to:

Attested to:

DocuSigned by:
[Signature]
781CF9E9910043B
Nicole Emery
City Clerk

[Signature]
Audrey Persons
Clerk of Board of Supervisors

**INTERLOCAL AGREEMENT BETWEEN
THE PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT AND
THE CITY OF TACOMA FOR DISTRICT GRANT FUNDED PROJECTS**

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into by and between the City of Tacoma, a Washington municipal corporation, hereinafter referred to as the “Municipality”, and the Pierce County Flood Control Zone District, a Washington quasi-municipal corporation, hereinafter referred to as the “District”. The District and the Municipality are individually a “Party” and collectively the “Parties”. This Agreement shall be effective upon execution by the Municipality and the District.

RECITALS

A. In Resolution No. 2022-3, the District adopted the 2023 District budget, which includes the Flood Risk Reduction and Watershed Management Economic Stimulus Grant Program that will be funded by the District in 2023. Through a competitive process, the Municipality was awarded up to \$650,000 for Leach Creek Stormwater Holding Basin Modification (“Project”) as further described in Resolution No. 2022-3.

B. Pursuant to Chapter 39.34 RCW and RCW 86.15.080, the Parties desire to enter into this Agreement to establish the terms and conditions of District providing grant funding for the Project.

AGREEMENT

In furtherance of the foregoing and in consideration of the following terms and conditions, the Parties agree as follows:

1. Definitions. In this Agreement, the following terms shall have the following meanings.

1.1 “Board” means the Board of Supervisors of the District.

1.2 “District Administrator” means the Director of the Pierce County Public Works and Utilities Department, or designee.

1.3 “Funds” shall mean the funds authorized for payment by the District to the Municipality for Project expenses, as set forth in Resolution No. 2022-03 and any subsequent budget resolutions or resolutions approving modifications to or funds for the Project.

2. Term of Agreement—Termination of Agreement--Survival of Agreement.

2.1 This Agreement shall be effective upon execution by both Parties and shall remain in effect until the earlier of the automatic termination date identified

in Section 7 of this Agreement, or until termination by one or both of the Parties pursuant to this Section.

2.2 Notwithstanding the termination date identified in Section 7, either Party may terminate this Agreement by providing written notice of termination to the other Party no less than sixty (60) days prior to the effective date of termination. Alternatively, this Agreement may be terminated without notice upon mutual agreement of the Parties expressed in writing.

2.3 Sections 10 and 11 of this Agreement shall survive any termination of this Agreement.

3. Project Scope and Approval—Permits and Approvals. The Municipality shall obtain and be responsible for all applicable approvals and permits for the Project and is responsible for compliance with all applicable laws, rules, and regulations.

4. Project Work. Attachment A to this agreement includes a description of the Project work, and a schedule of the Project work. It has been developed in agreement between the Municipality and the District Administrator.

5. Payment and Use of Funds. The District shall pay Funds to the Municipality only for Project-related expenses, in accordance with a schedule and procedure approved by the District Administrator as set forth in Attachment A, referenced in paragraph 4. The Municipality acknowledges and understands that the financial obligations of the District pursuant to this Agreement are limited to payment of the Funds. Accordingly, the District shall not be responsible for and shall not provide any funds toward Project expenses in excess of the Project cost estimate or in excess of the Funds.

6. Withholding or Denial of Funds. The District reserves the right to withhold or deny payment of Funds for failure of the Municipality to comply with the terms and conditions of this Agreement, or for failure of the Project to meet the description of the Project stated in Section 4.

7. Funding Duration. The District shall provide Funds for the budget year 2023. Only applicable Project work completed in 2023 shall be eligible for reimbursement. This Agreement shall terminate automatically on March 31, 2024, ninety (90) days after the close of the current budget year, which ends December 31 of each year.

The Municipality may submit to the Board, in writing, no later than December 1, 2023 a request to be granted an extension.

8. Reports—Audits—Records Retention--Inspections.

8.1 The Municipality shall prepare and file written reports describing its request for and expenditure of the Funds no less than quarterly, or more frequently, as required by the District Administrator as set forth in Attachment B. The Municipality shall prepare and file a final report after final distribution of Funds, using the progress report form, as required by the District Administrator. The Municipality will make a brief presentation to the Board at a regularly scheduled meeting in 2023.

8.2 The Municipality shall retain all records and documents relating to the Funds for a minimum of seven (7) years after final payment of Funds by the District, unless required by law to be retained for a longer period, in which case the longer period shall apply.

