



INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Services Committee**
 FROM: **Hari Ponnekanti, Public Works Director/City Engineer**
 BY: **Mike Perfetti, Habitat Project Manager**
 CC: **Mayor Ekberg**
 DATE: **November 5, 2021**
 SUBJECT: **Surface Water Fund - Gilliam Creek Fish Barrier Removal**
Project No. 99830105
Acceptance of King County Flood Reduction Grant Funds

ISSUE

Authorize the Mayor to sign a grant agreement with King County.

BACKGROUND

The primary goals of this project are to restore fish passage between Gilliam Creek and the Green River, restore salmon habitat, and maintain or improve flood protection. The 108” flapgate would be removed and replaced with flood protection more suitable to fish passage.

DISCUSSION

In May, staff submitted a grant application to the King County Flood Control District (KCFCD) requesting funds from its new Flood Reduction Grant that targets culvert replacement and fish passage. In October, the City was notified by the District that it is being awarded the full request. This funding will be used to support preliminary design, stakeholder involvement and design development.

FISCAL IMPACT

The City has \$1,937,000 earmarked for design in the CIP, including \$561,000 in surface water funds through 2023. While there is no match requirement, the City identified \$300,000 in other grant funds as leverage.

Grant	Award	Leverage
KCFCD Grant	\$300,000	
CWM-2021 Grant		\$200,000
CWM-2020 Grant		\$100,000
Total	\$300,000	\$300,000

RECOMMENDATION

Council is being asked to authorize the mayor to sign the Agreement for Award of Flood Reduction Grant Funds between the City of Tukwila and King County for the Gilliam Creek Fish Barrier Removal Project and consider this item on the Consent Agenda at the November 15, 2021 Regular Meeting.

Attachments: 2021-2026 CIP Pg. 85

Agreement for Award of Flood Reduction Grant Funds Between the City of Tukwila and King County 4.21.24

CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2021 to 2026

PROJECT: Gilliam Creek Fish Barrier Removal Project No. 99830105

DESCRIPTION: Construct fish passage improvements at existing flap gate and restore salmonid habitat; replace flap gate which may include a self-regulating tide gate or flood wall.

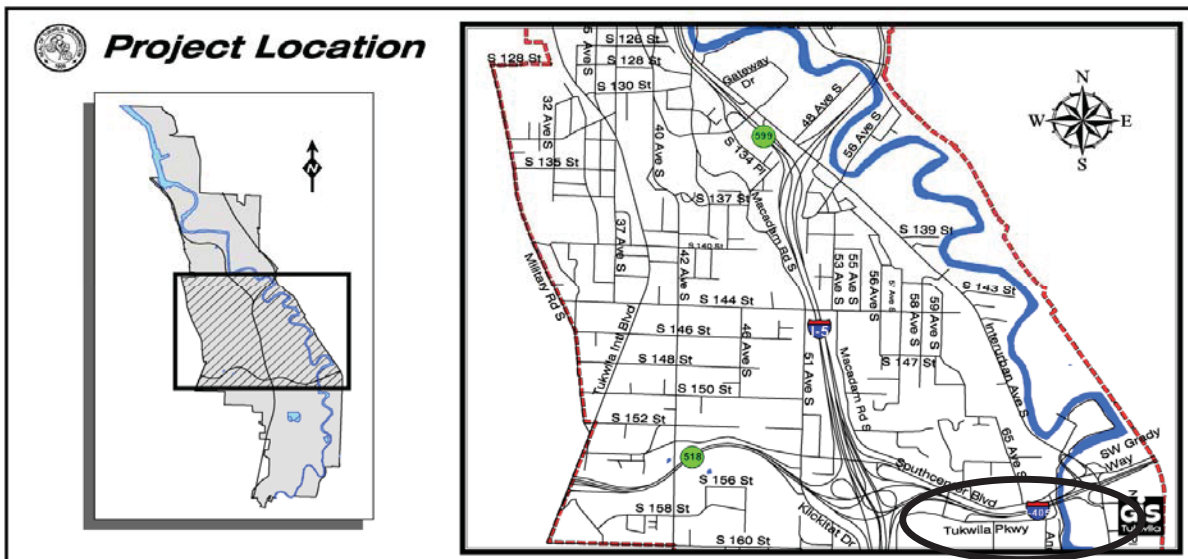
JUSTIFICATION: Enable fish access to lower Gilliam Creek under wider range of flow conditions; fish barrier per WDFW and City; WRIA 9 salmon habitat project.

