



PIERCE TRANSIT BOARD MEETING
Training Center, Rainier Room
3720 96th Street SW, Lakewood, WA
November 9, 2015, 4:00 PM

The Special Study Session will be held prior to this Meeting at 3:00 PM

AGENDA

CALL TO ORDER

ROLL CALL

INTRODUCTIONS

New Chief of Public Safety

Doug Middleton
Chief Operations Officer

PRESENTATIONS

Employee(s) of the Month - November
Jason Robertson

Kathy Walton
Marketing Manager

PUBLIC COMMENT

(Citizens wishing to provide comment will be given three minutes to comment on any transit-related matters regardless of whether it is an agenda item or not.)

PUBLIC HEARING

1. Proposed Increase to Senior, Disabled, Youth and SHUTTLE Fares
2. 2016 Preliminary Budget

CONSENT AGENDA

(Items listed below were distributed to Commissioners in advance for reading and study and are enacted with one motion. Item(s) may be moved to the Action Agenda at the request of a Commissioner.)

1. Approval of Vouchers, November 1, 2015
2. Minutes: Regular Board Meetings of October 12, 2015
3. FS 15-064, Authorizing the Execution of Amendment No. 4 to the Interagency Master Agreement with the Department of Enterprise Services (DES) to Extend the Term of Project Management Services through December 31, 2018, and to Execute Task Order Nos. 3, 4, 5 and 6

4. FS 15-065, Authorizing the Chief Executive Officer to Enter Into and Execute an Interlocal Agreement with the City of Tacoma for Pierce Transit to Provide Commute Trip Reduction Services and Outreach to City of Tacoma Employers
5. FS 15-066, Authorizing the Chief Executive Officer to Enter Into and Execute an Interlocal Agreement with Pierce County for Pierce Transit to Provide Commute Trip Reduction (CTR) Services and Outreach to CTR Affected Employers in Pierce County
6. FS 15-067, Authorizing the Purchase of Sixty-One (61) Grant Funded Replacement Vanpool Vans from Washington State Contract No. 03613

ACTION AGENDA

1. FS 15-068, Creating the Care-A-Van Grant Program for Donation of Surplus Vehicles to Qualifying Non-Profit Organizations
Cherry Thomas
Sr. Planner Paratransit
2. FS 15-069, Authorizing the Chief Executive Officer to Enter Into and Execute an Interlocal Agreement with the City of Lakewood for Off Duty Police Services, Beginning January 1, 2016 and ending on December 31, 2019
Doug Middleton
Chief Operations Officer
3. FS 15-070, Authorizing Adoption of the Federal Advocacy Program 2016-2017
Justin Leighton
Government Relations Officer
4. FS 15-071, Authorizing Adoption of the 2016 State Legislative Priorities
Justin Leighton
Government Relations Officer
5. FS 15-072, Authorizing the Chief Executive Officer to Enter Into and Execute a Multi-Year Land Lease Agreement with In-Site Wireless for the Location Known as Indian Hill
Carlos Davis
Radio Program Administrator

STAFF UPDATES/DISCUSSION

CEO Report

Sue Dreier
Chief Executive Officer

INFORMATIONAL BOARD ITEMS

- Chair Report
- Sound Transit Update
- Commissioners' Comments

Chair Talbert

EXECUTIVE SESSION

ADJOURNMENT

American Disability Act (ADA) accommodations are available with a 72-hour notice. An interpreter for the hearing impaired will be provided upon request with a minimum notice of two weeks. Please contact the Clerk's office at 253-581-8066 for special accommodations. Meeting room is wheelchair accessible. Registered SHUTTLE customers may obtain specialized transportation to and from the hearing by calling SHUTTLE at 253-581-8000 from one to five days in advance of the hearing.

**PIERCE TRANSIT
BOARD OF COMMISSIONERS
MINUTES**

October 12, 2015

CALL TO ORDER

Vice Chair Vermillion called the meeting to order at 4:00 PM.

Commissioners present:

Don Anderson, City of Lakewood Mayor (*arrived at 4:01 PM*)
Daryl Eidinger, City of Edgewood Mayor (*representing Fife/Milton/Edgewood*)
Kent Keel, City of University Place Councilmember
Pat McCarthy, Pierce County Executive
Lauren Walker, City of Tacoma Councilmember
Marilyn Strickland, City of Tacoma Mayor (*arrived at 4:02 PM*)
Steve Vermillion, Vice-Chair, City of Puyallup Councilmember

Commissioners excused:

Rick Talbert, Chair of the Board, Pierce County Councilmember
Nancy Henderson, Town of Steilacoom Councilmember
(*representing Auburn/Gig Harbor/Fircrest/Pacific/Ruston/Steilacoom*)

Staff present:

Sue Dreier, Chief Executive Officer
Wayne Fanshier, Chief Financial Officer
Dana Henderson, General Counsel
Deanne Jacobson, Clerk of the Board
Vivienne Kamphaus, Interim Chief Administration Officer
Doug Middleton, Chief Operations Officer
Angela Woods, Deputy Clerk of the Board

PRESENTATIONS

October 2015 Operator of the Month ~ Leo Randolph, Jr.

Transportation Manager Dena Withrow and Transit Operator Assistant Manager Scott Gaines honored Leo Randolph, Jr., for Operator of the Month for October 2015. They highlighted his excellent customer service skills and great attendance. Mr. Randolph was also commended for his leadership during a situation at the Federal Way Transit Center when he acted in an intelligent and thoughtful manner.

Mr. Randolph thanked staff for all their support, noting it's a team effort.

October Employee of the Month ~ Cherry Thomas, Senior Planner Paratransit

Transit Development Manager Dena Withrow honored Cherry Thomas with the Employee of the Month award for October 2015. Ms. Thomas received the award for organizing the Transit Team Appreciation Day event that was held for employees on September 2, 2015. She was commended for organizing this successful, large event.

Quarterly Excellence in Safety Award ~ Marvin Gilliam, Safety and Service Quality Administrator

Safety Officer Jason Hovde honored Mr. Gilliam for receiving the 4th Quarter “Excellence in Safety Award,” for automating the Commercial Driver’s License (CDL) tracking program that prevents operators from driving without a current CDL license and medical card.

PUBLIC COMMENT

Vice Chair Vermillion provided instructions for public comment.

Cinderella Helga, Lakewood, commented on the following: that Pierce Transit should have an after-hours emergency number; that the fareboxes may not be working well if used too rapidly; thanked Pierce Transit for providing service to the Washington State Fair; and discussed a recent incident that occurred with a SHUTTLE bus, where the operator declined to help her.