8.3 Upon reasonable notice, the Municipality shall make available to the District Administrator for inspection, review and audit all records and documents relating to the Funds.

9. Project Ownership and Maintenance. The Municipality shall take ownership of, and shall be obligated to design, construct, operate, maintain, repair and replace the Project. The District shall have no obligation or responsibility for the design, construction, operation, maintenance, repair and replacement of the Project.

10. Audit Exception Repayments. The Municipality agrees that it is financially responsible for and will repay to the District all indicated amounts following an audit exception, which occurs due to the negligent or intentional acts of the Municipality, its officers, officials, employees, agents, contractors or volunteers.

11. Hold Harmless and Indemnification.

11.1 To the maximum extent permitted by law, each Party shall defend, indemnify and hold harmless the other Party, and all of its officers, officials, employees, agents, contractors and volunteers, from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of or resulting from any negligent acts, errors, omissions of the indemnifying Party and its officers, officials, employees, agents, contractors and volunteers in performing obligations under this Agreement or in implementing the Project. However, if any such injuries and damages to persons or property are caused by or result from the concurrent negligence of the District or its officers, officials, employees, agents, contractors and volunteers, and the Municipality or its officers, officials, employees, agents, contractors and volunteers, each Party's obligation hereunder applies only to the extent of the negligence of such Party or its officers, officials, employees, agents, contractors, or volunteers.

11.2 The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under industrial insurance, Title 51 RCW, as respects the other Party only, and only to the extent necessary to

provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated by the Parties.

12. Amendment. This Agreement may be modified by written instrument approved by the Municipality's governing body and the Board and signed by the authorized representatives of the Parties.

13. Waiver. No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provision of this Agreement. No waiver shall be effective unless made in writing.

14. No Third Party Rights. Nothing in this Agreement shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care with reference to any third party.

15. Entirety. This Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated are excluded. This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties relating to the projects and constitutes the entire agreement between the Parties.

16. Counterparts. This Agreement may be signed in counterparts and, if so signed, shall be deemed one integrated document.

17. Governing Law; Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a dispute, such dispute shall be litigated only in the Superior Court of Pierce County, Washington.

18. Severability. The invalidity or unenforceability of any provision in this Agreement shall not affect the validity or enforceability of any other provisions that can be given effect without the offending provision.

19. Administration. This Agreement will be jointly administered by the Municipality and the District. This Agreement does not create any separate legal or administrative entity.

20. Financing; Budget. This Agreement does not contemplate joint financing of the activities within its scope, nor does it contemplate a joint budget.

21. Property Acquisition and Disposition. This Agreement does not contemplate the joint acquisition of property by the parties. At termination, each party will remain the sole owner of its own property.

22. Filing of Documents. The District Administrator shall receive and give all notices, approvals, reports, and documents under this Agreement.

23. Recording. In accordance with RCW 38.34.040, this Agreement shall be filed with the Pierce County Auditor or listed on the web sites of the Parties prior to its effective date.

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces below:

CITY OF TACOMA

PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT

DocuSigned by:
Elizabeth Pauli
04DC6936E7F348B...

[Signature]
Name: Daniel Maxwell

Elizabeth Pauli

Title: chair

Date: 02/08/2023

Date: 12/07/22

City Manager

Approved as to Form:

DocuSigned by:
Chris Bacha 02/08/2023
119CE15435AD40B...

Chris Bacha
Chief Deputy Attorney

Attested to:

Attested to:

DocuSigned by:
Doris Sorum 02/08/2023
765BE94E34094F3...

[Signature]
Audrey Persons
Clerk of Board of Supervisors

Doris Sorum
City Clerk

Interlocal Agreement -
Between the City of Tacoma and the Pierce County Flood Control Zone District

City of Tacoma, Washington

By: DocuSigned by:
Michael P. Slevin III, P.E.
E372914782C7487...
Name: Michael P. Slevin III, P.E.

Title: Environmental Services Director

Date: 02/08/2023

By: DocuSigned by:
Andy Cherullo
1FAFA3DA59164E0...
Name: Andy Cherullo

Title: Director of Finance

Date: 02/08/2023

Attachment A - Scope of Work

Project Name: City of Tacoma, Leach Creek Stormwater Holding Basin Modification

Scope of Work: The project will improve the flow patterns in the holding basin by removing sediment and scrub vegetation that currently obstruct the storage area connected to the forebay of the pumpstation. This will allow pumps to function more efficiently and increase the amount of water that is diverted to Nalley Valley. The aging outlet structure that discharges flow from the holding basin to Leach Creek will be replaced.

