RESOLUTION NO. 2023-3

A Resolution of the Pierce County Flood Control Zone District Board of Supervisors Awarding Project Funding for the Flood Risk Reduction and Watershed Management Economic Stimulus Grant Program and Approving an Interlocal Agreement with the Town of South Prairie.

Whereas, the Pierce County Flood Control Zone District ("District") Board of Supervisors ("Board") established a strategic reserve as a part of its fund balance policy with Resolution No. 2017-4; and

Whereas, the District established the Flood Risk Reduction and Watershed Management Economic Stimulus Grant Program with Resolution No. 2020-2; and

Whereas, the District approved the announcement of a second round of funding for the Flood Risk Reduction and Watershed Management Economic Stimulus Grant Program with Resolution No. 2021-6; and

Whereas, the District approved funding for the Flood Risk Reduction and Watershed Management Economic Stimulus Grant Program with Resolution No. 2023-2; and

Whereas, the District conducted a countywide call for projects and convened an independent panel to review project grant applications; and

Whereas, the grant review panel found that the top scoring projects provide flood risk reduction, water quality, habitat, and economic benefits; and

Whereas, the District Executive Committee reviewed and considered the grant panel recommendations at their meetings on October 19, 2022; November 16, 2022; and May 17, 2023; **Now Therefore,**

BE IT RESOLVED by the Board of Supervisors of the Pierce County Flood Control Zone District :

Section 1. The Board authorizes the Board Chair to sign the grant recipient Interlocal Agreement with the Town of South Prairie included as Exhibit A to this resolution.

ADOPTED this 12th day of July, 2023.

ATTEST:

PIERCE COUNTY COUNCIL
Pierce County, Washington

Audrey Persons
Clerk of the Board

Dave Morell
Flood Control Zone District Chair

INTERLOCAL AGREEMENT BETWEEN THE PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT AND TOWN OF SOUTH PRAIRIE FOR DISTRICT GRANT FUNDED PROJECTS

THIS INTERLOCAL AGREEMENT FOR DISTRICT GRANT FUNDED PROJECTS ("Agreement") is made and entered into by and between the Town of South Prairie 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") and shall be effective upon execution by the Municipality and the District.

RECITALS

A. In Resolution No. 2023-2, the District's Board of Supervisors ("Board") approved the amended 2023 District budget, which includes funding for the Flood Risk Reduction and Watershed Management Economic Stimulus Grant Program.

B. Through a competitive process, the Municipality was awarded up to $125,000 for a Geomorphic and Flood Risk Assessment Study for South Prairie Creek ("Project") as further described in Attachment A to this Agreement.

C. 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 "District Administrator" means the Director of the Pierce County Public Works and Utilities Department, or designee.

1.2 "Funds" shall mean the funds authorized for payment by the District to the Municipality for Project expenses, as set forth in Resolution No. 2023-2 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. Notice by the Municipality shall be provided to the District Administrator, and notice by the District shall be provided to the Mayor. Alternatively, this Agreement may be terminated without notice upon mutual agreement of the Parties expressed in writing.

2.3 Sections 8.2, 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 timeline for 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. Furthermore, where the funds for the Project are provided by multiple non-Municipality funding sources, and the actual Project cost is less than the Project cost estimate, the Municipality shall use its best efforts to request payment from the District in a percentage that is equal to the District's percentage of non-Municipality 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 has allocated Funds for the calendar years 2023 and 2024. Only applicable Project work completed in 2023 and 2024 shall be eligible for reimbursement. This Agreement shall terminate automatically on

December 31, 2024. The Municipality may submit to the Board, in writing and no later than December 1, 2024, a request to be granted an extension of up to 90-days. If granted, any extension shall only be for the purpose of enabling the Municipality to submit requests to reimburse eligible costs of work completed in 2023 and 2024.

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. The District Administrator and the Mayor, respectively, shall receive and give all notices, approvals, reports and documents under this Agreement.

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. 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:

TOWN OF SOUTH PRAIRIE	PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT
_____	_____
[TITLE]	Name:_____
_____	Title:_____
Date: _____	Date: _____
_____	
Approved as to Form:	
_____	
Attorney	
Attested to:	Attested to:
_____	_____
	Audrey Persons Clerk of Board of Supervisors

Attachment A - Scope of Work

Project Name: Town of South Prairie, Geomorphic and Flood Risk Assessment Study for South Prairie Creek

Location of the project: South Prairie limits for South Prairie Creek

Scope of Work: The Geomorphic and Flood Risk Assessment Study for South Prairie Creek will determine where and how sedimentation within the basin occurs and provide mitigation measures to reduce property damage, erosion and roadway flooding while providing for salmon protection. The elements of this study include:

1. Existing Conditions Geomorphic and Hydraulic Characterization
   a. Field work to review and survey existing conditions. Survey data would be collected to augment existing LiDAR topographic information and capture up to date information.
   b. Develop 2D hydraulic model, building on existing efforts. The 2D hydraulic model would allow us to better understand conditions within the mainstem and also better describe overbank flow paths and flooding patterns and durations.
   c. Geomorphic Analysis to build on our past work to identify geomorphic trends and identify key hazard zones. This would include looking at past channel changes to provide context for historical rates of change.
   d. Document existing habitat conditions.

2. Develop initial alternatives
   a. Outline and define goals and objectives for the project.
   b. Develop initial alternatives for consideration.

Project Timeframe: July 12, 2023 – December 31, 2024

Summer 2023
- Issue RFP for consultant and select consultant.

Fall 2023
- Initiate study field work.
- Develop hydraulic model.
- Document habitat conditions.

Winter - Spring 2024
- Conduct analysis.
- Develop alternatives.
- Brief District on study progress.

Summer - Fall 2024
- Draft study findings and recommendations including goals and objectives for flood risk reduction project that meets salmon protection goals.
- Brief District on progress.

December 2024
- Issue final study.

Flood Control Zone District grant share: not to exceed **$125,000**

Total project cost: $125,000

Local share: $0

Point of Contact: Mayor Carolyn Norris (360) 897-8878 Email: cnorris@townofsp.com

ECONOMIC STIMULUS GRANT PROGRAM REIMBURSEMENT REQUEST

PIERCE COUNTY
FLOOD CONTROL
ZONE DISTRICT

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 pcfczd@co.pierce.wa.us

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

Once completed, email your form to:
Pierce County FCZD Administrator
pcfczd@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 OF** ENTER CALENDAR YEAR

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				