

CC-97978

Name & Return Address:

Pierce County Public Works & Utilities

9850 64th Street West

University Place, WA 98467

CONFORMED COPY

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12/31/2014 02:24:22 PM \$0.00
AUDITOR, Pierce County, WASHINGTON

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

Document Title(s) Interlocal Agreement between Pierce County Flood Control Zone District & Pierce County for Opportunity Fund Projects.

Grantor(s)

Pierce County

____ 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)

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.

**INTERLOCAL AGREEMENT BETWEEN
THE PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT AND
PIERCE COUNTY FOR OPPORTUNITY FUND PROJECTS**

THIS AGREEMENT is made and entered into by and between Pierce County, a municipal corporation of 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 Ordinance 2011-95s, passed on April 3, 2012, the Pierce County Council formed the District, as authorized by Chapter 86.15 RCW.

B. In Resolution No. 2013-2 ("Resolution"), the District Board of Supervisors:

1. Allocated and set aside ten percent (10%) of the District's annual regular property tax revenues as an "Opportunity Fund" for use by Pierce County (on behalf of unincorporated Pierce County), cities and towns on Opportunity Fund projects;

2. Established methods for allocation of Opportunity Fund revenues and declared the purposes and uses of the Opportunity Fund;

3. Provided for accrual and roll over of a Municipality's Opportunity Fund allocation;

4. Authorized the District Administrator to develop rules and procedures for administering and carrying out the Opportunity Fund, which includes review of proposed Opportunity Fund projects by the District Administrator or designee, and review and approval of such projects by the Board; and

5. Approved this form of Agreement between the Parties.

C. Pursuant to Chapter 39.34 RCW and RCW 86.15.080(11), the Parties desire to enter into this Agreement to provide for Opportunity Fund projects as authorized by the Board.



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 "Municipality" means cities and towns in Pierce County and Pierce County.

1.4 "Opportunity Fund" means the portion of the District's annual regular property tax revenues that has been allocated and set aside by the District for use by the Municipalities on Projects, as authorized by Resolution No. 2013-2, including amendments thereto.

1.5 "Project" means a specific improvement, study, plan or activity that meets the purposes and uses of Resolution No. 2013-2, including amendments thereto, and that has been approved by the Board.

1.6 "Project Rules" means the rules and regulations established by the District Administrator for the Opportunity Fund program, including amendments thereto.

2. Term of Agreement – Termination of Agreement – Survival of Agreement. This Agreement shall be effective upon execution by both Parties, and shall remain in effect until terminated by one or both of the Parties. 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. This Agreement also may be terminated upon mutual agreement of the Parties expressed in writing. Sections 12 and 13 of this Agreement shall survive any termination of this Agreement.

3. Rules and Regulations; District Administrator. The Municipality acknowledges receipt of and agrees to satisfy and follow the Project Rules.

4. Project Eligibility. The Municipality may apply for and seek approval of proposed Projects. The proposed Projects may be a future Project or a pending Project, as defined by the Project Rules.

5. Project Applications. The Municipality must submit an application for each proposed Project to the District Administrator, on a form approved by the District Administrator. The application must be accompanied by plans, drawings, descriptions,



1 studies, reports, schedules, costs, budgets and/or other data and information required
2 by the Project Rules or requested by the District Administrator.

3
4 6. Multi-Year Projects. A Project may be implemented over multiple years and may
5 be financed by the Municipality's allocation of the Opportunity Fund in the year of
6 Project approval and by the Municipality's anticipated allocation of the Opportunity Fund
7 in future years. However, District approval of a Project shall not be construed as nor
8 constitute a District obligation or commitment to authorize a property tax levy or set
9 aside a portion of a property tax levy for the Opportunity Fund in calendar years beyond
10 the year in which a Project is approved.