CONSENT AGENDA

(Items listed below were distributed to Commissioners in advance for reading and study and are enacted with one motion.)

Commissioners McCarthy and Strickland **moved** and seconded to approve the consent agenda as presented.

Motion **carried**, 7-0.

1. Approval of September 30, 2015 Vouchers
Operating Fund #10
Capital Fund #90
Voucher Numbers CK 345155 through CK 345655
Travel Advance Check Nos. 1046 through 1057
Wire Numbers 1551 through 1563
Total \$5,678,625.67
2. Minutes: Special Study Session and Regular Board Meeting of September 14, 2015
3. FS 15-058, approved Resolution No. 15-054, authorizing the Chief Executive Officer to enter into and execute a four-year Partnership Agreement with Pierce County for use of the County’s Digital Orthophotography Services
4. FS 15-059, approved Resolution No. 15-055, authorizing the Chief Executive Officer to enter into and execute a Fiscal Agent Agreement with Training Information and Resource Network (TRAIN) Consortium to acknowledge the shifting of fiscal stewardship from Tacoma Community College to Pierce County

ACTION AGENDA

1. FS 15-063, A Resolution Authorizing the Following: (1) Amendment of Lease with PRC Tacoma – 1, LLC, Until March 31, 2016; (2) Purchase of Communication Tower and Site Assets from PRC Tacoma – 1, LLC; and (3) Execute a Tower Site Lease Agreement with IWG Towers Assets I, LLC, d/b/a InSite Wireless

Radio Project Administrator Carlos Davis presented on the item and recapped previous Board action that relates to the radio project and the multi-faceted transactions that have occurred to this point relating to the Indian Hill project.

Staff responded to various questions relating to the following:

- 3% price escalator clause of the site tower lease;
- Various questions relating to the original lease that expired;
- The other towers that are located on the property;
- The appraisal of the property;
- Concerns about buying a tower on leased property (Pierce Transit has no leverage); and
- Whether eminent domain was of consideration.

At the conclusion of the discussion, General Counsel Henderson confirmed that a legal opinion about condemnation has not been conducted.

Following discussion, Commissioners McCarthy and Strickland **moved** and seconded to approve Resolution No. 15-056 authorizing (1) the Chief Executive Officer to enter into and execute the Tower Lease Amendment with PRC Tacoma until March 31, 2016 in substantially the same form as Exhibit 4; (2) to enter into and execute a Tower Purchase Agreement with PRC Tacoma in substantially the same form as Exhibit 2; and (3) enter into and execute the Tower Lease Site with InSite Wireless in substantially the same form as Exhibit 3, and authorizing General Counsel to make any non-substantive changes deemed necessary.

Amendment

Commissioners Anderson and Keel **moved** and seconded to strike the language in Section (3) of the original motion as follows, “~~(3) enter into and execute the Tower Lease Site with InSite Wireless in substantially the same form as Exhibit 3, and authorizing General Counsel to make any non-substantive changes deemed necessary.~~”

Upon roll call vote, the amendment **carried**, 4-3. (Commissioners McCarthy, Strickland and Walker dissented.)

Commissioner McCarthy expressed concern that the overall radio system will be held up.

The original motion, **carried**, as amended, 7-0.

CEO Dreier noted that she understands that this is a timely manner. Pierce Transit will get a legal opinion on this and bring it back to the November 9, 2015 Board Meeting.

STAFF UPDATES/DISCUSSION

Gig Harbor Trolley update and Washington State Fair Ridership Update

Business Development Officer Van Sawin reviewed the ridership statistics. He provided a handout that detailed the statistics.

Commissioner Vermillion commented about the positive experiences he encountered while taking the bus to the Fair, noting he was very pleased with the service.

Commissioner McCarthy noted that this event is a great chance for people who normally don't ride the bus to take it to events.

Long Range Plan Update

Principal Planner Darin Stavish presented on the item. He reported that the proposed plan is currently being formatted and edited by consultants, and he reviewed the next steps, which included public outreach and adoption scheduled for April 2016.

Upon inquiry, Mr. Stavish noted that the proposed plan is an "unconstrained plan" that shows explosive growth and some assumptions are based on a 9/10 percent sales tax collection.

CEO Report

CEO Sue Dreier reported on the following information:

- The American Public Transportation Association (APTA) annual conference that she attended last week.
- Mediation with the ATU begins next week
- In partnership with the "Try Transit Month" program sponsored by Downtown: On the go! CEO Dreier will be riding the bus on October 28, 2015. Citizens are encouraged to ride the bus and meet the CEO.

Commissioner McCarthy suggested that TV Tacoma may be able to video the experience.

INFORMATIONAL BOARD ITEMS

Chair Report ~ None.

Sound Transit Update ~ None.

Commissioners' Comments ~ None.

EXECUTIVE SESSION ~ None.

ADJOURNMENT

It was **moved** and seconded by Commissioners Keel and McCarthy to adjourn the meeting at 4:52 PM.

Motion **carried**, 7-0.

Deanne Jacobson, CMC
Clerk of the Board

Steve Vermillion, Vice Chair
Board of Commissioners

FACT SHEET

TITLE: Authorization to Execute Amendment No. 4 to the Interagency Master Agreement with the Department of Enterprise Services (DES) to Extend the Term of Project Management Services Through December 31, 2018, and to Execute Task Order Nos. 3, 4, 5 and 6

DIVISION: Finance

ORIGINATOR: Clint Steele, Project Manager

PRECEDING ACTION:

Resolution 13-040, Ratification and Extension of Interagency Master Agreement and Task Order No. 1 with the Department of Enterprise Services for Project Management Services Through December 31, 2014.

Resolution 14-064, Authorization to Execute Amendment No. 3 to the Master Agreement with the Department of Enterprise Services (DES) to Extend the Term of Project Management Services Through December 31, 2015.

COORDINATING DEPARTMENT: Transit Development

APPROVED FOR SUBMITTAL:

Chief Financial Officer

APPROVED FOR AGENDA:

Chief Executive Officer

General Counsel

ATTACHMENTS:

Proposed Resolution
Exhibit A, Proposed Amendment No. 4
Exhibit B, Rate Sheet
Exhibit C, Overview of Projects

BUDGET INFORMATION

2015 Budget Amount
\$61,457.18

Required Expenditure
\$61,457.18

Impact
N/A

Explanation: The fees associated with Task Order Nos. 3, 4, 5, and 6 are included in the 2015 Capital Budget.

