

**AGREEMENT BETWEEN PIERCE COUNTY, WA
AND THE PORT OF TACOMA
REGARDING THE FREDERICKSON MANUFACTURING INDUSTRIAL CENTER
ADAPTIVE SIGNALIZATION PROJECT**

This Agreement (AGREEMENT) is entered into this 21st day of November 2018 by and between Pierce County, WA, an administrative division of the State of Washington (hereinafter the "County"), and the **PORT OF TACOMA**, a Washington public port district (the "Port"), (collectively "Parties") in consideration of the mutual covenants contained herein. The Parties hereby recite and agree as follows:

RECITALS

1. The Port is charged by state statute with a mission of furthering economic development. To that end, the Port has adopted a Port Community Economic Development Policy by which the Port administers its monetary support of economic projects sponsored by local public agencies in Pierce County.
2. The purpose of the Frederickson Manufacturing Industrial Center adaptive signalization project is to improve and increase freight mobility, reduce pollution and improve connections between the Port and the Frederickson distribution centers.
3. Pierce County requested and the Port agrees to provide an investment from the Port Community Economic Development Investment Fund of \$45,000 to partner with Pierce County on the performance enhancing software and hardware to improve the capabilities of the existing traffic signal controllers, as specified herein.
4. The Port finds the requested contribution meets the Port's Community Economic Development Policy criteria as follows:
 - a. The project is within Pierce County and is a partnership with a government agency. Per the Port's policy, the request is recognized as a road freight infrastructure project that facilitates the retention of employers and their job opportunities.
 - b. This project boosts the viability of this Manufacturing Industrial Center.

NOW, THEREFORE, in consideration of the mutual benefits and covenants described herein, the Parties agree as follows:

1. SCOPE OF WORK.

The Pierce County's Frederickson MIC Adaptive Signalization Project ("Project") consists of the following:

- The purchase and installation of new performance enhancing software and hardware that

applies a higher level of artificial intelligence to the interconnected traffic signal operations on 176th Street East and Canyon Road East in the Frederickson area. This includes new radar equipment to provide longer range vehicle detection in conjunction with new electronic processors to increase the capabilities of the existing traffic signal controllers.

- All as described in Pierce County's Application, as attached hereto as **Attachment A**.

2. PORT'S CONDITIONAL AGREEMENT TO CONTRIBUTE FUNDS.

Subject to the terms herein, the Port agrees to contribute to Pierce County an investment from the Community Economic Development Investment Fund for the Project in the amount not to exceed \$45,000. Further conditions of the Port's funding are as follows:

In the event Project costs are higher than projected, the County will assume any excess Project costs. The County also assumes all maintenance costs after the installation.

The Port's annual Community Economic Development Investment Fund is allocated and specifically identified in the Port's 2018 budget.

The Port's distribution of funds is contingent on Pierce County obtaining full committed funding by September 30, 2018 for the complete Project scope.

Port payments up to the not to exceed amount will be made within thirty days of Pierce County's submittal of written proof to the Port of actual Project expenses.

3. TIMEFRAME/PROJECT SCHEDULE.

Q3 2018 thru Q4 2019

4. PIERCE COUNTY'S PROJECT FINANCIAL SUMMARY.

Material costs:	\$137,400
Installation:	9,250
Engineering:	3,360
15% contingency	22,501
Total	\$172,511

5. ABANDONMENT. If the Project is abandoned, then this AGREEMENT shall be of no further force or effect.

6. ASSIGNMENT. Neither Party to this AGREEMENT shall have the right to convey, assign, apportion or otherwise transfer any and all of its rights, obligations, conditions and interests under this AGREEMENT, without the prior written approval of the other.

7. THIRD PARTY BENEFICIARIES. This AGREEMENT is made and entered into for the sole protection and benefit of the Parties hereto and their successors and assigns. No other person shall have any right or cause of action based upon any provisions of this AGREEMENT.

8. EQUAL DRAFTING. This AGREEMENT has been reviewed and revised by legal counsel for both parties, and no presumption or rule construing ambiguity against the drafter of the document shall apply to the interpretation or enforcement of this AGREEMENT.

9. SEVERABILITY. If any provisions of this AGREEMENT are determined to be unenforceable or invalid pursuant to a final decree or judgment by a court of law with jurisdiction, then the remainder of this AGREEMENT not decreed or adjudged unenforceable or invalid shall remain unaffected and in full force and effect to the extent that the primary purpose of this AGREEMENT can be preserved.