STATUS: Analysis of lower Gilliam Creek is being conducted in 2018 to determine the best solution for fish passage and to address potential flooding.

MAINT. IMPACT: Likely a shift in maintenance commitments with potential elimination of flapgate maintenance.

COMMENT: In 2020, SRFB listed as Project of Concern, WRIA pulling funding from this cycle; BA Fish Barrier Board - scored 63 of 94; outcomes yet to be determined; \$100K allocated in CWM via WRIA 9.

FINANCIAL (in \$000's)	Through		Estimated							BEYOND	TOTAL
	2019	2020	2021	2022	2023	2024	2025	2026			
EXPENSES											
Design	60		936	536	405						1,937
Land (R/W)											0
Monitoring											0
Const. Mgmt.						752	400				1,152
Construction						5,200	2,000				7,200
TOTAL EXPENSES	60	0	936	536	405	5,952	2,400	0	0	10,289	
FUND SOURCES											
Awarded Grant											0
Proposed Grant			708	350	258	4,760	1,000				7,076
Mitigation Actual											0
Mitigation Expected											0
City Oper. Revenue	60	0	228	186	147	1,192	1,400	0	0		3,213
TOTAL SOURCES	60	0	936	536	405	5,952	2,400	0	0	10,289	



**AGREEMENT FOR AWARD OF
FLOOD REDUCTION GRANT FUNDS
BETWEEN THE CITY OF TUKWILA AND KING COUNTY**

This Agreement is made between King County, a municipal corporation, and the **City of Tukwila** (“Recipient”) (collectively referred to as the “parties” and in the singular “party”), for the purposes set forth herein. This Agreement shall be in effect from the date of execution to **December 31, 2024**.

Project Contacts:

Contact for King County – Kim Harper, Grant Administrator, 206-477-6079, Kim.harper@kingcounty.gov.

Contact for Recipient – Mike Perfetti, 206-550-4930, Mike.perfetti@tukwilawa.gov.

SECTION 1. RECITALS

- 1.1 Whereas, the King County Flood Control District (“District”) is a quasi-municipal corporation of the State of Washington, authorized to provide funding for flood control and stormwater protection projects and activities; and
- 1.2 Whereas King County is the service provider to the District under the terms of an interlocal agreement ("ILA") by and between King County and the District, dated February 17, 2009, as amended, and as service provider implements the District's annual work program and budget; and
- 1.3 Whereas, on November 12, 2013, the District’s Board of Supervisors passed Resolution FCD2013-14 which established a Flood Reduction Grant Program and criteria for awarding grant funding for projects, and on November 4, 2020, the Board passed Resolution FCD2020-22, which authorized an allocation of \$12,000,000 from the District’s 2021 budget to fund flood reduction projects; and
- 1.4 Whereas, on September 14, 2021 the District’s Board of Supervisors passed Resolution FCD2021-10, which approved the flood reduction projects described in Attachment A to that Resolution; and
- 1.5 Whereas, in accordance with the terms of these Resolutions, and in its capacity as service provider to the District, King County has established policies and procedures for administering the flood reduction grant program, a copy of which has been furnished to Recipient and which is incorporated herein by this reference (hereinafter “Grant Policies and Procedures”); and
- 1.6 Whereas, the Recipient submitted an application to receive funds for a project to be funded by the Flood Reduction Grant Program; and

- 1.7 Whereas the District’s Board of Supervisors approved funding of Recipient’s application for the project (“Project”), as described in Attachment A to Resolution FCD2021-10 in the amount of **\$300,000** (“Award”); and
- 1.8 Whereas King County has received a Scope of Work and a Budget for the Project from the Recipient and has determined that the Scope of Work, attached hereto and incorporated herein as Exhibit B (“Scope of Work”), and the Budget, attached hereto and incorporated herein as Exhibit C (“Budget”), are consistent with the Grant Policies and Procedures, the Recipient’s application for the Project, and the Resolution approving funding for the Project; and
- 1.9 Whereas, King County and the Recipient desire to enter into this Agreement for the purpose of establishing the terms and conditions under which King County will provide funding from the District in accordance with Resolution FCD2021-10, and the Grant Policies and Procedures, and under which the Recipient will implement the Project.