11
12 7. Use and Vesting of Opportunity Fund Allocation. The Municipality shall use
13 Opportunity Fund allocations only for expenses related to the Projects. The
14 unexpended portion of the Municipality's allocation of Opportunity Fund revenues in a
15 calendar year shall be rolled over and reserved for use by the Municipality on Projects
16 in subsequent calendar years. The District shall have no obligation to set aside or
17 allocate Opportunity Funds in calendar years after the calendar year in which the
18 Project is approved. The Municipality understands and acknowledges that the Board
19 has the right and discretion to modify or terminate the Opportunity Fund and its
20 program, and will consider this possibility in providing for and implementing any Project.

21
22 8. Project Approval – Implementation of Projects. After approval of a Project, the
23 District Administrator shall prepare a written description of the Project, which shall be
24 deemed to be an amendment to this Agreement. The District Administrator shall
25 provide a copy of the Project description to the Municipality. The Municipality shall
26 implement the Project only as authorized by the Board and described in the
27 amendment. In implementing the Project, the Municipality shall comply with all
28 applicable laws, rules and regulations, and shall be responsible for obtaining all
29 approvals and permits for the Project.

30
31 9. Distribution of Opportunity Fund Allocations. After an actual expenditure is
32 incurred for a Project, the Municipality shall request distribution of Opportunity Fund
33 allocations in a manner and pursuant to a process required by the Project Rules.
34 However, after Board approval of a Project, the Municipality may request advance
35 distribution of all or a part of the Opportunity Fund allocation for the Project, prior to
36 expenditure of funds on the Project, in accordance with terms and conditions in the
37 Project Rules.

38
39 10. Reports – Audits – Records Retention – Inspections. The Municipality shall
40 prepare and file written reports describing the progress on and the status of the Project,
41 as required by the Project Rules. The Municipality shall prepare and file such other
42 written reports, including but not limited to a final report after Project completion, as
43 required by the Project Rules. The Municipality shall retain all records and documents
44 relating to a Project for a minimum of seven (7) years after substantial completion of the
45 Project, unless required by law to be retained for a longer period, in which case the
46 longer period shall apply. Upon reasonable notice, the Municipality shall make available
47 to the District Administrator for inspection, review and audit all records and documents



1 relating to the Project and the expenditure of the Opportunity Fund allocations, as
2 required by Project Rules.

3
4 11. Project Ownership and Maintenance. If the Project involves the acquisition,
5 extension, enlargement, or construction of an improvement, the Municipality shall take
6 ownership of, and shall be obligated to operate, maintain, repair and replace such
7 improvement. The District shall have no obligation or responsibility for the operation,
8 maintenance, repair and replacement of such improvement.

9
10 12. Audit Exception Repayments. The Municipality agrees that it is financially
11 responsible for and will repay to the District all indicated amounts following an audit
12 exception, which occurs due to the negligent or intentional acts by the Municipality, its
13 officers, officials, employees, agents, contractors or volunteers.

14
15 13. Hold Harmless and Indemnification.

16
17 13.1 To the maximum extent permitted by law, each Party shall defend,
18 indemnify and hold harmless the other Party, and all of its officers, officials, employees,
19 agents, contractors and volunteers, from any and all claims, injuries, damages, losses
20 or suits, including attorney fees, arising out of or resulting from any negligent acts,
21 errors, omissions of the indemnifying Party and its officers, officials, employees, agents,
22 contractors and volunteers in performing obligations under this Agreement or in
23 implementing a Project. However, if any such injuries and damages to persons or
24 property are caused by or result from the concurrent negligence of the District or its
25 officers, officials, employees, agents, contractors and volunteers, and the Municipality or
26 its officers, officials, employees, agents, contractors and volunteers, each Party's
27 obligation hereunder applies only to the extent of the negligence of such Party or its
28 officers, officials, employees, agents, contractors or volunteers.

29
30 13.2 The foregoing indemnity is specifically and expressly intended to
31 constitute a waiver of each Party's immunity under industrial insurance, Title 51 RCW,
32 as respects the other Party only, and only to the extent necessary to provide the
33 indemnified Party with a full and complete indemnity of claims made by the indemnitor's
34 employees. This waiver has been mutually negotiated by the Parties.