10. MODIFICATION. This AGREEMENT may not be modified except by mutual agreement reduced to writing in a formal amendment hereto and approved by each Party's governing body.

11. TERMINATION. This AGREEMENT shall terminate upon completion by both Parties of their respective obligations hereunder, or on December 30, 2019 unless terminated earlier.

12. GOVERNING LAW. This AGREEMENT shall be governed exclusively by the laws of the State of Washington both as to interpretation and performance without recourse to any principles of Conflicts of Laws. Any action at law, suit in equity or judicial proceeding for the endorsement of this AGREEMENT or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Pierce County, Washington

13. NOTICES. All notices given pursuant to this AGREEMENT shall be deemed delivered to the respective party on the date that it is personally delivered to the address(es) set forth below, or on the date that it is successfully sent by email transmission to the email addresses set forth below:

ENTITY: Pierce County, Washington
Attention: Clint Ritter, P.E.
Address: Tacoma Mall Office Building
4301 South Pine Street, Suite 628
Tacoma, WA 98409-7207

Email: clint.ritter@piercecountywa.gov

Port: Port of Tacoma
PO Box 1837
Tacoma, Washington 98406
Attention: Evette Mason
Email: emason@portoftacoma.com

14. ENTIRE AGREEMENT. This AGREEMENT constitutes the entire agreement of the parties, supersedes all previous oral or written understandings, and incorporates all prior discussions and agreements pertaining to this subject matter. The Parties participated equally in any negotiations and the process leading to execution of this AGREEMENT. If a dispute should arise with regard to the meaning or interpretation of any provision hereof, there shall be no presumption of draftsmanship as to such provision.

15. LEGAL RELATIONS.

A. Independent Municipal Governments. The Parties hereto are independent governmental entities and nothing herein shall be construed to limit the independent government powers, authority or discretion of the governing bodies of each Party. It is understood and agreed that this AGREEMENT is solely for the benefit of the Parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of this AGREEMENT. No employees or agents of any Party shall be deemed, or represent themselves to be, employees of any of the other Party.

B. Legal obligations. This AGREEMENT does not relieve either Party of any obligation or responsibility imposed upon it by law.

C. Timely Performance. The requirements of this AGREEMENT shall be carried out in a timely manner according to a schedule negotiated by and satisfactory to the Parties.

D. Recording. A copy of this ALA shall be recorded in the Office of the Pierce County Auditor in accordance with RCW 39.34, or shall be posted to each Parties' web site.

16. RECORDS AND AUDIT. During the term of this AGREEMENT, and for a period not less than six (6) years from the date of termination, records and accounts pertaining to the work of this AGREEMENT and accounting therefore shall be kept by each Party and shall be available for inspection and audit by representatives of either Party and any other entity with legal entitlement to review said records. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit finding has been resolved, even though such litigation, claim, or audit continues past the six-year (6) retention period. This provision is in addition to and is not intended to supplant, alter or amend records retention requirements established by applicable state and federal laws.

17. LIMITS OF FINANCIAL OBLIGATIONS/PROPERTY OWNERSHIP. Except as provided above, each Party shall finance its own conduct of responsibilities under this AGREEMENT. No ownership of property will transfer as a result of this AGREEMENT.

18. INDEMNIFICATION AND HOLD HARMLESS.

A. The County releases the Port from, and shall defend, indemnify, and hold the Port and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or

on behalf of the County and/or its agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the County's performance of its obligations under this AGREEMENT, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the Port or its agents, employees, and/or officers.

B. The County shall defend, indemnify, and hold the Port and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of any third parties and/or their agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the County's performance of its obligations under this AGREEMENT, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the Port or its agents, employees, and/or officers.

C. The Port releases the County from, and shall defend, indemnify, and hold the County and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of the Port and/or its agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the Port's performance of its obligations under this AGREEMENT, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the County or its agents, employees, and/or officers.

D. The Port shall defend, indemnify, and hold the County and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of any third parties and/or their agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the Port's performance of its obligations under this AGREEMENT, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the County or its agents, employees, and/or officers.


E. Each Party specifically assumes liability for actions brought by its own employees against the other Party and for that purpose each Party specifically waives, as respects the other parties only, any immunity under the Worker's Compensation Act, RCW Title 51. The Parties recognize that this waiver was the subject of mutual negotiation.

