

**NORTHEAST TACOMA ROUTE 903 TRANSIT SERVICE
FUNDING AGREEMENT**

Between

PIERCE TRANSIT

And

KING COUNTY

THIS Northeast TACOMA ROUTE 903 TRANSIT SERVICE FUNDING AGREEMENT ("Agreement") is made by and between the Pierce County Public Transportation Benefit Authority ("Pierce Transit"), and King County, a home rule charter county of the State of Washington, through its Department of Transportation, Metro Transit Division ("County" or "Metro"), either of which may be referred to hereinafter individually as "Party" or collectively as the "Parties."

WHEREAS, the County operates a public transportation system in King County; and

WHEREAS, Pierce Transit operates a public transportation system in Pierce County; and
WHEREAS, the Parties have identified an innovative transit solution that would allow Pierce Transit to provide for a redesigned Route 62 to provide an express connection between Northeast Tacoma and Downtown Tacoma and to contract with King County Metro to provide "feeder" service by extending the County's existing Route 903 from a portion of Northeast Tacoma to the Pierce Transit Route 62;

WHEREAS, by engaging in a one year demonstration project to evaluate this proposed service in Northeast Tacoma, the Parties seek to increase ridership and efficiency of the Pierce Transit Route 62 a necessary service to provide public transportation to Northeast Tacoma which falls within the Pierce Transit service area;

WHEREAS, Pierce Transit has funds budgeted for innovative service to allow for the purchase of service hours to extend the County's Route 903 service hours into Northeast Tacoma; and

WHEREAS, the County has the available resources to operate this extension on an existing County route to serve Pierce Transit customers in Northeast Tacoma; and

WHEREAS, the County can provide additional service hours to extend the Route 903 less expensively and more efficiently than Pierce Transit can do so for the same level of service.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to establish the terms and conditions under which Pierce Transit will provide funding for the County to extend the transit service on County's Route 903 to serve the Northeast Tacoma community and to connect that community to public transportation options in the Pierce Transit service area.

2. DEFINITIONS

- DART Service: Transit service operated by the County's contractor that operates on a fixed-route with the ability to operate flexible route-deviation trips.
- Flexible Service Area: a designated area in which limited, off-route deviations may be made upon request and with advance notice.
- Level of Service: The total number of bus trips provided while the route is in operation.
- Peak Service: Transit service operated between the hours of 5:00 AM and 9:00 AM and between 3:00 PM and 7:00 PM on weekdays.
- Revenue Service Hour: The time the service is operating on the designated schedule, including any layover time.
- Service Frequency: The number of bus trips in the same direction of travel within a specified timeframe, usually expressed as the number of trips per hour.
- Service Span: The amount of time each day in which the service is operating.

3. RESPONSIBILITIES OF THE PARTIES

- 3.1 Service Description. The County will be responsible for providing a weekday peak-hour extension to the existing Route 903 to serve the Northeast Tacoma community. The County will provide the service for the initial demonstration period beginning September 28, 2015 and ending on or about September 9, 2016, unless terminated earlier pursuant to the terms of this agreement.

The County will provide the Service Frequency and Service Span identified in Exhibit A. The service shall at all times be open to the general public.

- 3.2 Service Operations. The County retains responsibility for scheduling and operating the Route 903 service, including the portion funded by Pierce Transit under this Agreement, and will monitor and manage the service in accordance with its established policies, standards, rules, and procedures. The Route 903 extension into Northeast Tacoma will be included in Metro's Online Trip Planner. The vehicles will be branded consistent with the County's DART program and will be part of the ORCA regional fare system and regular County Metro fares will be charged for the service.

The Parties agree to meet as-needed and in a timely manner to address any operational or service issues that arise, including capacity or performance issues.

- 3.3 Service Funding. The County will invoice Pierce Transit quarterly for the service hours operated on the Route 903 extension. The first invoice will be issued following December 31, 2015. The invoice will reflect actual revenue service hours operated on the Route 903 extension for that quarter. The hourly rate will be the same as the County's fully allocated hourly cost for its DART service. If this agreement is extended by mutual written agreement for an additional term as provided in section 5, the hourly rate will be adjusted on an annual basis to be the same as the County's fully allocated hourly cost for DART service. Increases to the hourly rate for any period will be subject to negotiation.
- 3.4 Communication and Service Information Procedures. The County will follow its standard procedures for developing and distributing Route 903 service information to the public using its existing communications tools and activities. Pierce Transit will be responsible for any additional communication and service information required for the Northeast Tacoma community.
- 3.5 Service Ridership. The County will track and provide ridership numbers by day specifically on the Northeast Tacoma segment of the Route 903. The County will provide the ridership numbers to Pierce Transit on a monthly basis. Additional monthly and annual data will be provided to complete National Transit Database reporting.
- 3.6 Service Performance Review. The Parties' designated contact staff will meet as-needed to review the financial expenditures and/or operating performance of the service provided for under this Agreement. The purpose of these meetings will be to identify any issues which may have a budget impact and discuss any potential changes to service operations.