35
36 14. Amendment. This Agreement may be modified by written instrument approved by
37 the Municipality's governing body and the District Board of Supervisors and signed by the
38 authorized representatives of the Parties.

39
40 15. Waiver. No waiver by either Party of any term or condition of this Agreement shall
41 be deemed or construed to be a waiver of any other term or condition, nor shall a waiver of
42 any breach be deemed to constitute a waiver of any subsequent breach whether of the
43 same or different provision of this Agreement. No waiver shall be effective unless made in
44 writing.



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

4
5 17. Entirety. This Agreement is the complete expression of the terms hereto and any
6 oral representations or understandings not incorporated are excluded. This Agreement
7 merges and supersedes all prior negotiations, representations and agreements between
8 the Parties relating to the projects and constitutes the entire agreement between the
9 Parties.

10
11 18. Counterparts. This Agreement may be signed in counterparts and, if so signed,
12 shall be deemed one integrated document.

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

15
16
17 Pierce County
18
19 Pat McCarthy
20
21 Name: Pat McCarthy
22 Title: Pierce County Executive
23
24 Date: 12/24/2014

PIERCE COUNTY FLOOD
CONTROL ZONE DISTRICT

25
26
27 Brian Ziegler
28 Brian Ziegler
29 District Administrator
30
31 Date: 12/18/14

32 Attested to:

33
34
35
Name: _____
Title: _____

Attested to:

Cathy Sala
Cathy Sala
Clerk of Board of Supervisors



**PIERCE COUNTY
SUPPLEMENTAL SIGNATURE PAGE**

Contract #97978
Pierce County Flood Control Zone District
Opportunity Fund Projects

PIERCE COUNTY:

Approved as to legal form only:

By  12-19-2014
Deputy Prosecuting Attorney Date

Recommended:

By  12/22/14
Budget & Finance Date

By  12/18/14
Department Director Date
(less than \$250,000)



Contract Modification #97978-000

Original

RECEIVED
DEC 22 2014

Internal Review

EXECUTIVE OFFICE

Must Be Fully Executed
By Dec. 31st 2014

MESSAGES

• None

REVIEW PATH

Date/Time	Delivered To (phone#)	Reviewed By	Action	Action Date
12/18/14 4:03 PM	Tyra Patterson Initiator (798-4127)	Tyra Patterson	Approve	12/18/2014 4:03 PM
12/18/14 4:03 PM	Rob Willis Internal Department (798-3265)			
	Phil Prettyman Prosecuting Attorney (798-7635)			
	Julie Smith Interlocal Review (798-7734)			
	Tyra Patterson Dept Contact - for Contractor Signature (798-4127)			
	Mark Maenhout Risk Management (798-6281)			
	Julie Smith Contract Coordinator (798-7734)			
	Gary Robinson Director of Budget & Finance (798-7450)			
	Pat McCarthy Executive (798-2668)			
	Julie Smith Ordinance Review (798-7734)			
	Julie Smith Contract Recording (798-7734)			

GENERAL INFORMATION

Contract Title: Opportunity Fund Projects
Contract Type: Interlocal Agreement - Other Interlocal Agreements (Receivable)
Department: NON-RIVER CIP (323.200)
Contact: Julie Griffin (798-4684)

VENDOR INFORMATION

Vendor Name: Pierce County Flood Control Zone District (246928 - Unknown - EIN - 46-1155367)
Contract Compliance: None

VENDOR INFORMATION (Current Modification Only)

Vendor Name: Pierce County Flood Control Zone District (246928 - Unknown - EIN - 46-1155367)
Contract Compliance: None

CONTRACT VALUE

CONTRACT VALUE

Original Amount: \$1.00
Total Contract Value: **\$1.00** (100.00% of original)

Payment Terms: Due Upon Receipt

CONTRACT TERM

Current Period of Performance: 4/8/2014 to open-ended
Original Period of Performance: 4/8/2014 to open-ended
Renewal Option: No Renewal Option