F. In the event any Party incurs attorney's fees, costs or other legal expenses to enforce the provisions of this AGREEMENT against the other Party, all such fees, costs and expenses shall be recoverable by the prevailing Party.

G. No liability shall attach to any of the Parties by reason of entering into this AGREEMENT except as expressly provided herein.

H. The provisions of this Article shall survive any termination or expiration of this AGREEMENT.

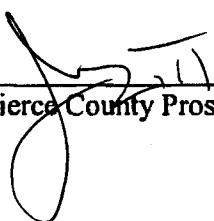
PIERCE COUNTY:



Toby D. Rickman, P.E., Deputy Director

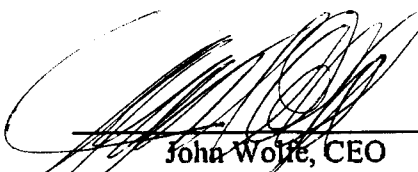
Date: 11/7/18

Approved as to form:




Pierce County Prosecuting Attorney

PORT OF TACOMA:



John Wolfe, CEO

Date: 11.21.18



Port Legal Counsel



Local Economic Development Funding Request Application

The Port of Tacoma dedicates a portion of its revenues to partnership projects that create economic development benefits, enhancing the community vitality of Pierce County. As a special purpose district governed by state law, investments by the Port of Tacoma must adhere to the legal requirements set forth in **Title 53 of the Revised Code of Washington** (particularly Chapter 53).

Investments shall be limited to county, city, and town government agencies or non-profits in Pierce County and typically will involve the Port as a minority investor. The Port's allocation to a project will be committed for up to two calendar years, (however contracts must be signed in the calendar year awarded), and payable on a reimbursement basis. Investment focus and priorities include:

- a. Road and freight rail infrastructure projects that create long-term jobs
- b. Marine tourism infrastructure projects

intended to attract tourists to Pierce County from outside locations.

- c. Planning activities or events promoting international trade, business retention or business recruitment;
- d. Planning activities or events promoting tourism intended to attract tourists to Pierce County from outside locations.

Activities or events may not be religious in nature. You may apply and receive funds for up to three consecutive years.

If your project is found to be within the Port's statutory authority and policy guidelines, your application will be considered during the Port's annual review process. Municipal entities must agree to enter into an Interlocal Agreement in accordance with § RCW 39.34. For more information about the Port of Tacoma, visit www.portoftacoma.com or call 253.428.8662.

APPLICATIONS ARE DUE February 2, 2018

Instructions

1. Please fill in this form and print it out. Use the tab key or click to move between fields. Click to mark boxes.
2. Answer each question in the space provided.
3. Attach the required documents.

4. Sign and date the application.
5. Send completed application to:
Leslie Barstow, Manager, Community Relations, Port of Tacoma
PO Box 1837
Tacoma, WA 98401-1837,
or e-mail to community@portoftacoma.com

Applicant Information

Organization

Name PIERCE COUNTY			
Address 2702 South 42nd Street, Suite 201			
City Tacoma	County Pierce	State/Province WA	Zip/Postal Code 98409-7322
Website www.co.pierce.wa.us/119/Public-Works		Organization Legal Status, ie 501(c)3 or 107(c) County Government	

Attachment A - PC/POT Funding Agreement

Organization/Representative/Contact

Name Pierce County / Toby D. Rickman, P.E., Deputy Director / Matthew Graves		Phone 253-798-3557
Title Transportation Engineer	E-mail Address mgraves@co.pierce.wa.us	

Project Information

Title and Brief Description of Project Frederickson Manufacturing Industrial Center Adaptive Signalization		
<p>Eight existing interconnected traffic signals in the Frederickson Manufacturing Industrial Center (MIC) will receive performance enhancing software and hardware which will increase freight mobility, reduce pollution, and enhance the Port of Tacoma's competitiveness through improved connections to distribution centers.</p> <p>The Frederickson MIC is served by two arterial corridors -- 176th Street East and Canyon Road East. Both arterial corridors are operated with interconnected traffic signals. The adaptive signalization project will essentially apply a higher level of artificial intelligence to the interconnected traffic signal operation. This will be accomplished by implementing new radar equipment to provide longer range vehicle detection in conjunction with new electronic processors to increase the capabilities of the existing traffic signal controllers.</p> <p>Pierce County will capitalize upon the unique Port of Tacoma funding opportunities to reduce administrative project costs through the use of County maintenance forces. This application of County force work to implement our project is allowed by State RCW's.</p>		
Geographic Area Covered by Project Central Pierce County and surrounding cities.	Number of People Served by Project 557,000	Dates of Project From: 4/1/18 To: 12/31/19
Amount Requested from Port of Tacoma \$86,000	Total Project Cost \$172,511	Is this a one-time event or an ongoing effort? this is a one-time installation of new equipment. Pierce County will be fully responsible for continuing maintenance after the initial installation.