BACKGROUND:

Pierce Transit staff seeks the authority to extend the term of the current Interagency Master Agreement with Washington State Department of Enterprise Services (DES) by three years to December 31, 2018. The overall purpose of the Interagency Agreement is for DES to provide project and contract management services to Pierce Transit. DES's Division of Engineering and Architectural Services (E&AS), Capital Project Management (CPM) provides contract management services to state agencies to design and construct state facilities. DES is required to provide these services in accordance with the laws and policies of the State of Washington, Pierce Transit Procurement requirements, and the Federal Transit Administration.

Services include:

- Assisting with project scope and budget development;
- Adhering to State and Federal procurement requirements;
- Selecting a Project Designer and negotiating design fees;
- Issuing design contracts;
- Monitoring the design process and approving Designer's invoices for payment by Pierce Transit;
- Managing the construction bid process;
- Issuing construction contracts;
- Monitoring the construction progress and managing the contracts; and
- Accepting the work and approving Contractor Invoices.

DES may only enter into Agreements on behalf of Pierce Transit with a Funding approval from Pierce Transit.

To date, DES has assisted Pierce Transit with two Capital Projects:

- Task Order No. 1: Pierce Transit Headquarters Renovation (Building 4 Modifications), DES Project No. 2013-181 in the amount of \$38,331.00; and
- Task Order No. 2: Pierce Transit Headquarters Administration Building Roof Repair (Building 4 Roof Deck Replacement), DES Project No. 2013-246 in the amount of \$8,762.00; and

This amendment includes Task Order Nos. 3, 4, 5 and 6; consisting of work to be done on the following approved Pierce Transit Capital Projects described in Exhibit C; and

- Task Order No. 3: Project management services for the bidding and through Construction Closeout phases for the TDS Mid-Life Maintenance project, DES Project No. 2016-030 in the amount of \$19,680.22.
- Task Order No. 4: Project management services for the TDS Bus Shop Lighting Replacement project, DES Project No. 2016-024 in the amount of \$6,124.16.
- Task Order No. 5: Project management services for the Building 1 Auto Shop Hoist Replacement project, DES Project No. 2016-025 in the amount of \$13,341.00.
- Task Order No. 6: Project management services for the Facilities Critical Repairs project, DES Project No. 2016-022 in the amount of \$22,311.80.

The total for the services to assist with Task Order Nos. 3, 4, 5 and 6 for Pierce Transit's approved Capital Projects is not to exceed \$61,457.18. These fees are based off of the current DES Rate Sheet, Exhibit B.

ALTERNATIVE:

Do not authorize staff to extend the Interagency Master Agreement with DES, nor approve the execution of Task Order Nos. 3, 4, 5 and 6 which would prevent Pierce Transit from using the tools and services of DES. This is not recommended because of the delay it would cause in moving forward the identified projects.

RECOMMENDATION:

Approve Resolution No. 15-057, authorizing the Chief Executive Officer to execute Amendment No. 4 to the Interagency Master Agreement with the Department of Enterprise Services (DES) to extend the term of Project Management Services through December 31, 2018, and to execute Task Order Nos. 3, 4, 5 and 6.

RESOLUTION NO. 15-057

1 A RESOLUTION of the Board of Commissioners of Pierce Transit Authorizing Amendment No. 4 to the
2 Interagency Master Agreement with Department of Enterprise Services (DES) to Extend the Term of the Project
3 Management Services Through December 31, 2018, and to Execute Task Order Nos. 3, 4, 5, and 6
4

5 WHEREAS, Resolution No. 13-040 ratified the Master Agreement and authorized the extension of
6 Interagency Master Agreement and Task Order No. 1 with the Department of Enterprise Services (DES) which
7 provides a vehicle for DES to provide contract management services to Pierce Transit; and

8 WHEREAS, Resolution No. 14-064 authorized Amendment No. 3 to the Master Agreement to extend the
9 term of the Interagency Master Agreement with DES through December 31, 2015; and

10 WHEREAS, DES's Division of Engineering and Architectural Services (E&AS), Capital Project Management
11 (CPM) provides contract management services to state and local agencies; and

12 WHEREAS, DES's program adds value to Pierce Transit by monitoring project budget, schedule, quality,
13 and ensuring that Pierce Transit's needs are met; and

14 WHEREAS, The Agency has successfully been working with DES to complete various project; and

15 WHEREAS, Staff desires to utilize DES's services for the projects identified in Exhibit C and other
16 projects it determines that DES would be a good fit and therefore requests that the master agreement be
17 extended to allow the parties to work together through December 31, 2018; and

18 WHEREAS, Depending on value, Pierce Transit staff will return to the Board's Executive Finance
19 Committee or the Board of Commissioners throughout the term of the agreement to seek approval of certain
20 projects if it is deemed that the project should be managed by DES when the contract amount exceeds the
21 financial authority of the CEO; and

22 WHEREAS, Task Order No. 3 will provide project management services for the bidding through
23 Construction Closeout phases to Pierce Transit for the TDS Mid-life Maintenance project in the amount of
24 \$19,680.22; and

25 WHEREAS, Task Order No. 4 will provide project management services to Pierce Transit for the TDS Bus
26 Shop Lighting Replacement project in the amount of \$6,124.16; and

27 WHEREAS, Task Order No. 5 will provide project management services to Pierce Transit for the Auto
28 Shop Hoist Replacement project in the amount of \$13,341; and

29 WHEREAS, Task Order No. 6 will provide project management services to Pierce Transit for the Facilities
30 Critical Repairs project in the amount of \$22,311.80; and

1 WHEREAS, Amendment No. 4 to the Interagency Master Agreement with DES is not to exceed
2 \$61,457.18; and

3 NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

4 Section 1. The Board of Commissioners authorizes the Chief Executive Officer to execute Amendment
5 No. 4, attached hereto as Exhibit A, to the Interagency Master Agreement with the Department Of Enterprise
6 Services to extend the term of Project Management Services through December 31, 2018; and

7 Section 2. Authorize the CEO to execute Task Order No. 3: Project management services for the bidding
8 and through Construction Closeout phases for the TDS Mid-Life Maintenance project, DES Project No. 2016-030
9 in the amount of \$19,680.22; and

10 Section 3. Authorize the CEO to execute Task Order No. 4: Project management services for the TDS
11 Bus Shop Lighting Replacement project, DES Project No. 2016-024 in the amount of \$6,124.16; and

12 Section 4. Authorize the CEO to execute Task Order No. 5: Project management services for the Building
13 1 Auto Shop Hoist Replacement project, DES Project No. 2016-025 in the amount of \$13,341.00; and

14 ADOPTED by the Board of Commissioners of Pierce Transit at their regular meeting thereof held on the
15 9th day of November, 2015.