SECTION 2. AGREEMENT

- 2.1. The Recitals are an integral part of this Agreement and are incorporated herein by this reference.
- 2.2. King County agrees to pay the Award amount to Recipient in the total amount of **\$300,000** from District funds. The Award shall be used by the Recipient solely for the performance of the Project, as described in Exhibit A to this Agreement. Exhibit A, attached hereto and incorporated herein by this reference, contains a description of the Project as described in Attachment A to Resolution FCD2021-10. King County shall pay the Recipient in accordance with the terms of the Grant Policies and Procedures.
- 2.3. The Recipient represents and warrants that it will only use the Award for the Scope of Work of this Agreement and in accordance with the Project Budget. The Recipient shall be required to refund to King County that portion of the Award which is used for work or tasks not included in the Scope of Work. Further, the Recipient agrees that King County may retain any portion of the Award that is not expended or remains after completion of the Scope of Work and issuance of the Final Report, as further described below.
- 2.4. Activities carried out for this Project and expenses incurred by the Recipient may predate the execution date of this Agreement provided that 1) they have been identified by Recipient as being within the scopes of numbers 2) and 3) below, and have been approved by King County as being within such scopes; 2) the activities are specified in the Scope of Work of this Agreement; 3) the expenses are incurred in carrying out the Scope of Work and are authorized by the Award as identified in the Budget of this Agreement; 4) the activities occur after the District passes a resolution approving an award for the Project; 5) such activities and expenses otherwise comply with all

other terms of this Agreement; and 6) reimbursements shall be paid to the Recipient only after this Agreement has been fully executed.

- 2.5. The Recipient shall invoice King County for incurred expenses using the Request for Payment form and Progress Report form for those documented and allowable expenses identified in the Budget and according to the rules set forth in the Grant Policies and Procedures. Blank forms shall be provided to the Recipient by King County upon execution of this Agreement. A progress report (with or without a request for payment) shall be made no less frequently than every six months after the effective date of this Agreement nor more frequently than every three months after the aforementioned date. A Progress Report form shall be submitted with all payment requests. A one-time advance of no more than 25% of the Award amount may be allowed, in the discretion of King County, for expenses anticipated to be incurred in the three months following the date of submission of the advance Request for Payment only for work that is included in the Scope of Work of this Agreement, and identified as such in the Request for Payment. Documentation of payments made from the advance payment shall be submitted to King County prior to any further requests for payment.
- 2.6. The Recipient shall be required to submit to King County a final report which documents the Recipient's completion of the work in conformance with the terms of this Agreement within thirty (30) days after the completion of the work. The final report may be submitted on the Closeout Report form unless a more detailed final report is specified in the scope of work. A blank form shall be provided to the Recipient by King County upon execution of this Agreement. The final report shall include a summary of the Project's successes and shall address the flood reduction benefits accomplished by the work.
- 2.7. The Recipient's expenditures of Award funds shall be separately identified in the Recipient's accounting records. If requested, the Recipient shall comply with other reasonable requests made by King County with respect to the manner in which Project expenditures are tracked and accounted for in the Recipient's accounting books and records. The Recipient shall maintain such records of expenditures as may be necessary to conform to generally accepted accounting principles as further described in Section 2.8 below, and to meet the requirements of all applicable state and federal laws.
- 2.8. The Recipient shall be required to track project expenses using the Budget Accounting and Reporting System for the State of Washington ("BARS") or Generally Accepted Accounting Principles set forth by the Financial Accounting Standards Board or by the Governmental Accounting Standards Board.
- 2.9. King County or its representative, and the District or its representative, shall have the right from time to time, at reasonable intervals, to audit the Recipient's books and records in order to verify compliance with the terms of this Agreement. The Recipient shall cooperate with King County and the District in any such audit.

- 2.10. The Recipient shall retain all accounting records and project files relating to this Agreement in accordance with criteria established by the Washington State Archivist Local Government Common Records Retention Schedule (CORE) as revised.
- 2.11. The Recipient shall ensure that all work performed by its employees, agents, contractors or subcontractors is performed in a manner which protects and safeguards the environment and natural resources and which is in compliance with local, state and federal laws and regulations. The Recipient shall implement an appropriate monitoring system or program to ensure compliance with this provision.
- 2.12. The Recipient agrees to indemnify, defend and hold harmless King County, and the District, their elected or appointed officials, employees and agents, from all claims, alleged liability, damages, losses to or death of person or damage to property arising out of any acts or omissions of the Recipient, its employees, agents, contractors or subcontractors in performing its obligations under the terms of this Agreement.
- 2.13. The Recipient agrees to acknowledge the District as a source of funding for the Project on all literature, signage or press releases related to the Project. The Recipient may obtain from King County a District logo that may be used in the acknowledgement.

