

**Interlocal Agreement between Pierce County, Washington,
and the Pierce Conservation District**

This Agreement is made and entered into by and between Pierce County, a legal subdivision of the State of Washington, hereafter referred to as "County," and Pierce Conservation District, a legal subdivision of the State of Washington, hereafter referred to as "District," for the purpose of establishing the roles and responsibilities of the County and the District with respect to the authorization of, and use of funds from a system of special assessments, known as the Resource Conservation Assessment.

WHEREAS, each of the subscribed signatories hereto is a public agency as defined by Chapter 39.34 RCW, the Interlocal Cooperation Act; and

WHEREAS, the District and the County are authorized, pursuant to Chapter 39.34 RCW, to enter into agreements with one another for joint or cooperative action; and

WHEREAS, the District was established pursuant to Chapter 89.08 RCW to protect natural resources in the County; and

WHEREAS, for over 50 years, the District has assisted landowners and local governments as they face resource management challenges relating to agriculture, water quality and other natural resource issues; and

WHEREAS, increasing demands for resource management programs, resulting from more stringent regulations, urban development pressures, and public interest and awareness, has put a strain on both the County and District's financial resources; and

WHEREAS, RCW 89.08.400 authorizes the County to impose a special assessment on land within the District to fund District activities; and

WHEREAS, the revenue from the special assessments will allow the District to work in partnership with the County and participating cities to obtain grant funding and support local governments address requirements of the National Pollutant Discharge Elimination System (NPDES), the Endangered Species Act (ESA) listing of salmon species, and other natural resource protection requirements and needs, such as the protection and conservation of farm lands; and

WHEREAS, the Pierce County Council adopted Ordinance No. 2006-106s, to impose a system of special assessments, known as the Resource Conservation Assessment, pursuant to RCW 89.08.400; and

WHEREAS, this Agreement describes and defines the mutual understanding of the parties made with the intention of implementing a program for managing, distributing, and expending the revenues from the Resource Conservation Assessment authorized by RCW 89.08.400 and implemented by Pierce County Ordinance No. 2006-106s.

NOW, THEREFORE, for the mutual benefits to be derived by both parties, the parties enter into the following Agreement:

I. PURPOSE

The purpose of this Agreement is to establish the roles and responsibilities of the County and the District with respect to the authorization of, and use of funds from, a system of special assessments, known as the Resource Conservation Assessment, for the District.

II. CONTENT OF THIS AGREEMENT

This Agreement consists of the following documents:

- A. Interlocal Agreement
- B. Attachment A and Exhibit B to Ordinance No. 2006-106s, Proposed Resource Conservation Assessment Spending Plan (Spending Plan) and Estimate of Revenues

III. FUNDING

Funding for the subject of this Agreement, the District's Resource Conservation Assessment Program "Program", shall be obtained from the revenues authorized by Ordinance No. 2006-106s, as collected by the Pierce County Assessor-Treasurer for eligible properties. The County and the District shall endeavor to seek and obtain, whenever possible, grants and other external funding sources to support the projects included in the Program.

IV. OVERSIGHT BODY

The municipal governments of Fircrest, Milton, Lakewood, Puyallup, Sumner, Steilacoom, Tacoma, University Place, and Pierce County are Partner Jurisdictions for purpose of this Agreement. The Pierce County Council shall act in accordance with RCW 89.08.210 as the District's Oversight Body. The Oversight Body will represent the residents of their jurisdiction as a whole in matters of budget, project and program conduct, and other matters as seen relevant by the Body. Each member of the Oversight Body will have the authority to request any pertinent budgetary information and recommend individually or collectively such courses of action as deemed prudent and necessary.

V. RESPONSIBILITIES OF THE DISTRICT

- A. Scope of Work. The District shall administer the program and expenditures and perform such duties and services as are listed on Attachment A, Proposed Resource Conservation Assessment Spending Plan and Estimate of Revenues, attached hereto, and incorporated herein by reference.
- B. Program Reporting. The District shall produce annual reports summarizing the work performed, expenditures incurred, and revenues collected; providing an evaluation of the performance and results of the work performed according to this Agreement; and estimating the projected revenues and expenditures for the next time period. Annual reports shall be provided to the members of the Oversight Body and the County Executive. These reports shall include, but not be limited to, the following information:
- A description of work performed during the period and progress made to date, including expenditure data and monitoring data or performance indicators that reflect the effectiveness of the program elements as set forth in Attachment A , Resource Conservation Assessment Spending Plan and Estimate of Revenues.
 - Description of any adverse conditions that have affected the program objectives and/or time schedules, and actions taken to resolve these issues.
 - An accounting of the revenues compared with expenditures for the current reporting period and as projected for the next reporting period.
 - Annual Reports are due January 15 and shall cover the previous calendar year.
- C. Accounting.
- a. Fund Accounts. The District shall maintain a fund account for Resource Conservation Assessment detailing the funds (RCA Fund) collected by the Pierce County Assessor Treasurer. Separate accounting shall be made for each project/program activity identified in Attachment A.
 - b. District Administrative Fee. The District shall also charge prorated monthly administrative fees against the RCA Fund for actual expenses incurred, to a maximum of 24 percent of gross monthly Resource Conservation Assessment revenue receipts. Administrative costs shall be linked to the specific project or program activity most closely related to their use, if possible, or prorated across all activities and jurisdictions, in the case of general operating expense
- D. Maintenance of Records. The District shall maintain all books, documents, receipts, invoices, and records, including payroll records, necessary to sufficiently and properly reflect the expenditures of the RCA Fund accounts. The accounting records shall provide for a separate recording and reporting of all RCA Fund receipts and expenditures. Financial records pertaining to matters authorized by this Agreement are subject to inspection and audit by representatives of County or the State Auditor upon request. Annual State Auditor reports, if not required, shall be requested. State Auditor reports shall be provided to the Oversight Body member and the County Executive within 10 days of receipt. Financial records shall be preserved and made available to the County and its agents for a period of six years after the last expenditure of funds, or in the event of an audit, records shall be kept until the audit is completely resolved.
- E. Conservation District Election Legislation. During the term of this Agreement the District shall assist Pierce County as needed to lobby for changes in State legislation addressing the elections process for the District Board of Supervisors to ensure the broadest public participation possible, in accordance with state law.