Rick Talbert, Chairman
Board of Commissioners

ATTEST:

Deanne Jacobson, CMC
Clerk of the Board

Interagency Agreement No. 2012-EAS-712
Amendment No. 4
November 10, 2015

The parties to this Agreement, The Department of Enterprise Services, Division of Engineering & Architectural Services (DES), and the Pierce County Public Transportation Benefit Area Corporation (AGENCY), hereby make the following amendment to the above referenced Agreement.

Scope of Modifications to the Agreement:

1. Statement of Work

DES shall furnish all necessary personnel and services for performance of the Project Management services.

Project Management services shall include, but are not limited to the following:

- A. Manage the Architect/Engineer (A/E) agreement(s) and activities associated with performance of the services of such agreement(s), including:
 - 1. Manage selection of A/E and other project consultants.
 - 2. Manage negotiation and preparation of A/E and other consultant agreement(s) and associated amendments.
 - 3. Manage the scheduling of project meetings.
 - 4. Ensure compliance with the A/E agreement(s).
 - 5. Prepare and issue amendments to the A/E and other consultant agreements upon approval by AGENCY.
 - 6. Review and approve A/E and other consultant invoices for final approval and payment by AGENCY.
- B. Manage the construction contracts, including:
 - 1. Manage the bidding process for construction contracts.
 - 2. Conduct public bid openings, administer bidder responsibility evaluation process when applicable, and provide recommendations to AGENCY regarding award of contracts.
 - 3. Prepare and manage the execution of the construction contract(s).
 - 4. Manage changes to the construction contract(s) with the approval of the AGENCY.
 - 5. Manage the scheduling of construction progress meetings.
 - 6. Coordinate and facilitate communications with Contractor, and AGENCY.
 - 7. Provide contract dispute resolution assistance.
 - 8. Review and approve construction invoices for final approval and payment by the AGENCY.

- C. Ensure that the project, agreements and contracts comply with applicable state and federal statutes and requirements and state policies including, without limitation:
 - 1. RCW Title 39 and 43
 - 2. ADA Requirements
 - 3. Buy America
 - 4. Davis-Bacon
 - 5. Prevailing Wage
 - 6. DBE Participation
 - 7. Apprentice Participation
 - 8. Timely payment to contractors
 - 9. Timely release of retainage to contractors
- D. It is the intent of the parties to ensure that the project, agreements and contracts also comply with Pierce Transit policies, including but not limited to bid limits and contracting authority levels, to the extent that those policies don't conflict with federal statutes and requirements or state policies.
- E. Contracts required for this scope of work require AGENCY review and approval before final execution by DES.
- F. Provide engineering and architectural expertise to assist AGENCY.
- G. Administer project close-out consistent with all legal requirements including, without limitation, RCW.

Note: E&AS will not be responsible for any Federal reporting. The contract documents for each construction project will clearly identify to all contractors the appropriate data required by the AGENCY. This data is identified in the "Federal and State Regulations Applicable to Pierce Transit" submitted to DES May 26, 2015 shall be incorporated into "Division 0" of each project specification. All contractors will be required to submit this data to the AGENCY on a monthly basis. All Federal reporting responsibilities will remain with the AGENCY.

All work shall be authorized by Task Order to this Agreement.

- 1.1 Provide project management (PM) services for the Pierce Transit Headquarter Renovation Project No. 2013-181. PM services shall include core services referenced above.
- 1.2 Provide project management (PM) services for Pierce Transit Headquarters Administration Building Roof Repair Project No. 2013-246.
- 1.3 Provide project management (PM) services for the Bidding and through Construction Closeout phases for the Tacoma Dome Station (TDS) Mid-Life Repairs Project No. 2016-030.**
- 1.4 Provide project management (PM) services for the TDS Bus Shop Lighting Replacement Project No. 2016-024.**
- 1.5 Provide project management (PM) services for the Building 1 Auto Shop Hoist Replacement Project No. 2016-025.**

**1.6 Provide project management (PM) services for the Facilities Critical Repairs
Project No. 2016-022.**

2. Period of Performance

Subject to its other provisions, the period of performance of this Amendment shall commence when this Amendment is properly signed and expire on **December 31, 2018**, unless terminated sooner or extended, as provided herein.

3. Consideration

AGENCY shall pay DES an amount not to exceed **\$61,457.18** for the performance of all services necessary, or incidental to, the work set forth in the Statement of Work of this Amendment.

Compensation for DES Engineering and Architectural Services (EAS) Project Management Services shall be based on the total project amount. The DES project management fee is calculated using the following formula:

$$\text{DES Fee \%} = (T^{-0.65} \times 100) + 0.016 \text{ ———}$$

$$\text{DES Fee} = \text{DES Fee \%} \times T$$

$$\text{Where } T = \text{Non-Capital Project Cost ———}$$

[This fee formula was generated from a curve of fee costs providing appropriately higher fee percentages for smaller projects and lower fee percentages for larger projects.]

[Only a project's non-capital costs are subject to the DES Fee.]

a. DES Project Number 2016-030 Tacoma Dome Station (TDS) Mid-Life Repairs

T =	\$ 2,200,000.00
DES Fee	\$ 51,790.06

[Double click the table to calculate the DES fee using the formula above.]

NOTE: Since this project is near completion of design, DES project management services shall be adjusted for bidding through closeout phases. These services represent 38% of the total project fee, with 7% for getting ready to bid and 31% for bidding through closeout phases.

$$\text{Adjusted DES Fee: } \$51,790.06 \times 0.38 = \$19,680.22$$

b. DES Project Number 2016-024 TDS Bus Shop Lighting Replacement

T =	\$ 71,000.00
DES Fee	\$ 6,124.16

Double click the table to calculate the DES fee using the formula above.

c. DES Project Number 2016-025 Building 1 Auto shop Hoist Replacement

T =	\$ 311,000.00
DES Fee	\$ 13,341.00

Double click the table to calculate the DES fee using the formula above.

d. DES Project Number 2016-022 Facilities Critical Repairs

T =	\$ 700,000.00
DES Fee	\$ 22,311.80

Double click the table to calculate the DES fee using the formula above.

Total fees shall not be increased except by an Amendment to the Agreement.

Compensation for services provided by Consultant/Contractor shall be paid directly to the Consultant/Contractor by the AGENCY, after DES has reviewed, approved and forwarded the invoices to the AGENCY for payment.