SECTION 3. GENERAL PROVISIONS

- 3.1. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.
- 3.2. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. No prior or contemporaneous representation, inducement, promise or agreement between or among the parties which relate to the subject matter hereof which are not embodied in this Agreement shall be of any force or effect.
- 3.3. No amendment to this Agreement shall be binding on any of the parties unless such amendment is in writing and is executed by the parties. The parties contemplate that this Agreement may from time to time be modified by written amendment which shall be executed by duly authorized representatives of the parties and attached to this Agreement.
- 3.4. Each party warrants and represents that such party has full and complete authority to enter into this Agreement and each person executing this Agreement on behalf of a party warrants and represents that he/she has been fully authorized to execute this Agreement on behalf of such party and that such party is bound by the signature of such representative.
- 3.5. The Project shall be completed by no later than **December 31, 2024**. In the event that the Project is not completed by this date, King County has the discretion, but not the obligation, to terminate this Agreement and retain any unexpended Award funds.
- 3.6. This Agreement may be signed in multiple counterparts.

3.7. If any provision of this Agreement shall be wholly or partially invalid or unenforceable under applicable law, such provision will be ineffective to that extent only, without in any way affecting the remaining parts or provision of this Agreement, and the remaining provisions of this Agreement shall continue to be in effect.

3.8. The amount of the Award has been fully funded by the District. To the extent that funding of the Award requires future appropriations by the District, King County’s obligations are contingent upon the appropriation of sufficient funds by the Board of Supervisors of the District to complete the Scope of Work. If no such appropriation is made, this Agreement will terminate at the close of the appropriation year for which the last appropriation that provides funds under this Agreement was made.

KING COUNTY:

RECIPIENT:

By _____

By _____

Name _____

Name _____

Title _____

Title _____

Date _____

Date _____

EXHIBIT A: PROJECT DESCRIPTION

PROJECT NAME	RECIPIENT	DESCRIPTION	LEVERAGE	AWARD
Gilliam Creek Fish Passage & Habitat Enhancement	City of Tukwila	The Gilliam Creek Fish Barrier Removal and Habitat Enhancement Project will restore fish passage between Gilliam Creek and the Green River and improve habitat conditions within lower Gilliam Creek. Gilliam Creek is mostly inaccessible to aquatic species due to the presence of a 1960s era 108"-diameter flapgate at the outlet of a 207-foot long culvert beneath 66th Ave. S.	\$300,000	\$300,000

EXHIBIT B: SCOPE OF WORK

TASKS	ACTIVITIES AND DELIVERABLES	APPROX. PERCENT OF AWARD	MONTH/YEAR TASK WILL BE COMPLETED
Task 1: Project Administration (Required task)	Submit reimbursement request forms, backup documentation for billing, and progress reports at least every 6 months. Submit a Fiscal Closeout form and a Closeout Report form with the final reimbursement request.	1%	October, 2024
Task 2: Design Development (match contributions)	We hired a professional design consulting team to finalize preliminary feasibility work and develop three conceptual design alternatives. Deliverable will be the selection of the chosen alternative.	1%	October, 2022
Task 3: Permitting	We will hire a professional design consulting team to execute permitting for the preferred alternative up to 60%, 90% or 100% design, depending on alternative selected. Deliverables will be the permits for design and construction.	38%	October, 2023
Task 4: 60%/90%/100% Design	We will hire a professional design consulting team to execute design for the preferred alternative up to 60%, 90% or 100% design, depending on the alternative selected. Deliverable will be plans, specifications, and cost estimates to prepare the project for the construction phase.	60%	October 2024

EXHIBIT C: BUDGET

BUDGET ITEM	GRANT AWARD REQUEST	FINANCIAL LEVERAGE (not required)			LEVERAG E TOTAL	TOTAL (Grant + Leverage)
		SOURCE NAME				
		2020 CWM	2021 CWM			
		AMOUNT				
STAFFING	\$1,500	\$543	\$1,326		\$1,869	\$3,369
PROJECT SUPPLIES						
COMMERCIAL SERVICES AND CREW TIME	\$298,500	\$99,457	\$198,674		\$298,131	\$596,631
TOTAL	\$300,000	\$100,000	\$200,000		\$300,000	\$600,000