VI. RESPONSIBILITIES OF THE COUNTY

- A. Cooperation with the District. The County, through the Oversight Body, shall assist the District in the implementation of the Spending Plan, and in obtaining grant funds to support the programs and activities in the Spending Plan to the extent feasible. Any agency of the County that has expertise, which may be of use to the District in carrying out the Spending Plan, shall make a good faith effort to assist it, as requested and as resources allow.
- B. Cooperation with the Oversight Body. The County shall respond to requests for action from the Oversight Body, as appropriate, and terminate this Agreement, repeal Ordinance No. 2006-106s and rescind the assessment, if necessary.

VII. AMENDMENTS AND MODIFICATIONS

- A. Variations in Revenue and Expenditures. The amount of revenue collected each year will vary from the estimate in Attachment A. Accordingly, expenditures may have to vary from the proposed Spending Plan. Variations in total expenditures for any given year of up to five percent require no change to this Agreement. Variations between five and ten percent for any given year should be reviewed and approved by the Oversight Body. Variations over 10 percent shall be reviewed by the Oversight Body and a report of their findings and recommendation shall be forwarded to the County Executive. The recommendation options are: to approve the variation and ask the County to amend Ordinance No. 2006-106s and attach a new proposed Spending Plan and estimate of revenues or to ask the County Council to repeal the Ordinance and/or ask the County Executive to terminate the Agreement.
- B. Changing the Projects or Program Activities in the Spending Plan. The affected Partner Jurisdiction and the Oversight Body must approve removing projects or program activities or adding ones. Changes in expenditures shall be treated as required above in VII.A.
- C. Delays. Spending for some projects or program activities may be delayed because of extended timeframes for obtaining supporting grant funds, holdups in the permit review/ approval processes, or other unforeseen situations. Variations to the Spending Plan for these reasons shall be treated as noted above in VII.A. It is likely that expenditures of funds from the 2007-2009 collection of assessments will continue into 2010 and possibly 2011.

VIII. TERMINATION

- A. Circumstances for Termination. This Agreement is subject to possible termination in the following circumstances:
 - a. The Oversight Body or any Partner Jurisdiction recommends termination after it determines that the District's expenditures of RCA funds are inconsistent with the Proposed Spending Plan attached as Attachment A by more than 10 percent for any given year; or
 - b. The Oversight Body or any Partner Jurisdiction recommends termination after it determines that the District has expended RCA funds on projects or program activities not included in Attachment A; or
 - c. Upon repeal of the assessment by the County Council.
- B. Process for Termination. The Oversight Body or any Partner Jurisdiction may request that the County Council repeal Ordinance No. 2006-106s and/or request the County Executive to terminate the Agreement for the circumstances listed above. Such request shall be filed with the County Council by September 30 of any year to be effective for the following year's collection. If the Council determines that termination of the special assessment is warranted, it shall pass an Ordinance rescinding the assessment for the next collection cycle.

- C. Any of these actions notwithstanding, after termination all remaining RCA funds must be spent by December 31, 2011, according to the proposed Spending Plan in Attachment A.

IX. PROPERTY

Title to property purchased by the District in execution of the Spending Plan in Attachment A to this Agreement shall pass to and vest to the District. Property purchased with funds delivered pursuant to this Agreement may only be used for the performance of this Agreement and shall be purchased in accordance with applicable State law.

X. GENERAL PROVISIONS

- A. Notice. Except as set forth elsewhere in this Agreement, for all purposes under this Agreement, except service of process, notice shall be given by the District to the County Executive, Room 747, 930 Tacoma Ave S, Tacoma, WA 98402, and to the Legal Counsel for the County Council, Room 1046, 930 Tacoma Ave S, Tacoma, WA 98402. Notice to the District for all purposes under this Agreement shall be given to the Chair of the Board of Supervisors and to the District Manager, 5430 66th Avenue E, Puyallup, WA 98371.
- B. Compliance with Laws. The District shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations applicable to the performance of this Agreement. The District agrees to comply with all the provisions of the Americans with Disabilities Act and all regulations interpreting or enforcing such act.
- C. Defense and Indemnity. The District agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the District, his/her subcontractors, its successor or assigns, or its or their agent, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees. It is further provided that no liability shall attach to the County by reason of entering into this Agreement, except as expressly provided therein.
- E. Industrial Insurance Waiver. With respect to the performance of this Agreement and as to claims against the County, its officers, agents and employees, the District expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the District. This waiver is mutually negotiated by the parties to this Agreement.
- F. Duration of Agreement. This Agreement is in effect from the date of January 1, 2007 through December 31, 2009 for collection of assessments, but expenditures of the collected funds shall be expended by December 31, 2011.
- G. Effective Date. This Agreement shall be effective upon adoption of the authorizing action by the last governing body to act.

Approved:

Chair, Board of Supervisors **date**

Reviewed:

Monty Mahan **date**
District Manager

Approved:

John Ladenburg **date**
Pierce County Executive

Reviewed:

Patrick Kenney **date**
Director, Budget and Finance

Approved as to form only:

Deputy Prosecuting Attorney **date**