4. Billing Procedure

DES shall submit invoices to the AGENCY as shown in the Invoicing Schedule below, on or before the 10th of the month for the previous quarter. The invoices will clearly indicate that it is for services rendered in performance under this Amendment to Agreement and shall reflect the Agreement number.

a. DES Project Number 2016-030 Tacoma Dome Station (TDS) Mid-Life Repairs. (complete by Mar. 2017)

Invoicing Schedule	
Month Invoiced	Amount
January 10, 2016	\$3,280.00
April 10, 2016	\$3,280.00
July 10, 2016	\$3,280.00
October 10, 2016	\$3,280.00

Divide DES Fee by the number of quarters to spread the payments over, then check the total matches the DES Fee.

Quarterly billing month is the month after the quarter month:

Service Period	Billing Mo.
Jan-Mar	April
Apr-June	July
July-Sept	October
Oct-Dec	January

January 10, 2017	\$3,280.00
April 10, 2017	\$3,280.22
Total	\$19,680.22

**b. DES Project Number 2016-024 TDS Bus Shop Lighting Replacement
(complete by Feb. 2016)**

Invoicing Schedule	
Month Invoiced	Amount
January 10, 2016	\$3,062.08
April 10, 2016	\$3,062.08
Total	\$6,124.16

**c. DES Project Number 2016-025 Building 1 Auto Shop Hoist Replacement
(complete by Dec. 2016)**

Invoicing Schedule	
Month Invoiced	Amount
January 10, 2016	\$2,668.20
April 10, 2016	\$2,668.20
July 10, 2016	\$2,668.20
October 10, 2016	\$2,668.20
January 10, 2017	\$2,668.20
Total	\$13,341.00

**d. DES Project Number 2016-022 Facilities Critical Repairs
(complete by Dec. 2016)**

Invoicing Schedule	
Month Invoiced	Amount
January 10, 2016	\$4,462.36
April 10, 2016	\$4,462.36
July 10, 2016	\$4,462.36
October 10, 2016	\$4,462.36
January 10, 2017	\$4,462.36
Total	\$22,311.80

Total E&AS fee per this Amendment No. 4 shall not exceed \$61,457.18

All sections above have been fully amended and are shown in their entirety.

All other terms and conditions of the Agreement remain in full force and effect. The requirements of RCW 39.34.030 are satisfied by the underlying Agreement and are incorporated by reference herein.

Each party signatory hereto, having first had the opportunity to read this Amendment and discuss the same with independent legal counsel, in execution of this document hereby mutually agree to all terms and conditions herein, and as incorporated by reference in the Interagency Agreement.

**Pierce County Public Transportation
Benefit Area Corporation**

**Department of Enterprise Services
Division of Engineering & Architectural
Services**

Susan Dreier
Chief Executive Officer

William J. Frare, P.E
Assistant Director

Date

Date

Department of Enterprise Services (DES) Rate Sheet as of October 2015

Project Value	EAS PM Fee	Equation	Fee By Eq	Fee by Sch	dif
0	20.00%				
\$ 25,000	14.96%	15.44647%	\$ 3,861.62	\$ 3,740.00	\$ 121.62
\$ 50,000	9.35%	10.42408%	\$ 5,212.04	\$ 4,675.00	\$ 537.04
\$ 100,000	5.84%	7.22341%	\$ 7,223.41	\$ 5,844.00	\$ 1,379.41
\$ 200,000	4.87%	5.18369%	\$ 10,367.38	\$ 9,735.00	\$ 632.38
\$ 300,000	4.01%	4.35341%	\$ 13,060.24	\$ 12,039.00	\$ 1,021.24
\$ 400,000	3.52%	3.88382%	\$ 15,535.26	\$ 14,091.00	\$ 1,444.26
\$ 500,000	3.16%	3.57547%	\$ 17,877.33	\$ 15,804.00	\$ 2,073.33
\$ 600,000	2.87%	3.35470%	\$ 20,128.17	\$ 17,201.00	\$ 2,927.17
\$ 700,000	2.75%	3.18740%	\$ 22,311.80	\$ 19,264.00	\$ 3,047.80
\$ 800,000	2.64%	3.05543%	\$ 24,443.44	\$ 21,104.00	\$ 3,339.44
\$ 900,000	2.54%	2.94816%	\$ 26,533.47	\$ 22,822.00	\$ 3,711.47
\$ 1,000,000	2.51%	2.85893%	\$ 28,589.25	\$ 25,143.00	\$ 3,446.25
\$ 1,500,000	2.44%	2.56725%	\$ 38,508.81	\$ 31,332.00	\$ 7,176.81
\$ 2,000,000	2.38%	2.40229%	\$ 48,045.77	\$ 37,164.00	\$ 10,881.77
\$ 3,000,000	2.31%	2.21641%	\$ 66,492.36	\$ 41,055.00	\$ 25,437.36
\$ 4,000,000	2.25%	2.11128%	\$ 84,451.30	\$ 48,424.00	\$ 36,027.30
\$ 5,000,000	2.18%	2.04225%	\$ 102,112.58	\$ 56,866.00	\$ 45,246.58
\$ 6,000,000	2.11%	1.99283%	\$ 119,569.64	\$ 61,991.00	\$ 57,578.64
\$ 7,000,000	2.05%	1.95537%	\$ 136,876.22	\$ 68,699.00	\$ 68,177.22
\$ 8,000,000	1.98%	1.92583%	\$ 154,066.43	\$ 76,346.00	\$ 77,720.43
\$ 9,000,000	1.92%	1.90182%	\$ 171,163.45	\$ 87,595.00	\$ 83,568.45
\$ 10,000,000	1.85%	1.88184%	\$ 188,183.83	\$ 105,177.00	\$ 83,006.83
\$ 11,000,000	1.78%	1.86491%	\$ 205,139.86	\$ 121,344.00	\$ 83,795.86
\$ 12,000,000	1.72%	1.85034%	\$ 222,040.93	\$ 151,044.00	\$ 70,996.93
\$ 13,000,000	1.65%	1.83765%	\$ 238,894.43	\$ 181,772.00	\$ 57,122.43
\$ 14,000,000	1.59%	1.82647%	\$ 255,706.25	\$ 204,136.00	\$ 51,570.25
\$ 15,000,000	1.52%	1.81654%	\$ 272,481.19	\$ 227,836.00	\$ 44,645.19
\$ 16,000,000	1.51%	1.80765%	\$ 289,223.24	\$ 241,626.00	\$ 47,597.24
\$ 17,000,000	1.53%	1.79962%	\$ 305,935.72	\$ 260,647.00	\$ 45,288.72
\$ 18,000,000	1.53%	1.79234%	\$ 322,621.46	\$ 274,541.00	\$ 48,080.46
\$ 19,000,000	1.54%	1.78570%	\$ 339,282.86	\$ 292,161.00	\$ 47,121.86
\$ 20,000,000	1.55%	1.77961%	\$ 355,922.00	\$ 310,883.00	\$ 45,039.00
\$ 22,000,000	1.56%	1.76882%	\$ 389,140.52	\$ 343,252.00	\$ 45,888.52
\$ 24,000,000	1.63%	1.75954%	\$ 422,288.99	\$ 392,346.00	\$ 29,942.99
\$ 26,000,000	1.79%	1.75145%	\$ 455,376.82	\$ 464,816.00	\$ (9,439.18)
\$ 28,000,000	1.69%	1.74433%	\$ 488,411.53	\$ 473,695.00	\$ 14,716.53
\$ 30,000,000	1.74%	1.73800%	\$ 521,399.25	\$ 520,768.00	\$ 631.25
\$ 40,000,000	1.64%	1.71446%	\$ 685,784.77	\$ 655,258.00	\$ 30,526.77
\$ 50,000,000	1.63%	1.69901%	\$ 849,503.91	\$ 814,016.00	\$ 35,487.91
\$ 60,000,000	1.58%	1.68794%	\$ 1,012,765.85	\$ 948,000.00	\$ 64,765.85
\$ 70,000,000	1.60%	1.67956%	\$ 1,175,690.91	\$ 1,117,376.00	\$ 58,314.91
\$ 80,000,000	1.62%	1.67294%	\$ 1,338,355.46	\$ 1,296,864.00	\$ 41,491.46
\$ 90,000,000	1.65%	1.66757%	\$ 1,500,811.38	\$ 1,486,464.00	\$ 14,347.38
\$ 100,000,000	1.74%	1.66310%	\$ 1,663,095.73	\$ 1,744,320.00	\$ (81,224.27)
					\$ 1,305,210.87

