

#78445

**INTERLOCAL AGREEMENT BETWEEN
PIERCE COUNTY AND PORT OF TACOMA
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 **PORT OF TACOMA**, a municipal corporation of the State of Washington (herein referred to as "PORT").

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, 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 an equitable distribution of the required local share; 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 mutually agreed by and between the COUNTY and PORT as follows:

SECTION 1. PURPOSE. The 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 PORT. The COUNTY shall invoice the PORT annually on a schedule agreed to between the PORT and the COUNTY, but no more frequently than twice a calendar year. The COUNTY shall provide status reports to the PORT on the progress of the GI process no less than twice per calendar year. Reports shall detail the progress to-date, with specific goals that have been met, as well as those goals to be met in the immediate future. The COUNTY shall encourage the Corps to make every possible effort to conclude the GI process as quickly as possible.

SECTION 3. PORT OBLIGATIONS. The PORT shall be responsible for actively participating in the GI process by participating in the Pierce County Rivers Executive Task Force and providing input on the GI project. The PORT shall contribute ten percent (10%) of the fifty percent (50%) local match required by the Corps for the Feasibility Study, up to a maximum of Fifty Thousand dollars (\$50,000) per year, based upon actual direct costs incurred. The PORT contribution shall not exceed Three Hundred Thousand dollars (\$300,000) total. The PORT shall be responsible to remit the agreed to payment 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, 2016.

SECTION 5. INDEMNIFICATION AND DEFENSE. The COUNTY shall defend, indemnify, and save harmless the PORT, 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 PORT from any liability or responsibility which arises in whole or in part from the existence or effect of PORT 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 PORT ordinance, rule, regulation, resolution, custom, policy or practice is at issue, the PORT shall defend the same at its sole expense, and if judgment is entered or damages are awarded against the PORT, the COUNTY, or both, the PORT shall satisfy the same, including all chargeable costs and attorney's service charges.

The PORT 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 PORT, its officers, employees or agents associated with this Agreement. In executing this Agreement, the PORT 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 PORT, 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 PORT certify that they are Equal Opportunity Employers.

SECTION 7. ASSIGNMENT. Neither the COUNTY nor the PORT 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 PORT under this Agreement shall be deemed properly given, if delivered to:

Port of Tacoma
One Sitcum Plaza
Tacoma, WA 98421

or if mailed postage prepaid and addressed to:

Port of Tacoma
PO Box 1837
Tacoma, WA 98401-1837

ATTN: Robert Brenner, Environmental Program Manager

Any formal notice or communication to be given by the PORT to the COUNTY under this Agreement shall be deemed properly given, if delivered, or if mailed postage prepaid and

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. There shall be no separate entity created pursuant to this Interlocal Agreement. This Interlocal Agreement shall be administered by the parties through their representatives identified in Section 8 above.

SECTION 14. FILING. Copies of this Interlocal Agreement, together with the resolution of the Pierce County Council approving and ratifying this Agreement (the Port Commission authorized the Interim Executive Director to enter into this Interlocal Agreement by Commission Action without resolution in open public meeting on January 7, 2010), shall be filed with the PORT Chief Executive Officer, 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.

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

PORT OF TACOMA




Chief Executive Officer 7-20-10
Date

Approved as to Form:

PIERCE COUNTY



DEPARTMENT DIRECTOR 7/6/10
Date



DEP. PROSECUTING ATTY 11/4/10
Date
(as to form only)



BUDGET AND FINANCE 11/18/10
Date



COUNTY EXECUTIVE 12/2/10
Date
(if over \$50,000)



Transportation Services

2702 South 42nd Street, Suite 201
Tacoma, Washington 98409-7322
(253) 798-7250 • FAX (253) 798-2740

December 7, 2010

Port of Tacoma

DEC 08 2010

Environmental Dept.

Brian J. Ziegler, P.E.
Director

Brian.Ziegler@co.pierce.wa.us

Robert Brenner, Environmental Program Manager
Port of Tacoma
PO Box 1837
Tacoma, WA 98401-1837

Re: Interlocal Agreement - #10-78445

Dear Mr. Brenner:

Attached is your copy of the fully executed Interlocal Agreement No. 10-78445. In order to assist with timely processing of all correspondence, we request that you cite the above agreement number on all documents submitted to the County.

Thanks so much for your interest in doing business with Pierce County Public Works and Utilities.

Sincerely,

Melissa Jordan
Contracts Coordinator

Attachments

cc: file



P.O.
47361