4. INVOICES/PAYMENT PROCEDURE

For the term of the Agreement, The County will invoice Pierce Transit quarterly for its financial contribution as provided for in Subsection 3.3 of the Agreement. The invoices will be issued within thirty days of the end each quarter. Upon receipt of each quarterly invoice from the County, Pierce Transit shall make payment in the amount due within forty-five (45) days of receipt of a billing invoice. Each quarterly invoice will be based on the number of revenue service hours operated on the Route 903 extension at the County's fully allocated hourly rate for DART service in the given calendar year. Should Pierce Transit fail to pay the County the amount due within forty-five (45) days of the receipt of an invoice from the County, eight percent (8%) simple interest per annum will be applied to any outstanding balance due for that invoice.

5. EFFECTIVE DATE, DURATION AND EXTENSION

This Agreement will become effective upon signature by both Parties and will expire on September 9, 2016, unless extended or earlier terminated pursuant to the terms of this Agreement. If, after the initial one year Agreement period, the Northeast Tacoma Route 903 transit service extension project is deemed viable by both Parties and operationalizing and funding for the service is approved by the Pierce Transit Board of Commissioners, the Agreement may be extended once for an additional two (2) year term. Any such mutually-acceptable extension must be in the form of a written amendment to this Agreement signed by authorized representatives of the Parties after approval by governing bodies of each party.

6. TERMINATION

6.1 Termination

- 6.1.1 Termination for Convenience. This Agreement may be terminated by either Party for convenience, for any reason including but not limited to a determination by Pierce Transit that the continuation of the Route 903 transit service extension to Northeast Tacoma would not be likely to produce beneficial results commensurate with the further expenditure of funds, upon written notice to the other Party at least 110 calendar days prior to the County's next scheduled service change date
- 6.1.2 Termination for Non-Appropriation. Performance of any tasks undertaken by either party pursuant to this Agreement is conditional upon the appropriation by the party's respective governing Council or Board of sufficient funds to support the undertakings provided for in this Agreement. Should such an appropriation not be approved, the Agreement shall terminate at the close of the last appropriation period during which such funds were allocated.
- 6.1.3 Termination for Default or Failure to Perform. Either Party may also terminate this Agreement in the event that the other Party fails to cure a default of such other Party's duties hereunder within fourteen (14) calendar days after receipt of written notice of such default.
- 6.1.4 If either Party terminates the Agreement, Pierce Transit will pay the County a pro-rated amount for services performed in accordance with the Agreement to the date of termination.

7. AMENDMENTS AND MODIFICATIONS

Any Party may request changes to the provisions of this Agreement. Proposed changes shall not be effective unless and until they are mutually agreed upon and incorporated by written amendment signed by authorized representatives of the Parties.

8. DISPUTE RESOLUTION

The Parties shall use their best efforts, through good faith discussion and negotiation, to resolve any disputes pertaining to this Agreement that may arise between them. If the Parties' informal dispute resolution efforts fail, the Parties agree to engage in mediation, with each Party bearing its own costs of mediation, before seeking to resolve disputes in a court of law or any other forum.

9. ADDITIONAL PROVISIONS

- 9.1 No Third Party Beneficiaries. It is understood that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity.
- 9.2 No Partnership or Joint Venture. No joint venture, agent-principal relationship, or partnership is formed as a result of this Agreement. All persons employed by or providing paid or volunteer services to either Party shall be considered the employees, volunteers, agents or representatives of that Party and shall not be deemed, nor represent themselves, to be the employees, volunteers, agents or representatives of the other Party.
- 9.3 Applicable Law. This Agreement shall be interpreted in accordance with the laws of the State of Washington.
- 9.4 Jurisdiction and Venue. The Superior Court of King County, Washington, situated in Seattle, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.
- 9.5 Mutual Negotiation and Construction. This Agreement and each of the terms and provisions herein shall be deemed to have been explicitly negotiated among, and mutually drafted by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.
- 9.6 Severability. If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives originally contemplated by the Parties.
- 9.7 Waiver of Default. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be

deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing, signed by duly authorized representatives of the Parties, and attached to the original Agreement.