Bus Shop Lighting Project –

The Tacoma Dome Station Bus Shop is outfitted with suspended light fixtures that do not provide the level of lighting needed for the business functions being carried on there, especially during the winter months. A business case was developed in 2014 to address this issue. A project was developed and a budget request made to determine what can be done that would meet current energy codes and at the same time improve the lighting and reduce maintenance and energy costs. In this project we would seek some consultant assistance in identifying lighting options, energy and lighting code requirements, and fixture replacement options. After a product is recommended along with code required controls we would go through the bidding process to hire a contractor to make the necessary changes. Total budget approved for this project including consulting services, permits, fees, taxes, inspections, and construction contracts is \$71,000.

Auto Shop Hoists Replacement Project –

The current hoists have reached the end of their design life. They are so outdated that parts to repair them are no longer available and they are not compatible with all of the different types of vehicles that are currently being served. The scope of this project is to remove the two existing in ground hoists and replace them with new hoists that meet the needs of our current and future fleet. Total budget approved for this project including consulting services, permits, fees, inspections, testing, taxes, and construction contracts is \$311,000.

Facilities Critical Needs Project -

This project is an umbrella project that focuses on the deteriorating condition of our Park-N-Ride lots and transit stations. Some are in worse condition than others and thus it was titled critical in that the longer we waited to address the lots the more extensive the damage becomes. We want to repair the Park-N-Ride lot that is in the worst condition as soon as possible. It is the 512 Park-N-Ride lot and it is very heavily used. It has formal parking spaces for 443 stalls and an additional 15 vehicles park along the eastern boarder for a total of 458 vehicles. Total budget approved for the repairs of several park-n-ride lots and transit centers including consulting services, permits, fees, taxes, testing, inspections, and construction contracts is \$700,000.

Tacoma Dome Station Mid-Life Repairs Project -

The project currently proposed is actually the third phase of an going project initiated in 2011. Phase 1 was a condition assessment of the two parking garages by consulting firm Wiss, Janney, Elstner Associates, Inc. In phase 2 we continued to work with Wiss, Janney, Elstner Associates, Inc. to develop construction drawings and bid specifications to address the issues identified in the condition assessment. Phase 2 has just been completed. Phase 3 is the next phase of the project. In this phase working through the Department of Enterprise Services we want to put the bid set of drawings and specifications out to public bid, secure a contract and make the repairs to the two Tacoma Dome Station parking garages and associated bridges between the two facilities. Once a contract is in place the project is estimated to be a 12 month long project due to the need to maintain use of a large portion of the facilities while being repaired. This project will address deteriorating conditions and extend the life of the two parking garages. A

federal earmark became available for this project along with a Sound Transit contribution of close to \$400,000. We would like to put this out to bid in January with an estimated construction start date in early March. The total budget for the last phase of this project is 2.2 million with a contingency.

FACT SHEET

TITLE: A Resolution Authorizing Execution of an Interlocal Agreement with The City of Tacoma for Pierce Transit to Provide Commute Trip Reduction Services and Outreach to City of Tacoma Employers

DIVISION: Transit Development

ORIGINATOR: Sharon Stockwell
Sr. Employer Services Coordinator

PRECEDING ACTION:

Resolution 14-016, Authority To Enter Into And Execute An Interlocal Agreement With The City Of Tacoma For Pierce Transit To Provide Trip Reduction Services And Outreach To City Of Tacoma Employers.

COORDINATING DEPARTMENT:

APPROVED FOR SUBMITTAL:

Chief Financial Officer

APPROVED FOR AGENDA:

Chief Executive Officer

General Counsel

ATTACHMENTS:

Proposed Resolution
Exhibit A, Proposed Interlocal Agreement

BUDGET INFORMATION

2016 Budget Amount
N/A

Required Expenditure
N/A

Impact
\$0

Explanation:

\$68,000 in revenue to Pierce Transit is expected under this Agreement for work performed during the 2015-2017 biennium.

BACKGROUND:

The Washington State Legislature passed the Commute Trip Reduction (CTR) law in 1991 to address traffic congestion, air pollution and fuel consumption. The CTR law requires employers with 100 or more full-time employees at a single worksite scheduled to begin work between the hours of 6-9 a.m., to develop transportation programs to reduce drive alone trips and vehicle miles traveled. Now known as the CTR Efficiency Act, the focus is

directed to employers located within an Urban Growth area. The City of Tacoma employers are subject to this requirement.

With this law, the State provides funding to local jurisdictions to assist employers in developing, implementing, and promoting their transportation programs. Since 1992, through an Interlocal Agreement with Pierce County, Pierce Transit has partnered with the City of Tacoma to provide employer services and outreach to CTR worksites within the City of Tacoma.

Beginning in 2013, the City of Tacoma received funding directly from the State to implement trip reduction strategies. The City of Tacoma solicits Pierce Transit's expertise to provide these trip reduction services and outreach to City of Tacoma employers and the City provides funding to Pierce Transit to carry out an agreed upon scope of work.