Attachment A - PC/POT Funding Agreement

Port of Tacoma Local Economic Development Funding Request Application

Funding Sources for this Project

Firm Financial Commitments to Date	
Source	Amount
Pierce County	\$86,511
Other Sources Where Applications Were Submitted	
Source	Amount Status

Purpose: What will this project accomplish?

This project will improve travel time and increase the delivery range of shippers and industries. Improved signal operation will increase capacity that, in turn, encourages the industrial build out of the Fredrickson MIC.

Industry hypotheses surmise that a semi-truck occupies the space of two or three passenger cars in the roadway system. Yet the cost of the semi-trailer on a congested roadway may be a dozen times greater than that of the passenger vehicle. Improving the transportation system performance will reduce the cost of conducting business in Fredrickson MIC and in the greater Pierce region. The project accomplishments are in direct correlation to the Port of Tacoma Strategic Plan 2012-2022 People, Partnership, Performance, Page 8, Goal #2 Provide Reliable & Efficient Regional & Local Infrastructure Connections. Also, please reference "Development of an areawide Estimate of Truck Freight Value in the Urban Mobility Report", National Center for Freight & Infrastructure Research & Education, June 2012.

The proposed project is a low cost improvement which exemplifies "Getting as much service as possible from what we have.....". This concept is expressed in the 2015 Urban Mobility Scorecard, Texas A&M Transportation Institute, August 2015.

Our funds: Specifically, how would you use our contribution? When would you want the contribution?

The Port of Tacoma funds will contribute toward a portion of the equipment and installation costs of vehicle detection radars, communication systems and adaptive technology electronics. The radars will be placed several hundreds of feet in advance of the traffic signal. This is a much greater distance than the typical advance vehicle detectors. The radar detected information in conjunction with higher cognitive electronics allow the traffic signal controller to adapt to real time traffic conditions. This is a great improvement over basic interconnected signals that operate on a preprogrammed condition. Basic interconnected signals assume a traffic condition that may or may not be the actual traffic event. Adaptive traffic signals, operating with real time traffic information, create more opportunities to travel through green signal after green signal after green signal.

We envision a project schedule that assumes the grant award by April 2018, an executed MOA in August 2018, material orders placed by Autumn 2018, receive materials and start implementation by Spring 2019 with completion of all physical work by December 2019. Our schedule may be altered to mitigate conditions experienced by the Grantor.

In-kind: If the Port does not contribute any money, are there in-kind services that the Port could provide?

No.

Attachment A - PC/POT Funding Agreement

Port of Tacoma Local Economic Development Funding Request Application

Referral: *Who suggested that you contact the Port for funding on this project?*

Pierce County responded to a solicitation by Evette Mason to the Transportation Coordinating Committee (TCC). The TCC advises the Pierce County Regional Council (PCRC) on transportation and infrastructure issues.

Need: *Why is this project important to our community? Why should this project be important to the Port?*

The need to advance employment development in Pierce County private industry via an efficient, reliable transportation infrastructure is exemplified by our unemployment rate which typically exceeds Thurston, Kitsap, Snohomish and King County rates. The proposed improvements encourage the expansion of existing businesses and development of new businesses within the Frederickson MIC and the greater Pierce regional area by improving travel times and lowering freight transportation costs. That brings family sustaining jobs to Pierce County.

Our project is important to the community's desire to reduce greenhouse gases as documented in Pierce County Resolution 2010-73. Tailpipe emission hot-spots are typically associated with intersections as vehicles accelerate from a stop or delay event. The adaptive traffic signal project reduces the hot-spot occurrence by providing more green time signals to approaching vehicles before the stop or delay event occurs. Recent arterial capacity improvements combined with the adaptive signal project creates an opportunity to reduce hot-spot tailpipe emissions by 20% to 50%. Please refer to "Emission Reduction Through Traffic Management: An Empirical Evaluation Based Upon On-Road Measurements", North Carolina University, December 2001.

