

#78444

**INTERLOCAL AGREEMENT BETWEEN
PIERCE COUNTY AND CITY OF FIFE
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 Fife a municipal corporation of the State of Washington (herein referred to as City of Fife).

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 a distribution 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 mutually agreed by and between the COUNTY and City of Fife 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 of Fife. The COUNTY shall invoice annually on a schedule agreed to between the City of Fife and the COUNTY, but no more frequently than twice a calendar year.

SECTION 3. City of Fife OBLIGATIONS. The City of Fife shall be responsible for actively participating in the GI process. The City of Fife 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 of Fife, 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 of Fife from any liability or responsibility which arises in whole or in part from the existence or effect of City of Fife 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 of Fife ordinance, rule, regulation, resolution, custom, policy or practice is at issue, the City of Fife shall defend the same at its sole expense, and if judgment is entered or damages are awarded against the City of Fife, the COUNTY, or both, the City of Fife shall satisfy the same, including all chargeable costs and attorney's service charges.

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

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

Mr. Steve Worthington
City of Puyallup
1224 14th Ave SW
Puyallup, WA 98371

Any formal notice or communication to be given by the City of Fife 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 of Fife or the COUNTY giving notice thereof to the other as herein provided.

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 of Fife 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 of Fife a COUNTY employee or any employee of the COUNTY a City of Fife 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 of Fife 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. Nor does the City's agreement to the distribution of the required local share (Attachment A) for this Corps Feasibility Study establish any precedent for funding 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 of Fife Councilmembers approving and ratifying this Agreement, shall be filed with the City of Fife 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.

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

CITY OF FIFE



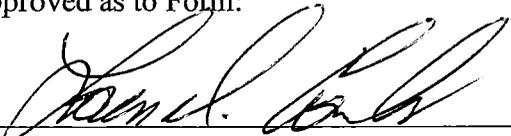
Steve Worthington
Fife City Hall

Attest By:



Steve Marcotte
Assistant City Manager

Approved as to Form:

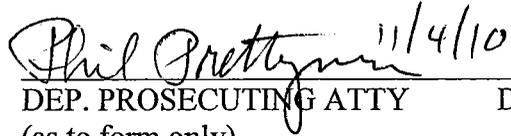


City Attorney

PIERCE COUNTY



DEPARTMENT DIRECTOR 11/10/10 Date



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



BUDGET AND FINANCE 11/18/10 Date



COUNTY EXECUTIVE 12/5/10 Date
(if over \$50,000)

Attachment A

Payment

The City of Fife shall contribute approximately five point five (5.5%) percent of the fifty (50) percent local match required by Corps for the Feasibility Study, up to a maximum of Twenty Seven Thousand, Six Hundred Thirty- Four Dollars (\$27,634.00) per year, based upon actual direct costs incurred. The City of Fife contribution shall not exceed One Hundred Sixty-Five Thousand, Eight Hundred Four Dollars. (\$165,802.15).

RESOLUTION NO. 1361

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH PIERCE COUNTY REGARDING FUNDING THE LOCAL OBLIGATION FOR THE CORPS OF ENGINEERS' GENERAL INVESTIGATION PROJECT FOR THE PUYALLUP RIVER BASIN

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

WHEREAS, the Corps completed a Puyallup River 905(b) Reconnaissance Report on March 18, 2009, which found a federal interest in pursuing a feasibility phase study to plan for flood damage reduction and fish and wildlife habitat restoration in the Puyallup River Basin ("Feasibility Study"); and

WHEREAS, the Feasibility Study requires a 50/50 cost share between the federal agency and the local sponsors; and

WHEREAS, Pierce County has agreed to perform the role of local sponsor with the support from the other participating local governments; and

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

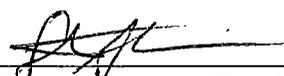
WHEREAS, the participating local governments have agreed to an equitable distribution of the required local share for the near term funding for the Feasibility Study (\$500,000) as set forth in the Interlocal Agreement attached hereto as Exhibit A; now, therefore

BE IT RESOLVED that the City Manager is authorized and directed to execute on behalf of the City, the Interlocal Agreement with Pierce County Regarding Funding the Local Obligation for the Corps of Engineers' General Investigation Project for the Puyallup River Basin, attached hereto as Exhibit A, and by reference incorporated herein.

ADOPTED by the City Council at an open public meeting held on the 8th day of June, 2010.


Barry D. Johnson, Mayor

Attest:


Steve Marcotte, City Clerk