By authorizing the Chief Executive Officer to enter into and execute an Interlocal Agreement with the City of Tacoma, Pierce Transit will continue to provide trip reduction services and outreach to City of Tacoma employers for the term of July 1, 2015 – June 30, 2017.

ALTERNATIVES:

Decline authorization, and therefore cease Pierce Transit employer outreach to City of Tacoma worksites.

RECOMMENDATION:

Approve Resolution No. 15-058, authorizing the Chief Executive Officer to enter into and execute an Interlocal Agreement with the City of Tacoma for Pierce Transit to provide trip reduction services and outreach to City of Tacoma employers from July 1, 2015 through June 30, 2017.

RESOLUTION NO. 15-058

A RESOLUTION of the Board of Commissioners of Pierce Transit Authorizing the Chief Executive Officer to Enter Into and Execute an Interlocal Agreement with the City of Tacoma for Pierce Transit to Provide Commute Trip Reduction Services and Outreach to City of Tacoma Employers

WHEREAS, by Resolution No. 14-016, approved on the 14th day of April 2014, the Board of Commissioners of Pierce Transit authorized execution of an Interlocal Agreement with the City of Tacoma for Pierce Transit to provide trip reduction services and outreach to City of Tacoma employers for the term of July 1, 2013 through June 30, 2015; and

WHEREAS, the Washington State Legislature passed the Commute Trip Reduction (CTR) law in 1991 to address traffic congestion, air pollution and fuel consumption; and

WHEREAS, the CTR law requires employers with 100 or more full-time employees at a single worksite, scheduled to begin work between the hours of 6-9 a.m., to develop transportation programs to reduce drive alone trips and vehicle miles traveled; and

WHEREAS, the State provides funding local jurisdictions to assist employers in developing, implementing, and promoting their transportation programs; and

WHEREAS, since 1992, through an Interlocal Agreement with Pierce County, Pierce Transit has partnered with the City of Tacoma to provide employer services and outreach to CTR worksites within the City of Tacoma; and

WHEREAS, the City of Tacoma solicits Pierce Transit's expertise to provide these trip reduction services and outreach to City of Tacoma employers and provides funding to Pierce Transit to carry out an agreed upon scope of work for the 2015 – 2017 biennium; and

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. The Board of Commissioners authorizes the Chief Executive Officer to enter into and execute an Interlocal Agreement with the City of Tacoma, attached hereto as Exhibit A, for Pierce Transit to provide trip reduction services and outreach to City of Tacoma employers from July 1, 2015 through June 30, 2017.

ADOPTED by the Board of Commissioners of Pierce Transit at their regular meeting thereof held on the 9th day of November, 2015.

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PIERCE TRANSIT

Rick Talbert, Chair
Board of Commissioners

ATTEST/AUTHENTICATED

Deanne Jacobson, CMC
Clerk of the Board

**TRANSPORTATION DEMAND
MANAGEMENT 2015-17
AGREEMENT BETWEEN
CITY OF TACOMA AND PIERCE TRANSIT**

THIS AGREEMENT (hereinafter "Agreement" or "Contract"), is made and entered into effective as of the 1st day of July, 2015 ("Effective Date"), by and between the **CITY OF TACOMA**, a municipal corporation of the State of Washington (hereinafter referred to as the "CITY"), and **PIERCE COUNTY PUBLIC TRANSPORTATION BENEFIT AREA CORPORATION**, dba Pierce Transit, a Washington state public transportation benefit area corporation, (hereinafter referred to as "CONTRACTOR" or "TRANSIT").

RECITALS

WHEREAS, RCW 70.94.521 through RCW 70.94.555 directs the State, local governments and major employers to reduce air pollution, fuel use, and traffic congestion through transportation demand management (TDM) activities including commute trip reduction programs; and

WHEREAS, RCW 47.01.078 directs the State to develop strategies to reduce the per capita vehicle miles traveled, to consider efficiency tools including commute trip reduction and other demand management tools, and to promote the integration of multimodal planning in support of the transportation system policy goals described in RCW 47.04.280; and

WHEREAS, RCW 47.80.010 encourages the State and local jurisdictions to identify opportunities for cooperation to achieve statewide and local transportation goals; and

WHEREAS, the State of Washington provides funding for Public Transportation, TDM and Commute Trip Reduction (CTR) programs and through appropriations to the Washington State Department of Transportation (WSDOT); and

WHEREAS, the WSDOT Public Transportation Division is responsible for administering the appropriated funds; and

WHEREAS, by Agreement Number GCB2151 dated July 1, 2015, WSDOT provided funding to CITY to be used solely for activities to accomplish the policy purposes of RCW 70.094.521, hereinafter known as the "Project;" and

WHEREAS, pursuant to RCW 70.94.527 the CITY has the authority to enter into agreements with local transit agencies to coordinate the development and implementation of TDM and CTR plans; and

WHEREAS, Pierce Transit is a local transit agency governed by a ten-member Board of Commissioners, which Board includes elected officials representing thirteen jurisdictions, including the City of Tacoma, Pierce County and one non-voting Union Representative; and

WHEREAS, CITY wishes to enter into this Agreement with TRANSIT for TRANSIT to coordinate the development and implementation of the Project.

NOW, THEREFORE in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereto agree as follows:

1. Purpose

The purpose of this Agreement is for CITY to provide funding to TRANSIT to be used solely for activities undertaken to implement CITY's Project and other activities that support that work.

2. Scope of Services/Work

- A.** TRANSIT agrees to perform all designated tasks of the Project under this Agreement as described in Exhibit A, Scope of Work, attached hereto and incorporated herein and as described in Exhibit B, WSDOT Guidance attached hereto and incorporated herein.

3. Term

- A.** All services shall be satisfactorily completed by June 30, 2017 and this Agreement shall expire on said date unless mutually extended in writing by the Parties.
- B.** In the event this Agreement is signed subsequent to its Effective Date, all Terms and Conditions herein shall operate retroactively to the Effective Date.

4. Funding and Compensation

- A.** The sole funding for this Agreement is funds obtained by CITY from WSDOT. Funding under this Agreement is dependent upon CITY's receipt of funds from WSDOT in accordance with the provisions of Agreement No. GCB2151. The total funding from CITY to TRANSIT under this Agreement shall not exceed

\$68,000 without written amendment to this Agreement.