CHECKLIST QUESTIONS

Is Scope Computer Related?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
In Current Budget?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
Is Space Lease Deposit Required?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Related to legal representation?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Does the Contractor require the Executive's signature in lieu of any designee?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
Will Pierce County ALWAYS sign before the contractor?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Was this agreement directly authorized by County Ordinance?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
Will this contract be automatically billed by the Accounts Receivable System?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Is RCW 39.34 specifically referenced in this agreement?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
Does the agreement specifically state that the agreement MUST be approved by the legislative body (County Council)?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO

COMMENTS

Tyra Patterson

12/18/2014 4:01

Agreement is for use of Opportunity fund revenue pursuant to the District's rules. Amount will change based on revenue incurred and allocated as projects come up.

BARS INFORMATION

• None

MODIFICATION INFORMATION

Mod #	Modification Type	Start Date	End Date	Max Amt Adj	Vendor Name
0	Original	4/8/2014		\$1.00	Pierce County Flood Control Zone District

1 Sponsored by: Councilmembers Joyce McDonald, Stan Flemming, Connie Ladenburg, and Rick Talbert
2 Requested by: Executive/Public Works and Utilities
3
4
5

6 **RESOLUTION NO. R2014-42**

7
8
9

10 **A Resolution of the Pierce County Council Authorizing the Pierce County** 11 **Executive to Execute an Interlocal Agreement with the Pierce** 12 **County Flood Control Zone District for the Purpose of** 13 **Managing Opportunity Fund Projects.** 14

15 **Whereas**, by Ordinance No. 2011-95s, passed on April 3, 2012, the Pierce
16 County Council, as authorized by Chapter 86.15 of the Revised Code of Washington
17 (RCW), formed the Pierce County Flood Control Zone District ("District"); and
18

19 **Whereas**, in Section 5. of Ordinance No. 2011-95s, the Pierce County Council
20 requested the District to establish an opportunity fund composed of ten percent of the
21 revenues raised from District regular property tax levies ("Opportunity Fund"), to be
22 distributed to cities, towns and unincorporated Pierce County based on their
23 proportional percentage of the Opportunity Fund for projects that are consistent with
24 Chapter 86.15 RCW; and
25

26 **Whereas**, by Ordinance No. 2012-24, the Pierce County Council, as authorized
27 by RCW 86.15.070, created the District Advisory Committee to provide advice and
28 recommendations to the District Board of Supervisors; and
29

30 **Whereas**, the Advisory Committee submitted to the District Board of Supervisors
31 a recommendation regarding the Opportunity Fund program; and
32

33 **Whereas**, under RCW 86.15.110, District funds may be expended for flood and
34 stormwater control improvements, and under RCW 86.15.035 and RCW 39.34.190,
35 District funds may be expended for certain cooperative watershed management
36 projects; and
37

38 **Whereas**, the District Board of Supervisors established an Opportunity Fund for
39 the allocation of ten percent of District regular property tax levy revenues to address
40 flooding problems in the cities, towns and unincorporated areas of the District; and
41

42 **Whereas**, Pierce County is an opportunity fund recipient and needs to establish
43 parameters for managing the receipt and expenditure of funds received from the Pierce
44 County Flood Control Zone District; **Now Therefore**,
45
46



1 **BE IT RESOLVED by the Council of Pierce County:**

2
3 Section 1. The Pierce County Executive is hereby authorized to enter into an
4 interlocal agreement, substantially in the same form as Exhibit A which is attached
5 hereto and incorporated herein by reference, with the Pierce County Flood Control Zone
6 District for the purpose of managing opportunity fund projects.

7
8 **ADOPTED** this 8th day of April, 2014.

9
10 **ATTEST:**

PIERCE COUNTY COUNCIL

Pierce County, Washington

11
12
13 Denise D. Johnson
14
15 **Denise D. Johnson**
16 Clerk of the Council

Dan Roach
17
18 **Dan Roach**
Council Chair