In 1968, the Port of Tacoma purchased 500 acres with the intent of developing an industrial/manufacturing area that would become the Frederickson MIC. The proposed project is important to the Port, in that, adding transportation capacity through adaptive signalization is part of a balanced and diversified approach to create transportation efficiencies that, in turn, encourages the industrial build out of Frederickson MIC.

Approach: *How do you plan to implement this project?*

Pierce County will order the traffic signal material in the Autumn of 2018. Traffic signal suppliers often require several months to produce and provide the requested material(s). Physical work to implement the materials into the traffic signals will occur in the Spring of 2019.

The radars will be placed on luminaire poles several hundreds of feet in advance of the traffic signals. The radars will be used only on the arterial roads, 176th St E and Canyon Road E. Radar detection will not be used on connecting approaches. Adaptive electronic modules and processors will be plugged into or placed into the existing traffic signal controllers.

Communication transmission options may include either fiber, wire, wireless or any combination thereof. Specific field circumstances will contribute to the transmission options decision tree. Underground conduit already exists for use in fiber or wire communication transmission options.

As mentioned previously, Pierce County engineers and maintenance forces will prosecute the work. The scope of work does not appear to require any outside agency permitting or approvals.

Support: *What kind of local support is there for the project?*

We are proposing the scope of work based upon some assumptions toward Community preferences for green light traffic signals versus red light traffic signals. The temporary impact due to equipment installation should be minimal and may be interpreted by the public as routine maintenance operations. We believe this project will be an unsung hero who's impact will be noticeably pleasant to the community and greatly appreciated by the industrial/shipping businesses.

Attachment A - PC/POT Funding Agreement

Port of Tacoma Local Economic Development Funding Request Application

Coordination: *Who else in your community is working on this issue? How do you coordinate with them?*

Pierce County is the sole party that has committed to implementing this project. Creating a partnership with the Port of Tacoma heightens the priority to dedicate our resources and carry into action the delivery of the project scope. It is the Port of Tacoma's pledge that elevates this project above many other efforts which merit worthiness by the community.

Attachment A - PC/POT Funding Agreement

Port of Tacoma Local Economic Development Funding Request Application

Future Support: *How will this project be financed in the future?*

County force labor costs to implement the project in the field along with engineering staff expenses will be drawn from our Traffic Division maintenance/operations annual budget. A portion of the materials costs may also be drawn from this resource.

The remaining project costs may be covered by transferring funds from the "Traffic Signal System Interconnect" project. This \$100,000 project is listed in our 2018-2023 Transportation Improvement Plan as County Road Project (CRP) #5851. Cost increases may be covered through transfers from our annual Construction Fund program.

As mentioned previously, the Port of Tacoma's financial pledge initiates the transferring of funds from other County projects to the proposed adaptive signal project. This is an example of how the Port of Tacoma can elevate Frederickson MIC improvements above many other efforts which merit worthiness by the community.

Deliverables: *What will the Port receive for their financial +/- in-kind partnership? What happens to our funds if the event does not occur?*

The end result of the Frederickson Manufacturing Industrial Center Adaptive Signalization project is an improved transportation system that increases the economic competitiveness of the Frederickson MIC, the Port of Tacoma MIC, and the region overall.

Improving shipping travel times lowers the costs of commodities. Inputting a low priced commodity into the industrial process allows for a profitable finished product. Profitable industries increase the demand for commodities imported through gateway facilities such as the Port of Tacoma.

Pierce County will repay the Port of Tacoma funds if the project is not delivered.

Evaluation: *How will the success of the project be measured?*

Short term measurements - Pierce County will provide delay data for traffic through the project area on Canyon Rd E and on 176th St E. The delay data will indicate before project measurements and after project measurements.

Long term benefits - The continued economic development of the Frederickson MIC.

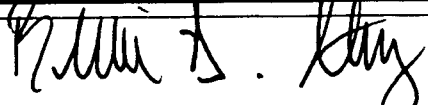
Additional Information

Does this organization have a formal policy of compliance with equal employment opportunity and affirmative action laws and regulations? Yes, Pierce County ensures that it complies with all applicable federal laws and regulations.	Yes ← No
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Please attach each of the following to the completed application:

- *Project budget (if relevant)
- *List of current board members/officers

Signature

Signature:  Print Name Here: <u>Brian D. Stacy, P.E.</u>	Date: <u>1-30-18</u>
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**APPLICATIONS ARE DUE NO LATER THAN
February 2, 2018**