

RESOLUTION NO. 2025-3

A Resolution of the Pierce County Flood Control Zone District Board of Supervisors Approving a Second Amendment to the Interlocal Agreement with the Port of Tacoma for Project Funding Through the Flood Risk Reduction and Watershed Management Economic Stimulus Grant Program.

Whereas, the Pierce County Flood Control Zone District ("District") Board of Supervisors ("Board") established a strategic reserve as part of its fund balance policy with the adoption of 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 a second round of funding for the Flood Risk Reduction and Watershed Management Economic Stimulus Grant Program with Resolution 2021-6; and

Whereas, the District approved a second round of funding for the Flood Risk Reduction and Watershed Management Economic Stimulus Grant Program with Resolution No. 2022-3; 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 will provide flood risk reduction, water quality, habitat, and economic benefits; and

Whereas, the District's Executive Committee reviewed and considered the grant panel recommendations at their meetings on October 19, 2022, and November 16, 2022; and

Whereas, the Board of Supervisors approved a grant award to the Port of Tacoma with Resolution No. 2022-7; and

Whereas, the Board of Supervisors approved a time extension through March 31, 2024, for the Port of Tacoma with Resolution No. 2024-3; and

Whereas, the Port of Tacoma has requested a second time extension to complete their approved projects with supporting documents demonstrating good faith and a commitment to project delivery; **Now Therefore**,

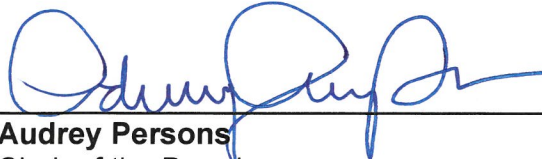
BE IT RESOLVED by the Board of Supervisors of the Pierce County Flood Control Zone District:

Section 1. The Board of Supervisors approves amending the Interlocal Agreement with the Port of Tacoma as Exhibit A to this resolution.

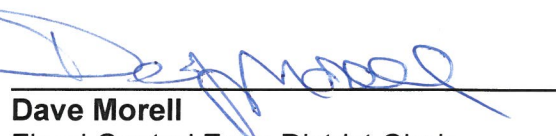
ADOPTED this 20th day of March, 2025.

ATTEST:

**PIERCE COUNTY FLOOD CONTROL
ZONE DISTRICT**
Pierce County, Washington



Audrey Persons
Clerk of the Board



Dave Morell
Flood Control Zone District Chair

**SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT
BETWEEN
THE PIERCE COUNTY FLOOD CONTROL ZONE DISTRICT AND
THE PORT OF TACOMA FOR DISTRICT GRANT FUNDED PROJECTS**

THIS SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT ("Agreement") is made and entered into by and between the PORT OF TACOMA a Port 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. 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 \$125,000 for the Stormwater Infrastructure Comprehensive Plan ("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.

C. This Agreement replaces the first amended interlocal agreement the District authorized in Resolution No. 2024-3, with deletions shown as stricken and additions underlined.

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--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~~ through the budget year ~~2023 2024 2025~~. Only applicable Project work completed in ~~2023, 2024, and 2025~~ shall be eligible for reimbursement. This Agreement shall terminate automatically on December 31, ~~2024 2025~~, ~~ninety (90) days after the close of the current budget year, which ends December 31 of each year.~~ The Municipality

will not request, and the District will not grant, an extension to this termination date.

~~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:

PORT OF TACOMA

PIERCE COUNTY FLOOD
CONTROL ZONE DISTRICT

[TITLE]


Name: Dave J. Morell

Title: Chair

Date: _____

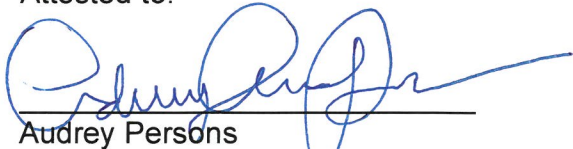
Date: 3/24/25

Approved as to Form:

Attorney

Attested to:

Attested to:


Audrey Persons
Clerk of Board of Supervisors