Location: 47.226034, -122.507044, Parcel 4955000332

Timeframe: January 1- December 31, 2023

Flood District Share: not to exceed **\$650,000**

Project Cost: \$2,500,000

Local Share: \$1,850,000

Attachment B

PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT

ECONOMIC STIMULUS GRANT PROGRAM REIMBURSEMENT REQUEST



INSTRUCTIONS: Please fill out one Project Reimbursement Request form for each project your jurisdiction is implementing. If you have any questions, please contact the District Administrator at 253-798-3154 or pcfzd@co.pierce.wa.us

Please save your form and title it using the follow convention:
 YYYY_MMDD_JURISDICTION_PROJECT.docx
 (e.g., 2013_0601_PierceCounty_leveemaintenance.docx)

Once completed, email your form to:
 Pierce County FCZD Administrator
pcfzd@co.pierce.wa.us

DATE ENTER DATE

JURISDICTION ENTER JURISDICTION NAME

CONTACT NAME ENTER CONTACT NAME

CONTACT PHONE XXX-XXX-XXXX

CONTACT EMAIL ENTER EMAIL ADDRESS

ADDRESS ADDRESS
CITY, STATE ZIPCODE

REQUEST TIME PERIOD ENTER BEGINNING DATE to ENTER END DATE

PROJECT NAME ENTER PROJECT NAME **CALENDAR YEAR** ENTER CALENDAR YEAR
OF

TOTAL PROJECT COSTS ENTER TOTAL PROJECT COST **REQUESTED FUNDS** ENTER REQUESTED PROJECT FUNDS

Fill out the below table with the following information. Refer to footnotes for clarification on each column of the table.

Project	Total project budget	Request this period	Requested to date	Budget remaining
Totals				

PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT



Req. #23-0005

RESOLUTION NO. 41124

1 A RESOLUTION relating to flood risk reduction and watershed management;
 2 authorizing the execution of an Interlocal Grant Agreement and any
 3 associated term extensions with Pierce County Flood Control Zone District,
 4 in the amount of \$650,000; accepting and depositing said sum into the
 5 Surface Water Fund; and authorizing the expenditure of matching funds in
 6 the amount of \$97,500, budgeted from the Surface Water Fund, for a
 7 cumulative total of \$747,500, to improve the functionality of the Leach Creek
 8 Holding Basin.

9 WHEREAS there is a need to excavate new flow channels within Leach
 10 Creek Holding Basin for the purpose of improving the flow characteristics of
 11 stormwater within the holding basin, relieving hydraulic pressure at the base of the
 12 dike, and removing obstructions near the forebay of the pump station, and

13 WHEREAS the excavation will allow the pumps to function more efficiently
 14 and increase the amount of water that is diverted to Nalley Valley, and

15 WHEREAS, additionally, the excavation will allow for the replacement of the
 16 aging outlet structure that discharges flow from the holding basin to Leach Creek,
 17 and

18 WHEREAS the City has applied for, and been awarded, \$650,000, in grant
 19 funding from the Pierce County Flood Control Zone District for the above-described
 20 project, and

21 WHEREAS the grant award requires a City match of \$97,500, and

22 WHEREAS, under the grant process guidelines, the City Council must
 23 approve acceptance of grant funding; Now, Therefore,

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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

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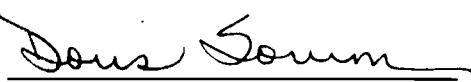
Section 1. That the proper officers of the City are hereby authorized to accept grant funding from Pierce County Flood Control Zone District, in the amount of \$650,000, for deposit into the Surface Water Fund, together with a funding of \$97,500, in matching City funds, budgeted from the Surface Water Fund, for a cumulative total of \$747,500, for the purpose of improving the functionality of the Leach Creek Holding Basin.

Section 2. That the proper officers of the City are hereby authorized to execute the Interlocal Grant Agreement and any associated term extensions with Pierce County Flood Control Zone District, for the administration of the funding accepted pursuant to Section 1, said document to be substantially in the form of the proposed interlocal grant agreement on file in the office of the City Clerk.

Adopted January 24, 2023


Mayor

Attest:


City Clerk

Approved as to form:


Deputy City Attorney