- 9.8 Assignment. Neither this Agreement, nor any interest herein, may be assigned by either Party without the prior written consent of the other Party.
- 9.9 Binding on Successors and Assigns. This Agreement and all of its terms, provisions, conditions, and covenants, shall be binding on the Parties and their respective successors and assigns.
- 9.10 Rights and Remedies. The Parties' rights and remedies in this Agreement are in addition to any other rights and remedies provided by law.
- 9.11 Entire Agreement. This Agreement embodies the Parties' entire understanding and agreement on the issues covered by it, except as may be supplemented by subsequent written amendment to this Agreement, and supersedes any prior negotiations, representations or draft agreements on this matter, either written or oral.
- 9.12 Survival. The provisions of this Section 8 (Legal Relations) shall survive the expiration or termination of this Agreement.

10. INDEMNIFICATION

Each Party shall protect, defend, indemnify and save harmless the other Party, its elected officials, officers, officials, employees and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each Party's own negligent acts or omissions. Each Party agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, RCW Title 51, 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. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them. The provisions of this Section 10 (Indemnification) shall survive the expiration or termination of the Agreement.

11. FORCE MAJEURE

Either Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, earthquake or acts of nature; strikes or labor actions; commandeering material, products, or facilities by the federal, state or local government; and/or national fuel shortage; when satisfactory evidence of such cause is presented to the other Party, and provided further that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing. In no event, however, shall this provision eliminate the County's obligation to make every effort to operate this service at the same level that it would operate the County's other routes in the event of any of the above conditions, nor shall this provision eliminate Pierce Transit's obligation to make payment to the County for work performed in accordance with this Agreement.

12. NOTICE REQUIREMENTS

Any notice given under this Agreement shall be in writing and given by sending such notice by registered mail, return receipt requested, with postage prepaid, addressed as follows, or at such other address as the party to be notified shall have last directed in writing, or by serving said notice personally.

KING COUNTY: Transit General Manager
Department of Transportation – KS-TR-0415
King Street Center
201 S. Jackson Street
Seattle, WA 98104-38565

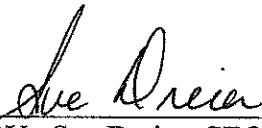
PIERCE TRANSIT: Sue Dreier
Chief Executive Officer
Pierce Transit
3701 96th St. SW
Lakewood, WA 98499-4431

The effective date of notice shall be the date of personal service or the date of receipt as shown on the return receipt, as applicable.

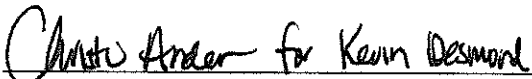
IN WITNESS WHEREOF, each Party hereto has caused this Agreement to be executed by a duly authorized representative as of the latest date written below.

PIERCE TRANSIT

KING COUNTY



BY: Sue Dreier, CEO
Pierce County Public Transportation Benefit
Authority
WF



Kevin Desmond, General Manager
King County Department of Transportation,
Metro Transit Division

Date: 7/16/15

Date: 7-28-2015

EXHIBIT A

SERVICE DESCRIPTION

Selected weekday peak period Route 903 trips now operating within Federal Way will be revised to extend to and from Northeast Tacoma, between 39th Avenue Southwest/Southwest 342nd Street in Federal Way and the vicinity of 45th Street Northeast/Nassau Avenue Northeast via 43rd Street Northeast, 45th Avenue Northeast, Browns Point Boulevard, Nassau Avenue NE, Norpoint Way Northeast and Northshore Parkway Northeast

Service would operate on weekdays between about 5:45 – 8:45 AM and about 4:00 – 7:00 PM about every ½ hour.

Designated Contact Staff for on-going Operations

KING COUNTY:

Doug Johnson
Service Planning, Metro Transit
King Street Center
201 S. Jackson Street
Seattle, WA 98104-38565
206-477-5837
doug.johnson@kingcounty.gov

PIERCE TRANSIT:

Van Sawin
Business Development Officer
Pierce Transit
3701 96th St. SW
Lakewood, WA 98499-4431
(253) 983-2721
vsawin@piercetransit.org

Service Map