- B. TRANSIT will be compensated on a quarterly basis upon CITY's receipt of TRANSIT's report and a properly completed invoice in the form shown on Exhibit C establishing TRANSIT's satisfactory performance of the deliverables contained on Exhibit A.
- C. TRANSIT shall submit quarterly invoices using the invoice voucher contained at Exhibit C for reimbursement of services completed and/or deliverables furnished during the previous quarter. Upon CITY'S request, TRANSIT shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables.
- D. Payment shall be made through the CITY'S ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice.
- E. The CITY may withhold payment to TRANSIT for any services or deliverables not performed as required hereunder until such time as TRANSIT modifies such services or deliverables to the satisfaction of the CITY.
- F. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.
- G. In the event TRANSIT incurs cost in excess of the sum authorized for service under this Contract, TRANSIT shall pay such excess from its own funds, and the CITY shall not be required to pay any part of such excess, and TRANSIT shall have no claim against the CITY on account thereof.

5. Project Records

TRANSIT agrees to establish and maintain for the Project either a separate set of accounts or accounts within the framework of an established accounting system, in order to sufficiently and properly reflect all eligible direct and related costs incurred in the performance of this Agreement. Such accounts are referred to herein collectively as the "Project Account." All costs claimed against the Project Account must be supported by properly executed payrolls, time records, invoices, contracts, and payment vouchers evidencing in sufficient detail the nature and propriety of the costs claimed.

6. Agreement Administration and Right to Audit

- A. The Office of Environmental Policy and Sustainability/Diane Wiatr for the CITY shall have primary responsibility for contract administration and approval of services to be

performed by TRANSIT, and shall coordinate all communications between TRANSIT and the CITY.

- B.** TRANSIT shall, at such times and in such form as the CITY may reasonably require, but not less than quarterly, furnish the CITY with periodic status reports pertaining to the services undertaken pursuant to this Contract.
- C.** Upon CITY's request, TRANSIT shall make available to CITY all accounts, records, and documents related to the Scope of Work for CITY's inspection, auditing, or evaluation during normal business hours as reasonably needed by CITY to assess performance, compliance, and/or quality assurance under this Contract.

7. Progress Reports

TRANSIT shall submit to CITY quarterly progress reports so that CITY and WSDOT may adequately and accurately assess the progress made under the terms of this Agreement. The progress reports shall be submitted in the form approved by WSDOT, as is contained at Exhibit D. Quarterly progress reports for the first seven (7) quarters are to be submitted to CITY no later than thirty-five (35) days from the end of each calendar quarter. TRANSIT shall also submit to CITY a Final Project Progress Report in a form approved by WSDOT. The Final Project Progress Report shall be submitted to CITY no later than fifteen (15) days from the expiration of this Agreement.

8. Independent Contractor Status

- A.** The services and deliverables shall be furnished by TRANSIT as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant. No payroll or employment taxes of any kind shall be withheld or paid by the CITY with respect to payments to TRANSIT. The payroll or employment taxes that are the subject of this paragraph include, but are not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax and state unemployment insurance tax. By reason of TRANSIT's status as an independent Contractor hereunder, no workers' compensation insurance has been or will be obtained by the CITY on account of TRANSIT. TRANSIT may be required to provide the CITY proof of payment of these said taxes and benefits. If the CITY is assessed or deemed liable in any manner for those charges or taxes, TRANSIT agrees to hold the CITY harmless from those costs, including attorney's fees.
- 9.** TRANSIT shall provide at its sole expense all materials, office space, and other necessities to perform its duties under this Contract, unless otherwise specified in writing

herein.

10. Records Retention

TRANSIT shall establish and maintain records in accordance with requirements prescribed by the CITY, with respect to all matters covered by this Contract. Except as otherwise authorized by the CITY, the CONTRACTOR shall retain such records for a period of six (6) years after receipt of the final payment under this Contract or termination of this Contract.

11. Notices

Except for routine operational communications, which may be delivered personally or transmitted by electronic mail or facsimile, all notices required hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to the parties at the following addresses:

CITY	TRANSIT
Diane Wiatr City of Tacoma 326 E. D Tacoma, WA 98421	Sharon Stockwell Pierce Transit 3701 96 th St. SW Lakewood, WA 98499
Phone: 253-591-5380	Phone: 253-581-8112
Fax: 253-502-2107	Fax: 253-444-2559
e-mail: dwiatr@cityoftacoma.org	e-mail: sstockwell@piercettransit.org

12. Termination and Suspension

- A. The CITY may terminate this Contract at any time, with or without cause, by giving thirty (30) business days written notice to TRANSIT. TRANSIT may terminate this Contract at any time, with or without cause, by giving thirty (30) business days written notice to the CITY. In the event of termination, all finished and unfinished work prepared by TRANSIT pursuant to this Contract shall be provided to the CITY. In the event CITY or TRANSIT terminates this Contract due to the CITY's own reasons and without cause due to TRANSIT's actions or omissions, the CITY shall pay the TRANSIT the amount due for actual work and services necessarily performed under this Contract up to the effective date of termination, not to exceed the total compensation set forth herein.
- B. The CITY may suspend this Contract, at its sole discretion, upon seven (7) business days written notice to TRANSIT. TRANSIT may suspend this Contract, at its sole discretion, upon seven (7) business days written notice to the CITY. Such notice shall

SAP Contract No. _____

indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to TRANSIT'S reasonable expenses and shall be subject to verification. TRANSIT shall resume performance of services under this Contract without delay when the suspension period ends.

- C. Termination or suspension of this Contract by CITY or TRANSIT shall not constitute a waiver of any claims or remaining rights the CITY may have against TRANSIT relative to performance hereunder.

13. Indemnification

- A. TRANSIT shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Contract; provided that this provision shall not apply to the extent that damage or injury results from the fault of the CITY, or its officers, agents, or employees. The term "fault" as used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may hereafter be amended.
- B. TRANSIT specifically assumes potential liability for actions brought by the CONTRACTOR'S own employees against the CITY and, solely for the purpose of this indemnification and defense, TRANSIT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. TRANSIT RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION.
- C. This indemnification shall extend to and include attorneys' fees and the cost of establishing the right of indemnification hereunder in favor of the indemnified party. This indemnification shall survive the termination of this Contract.

14. Insurance

During the course and performance of the services herein specified, TRANSIT will maintain at least the following insurance coverage:

- A. Workers' Compensation and employer's liability --statutory limits.
- B. Commercial General Liability --\$1,000,000 single limit combined for personal injury, property damage; \$2,000,000 aggregate.

Certificates of the above insurance coverage shall be delivered, within ten (10) days, to the CITY by CONTRACTOR'S insurance carrier or agent certifying the above insurance coverage items are in effect and will not be cancelled or materially changed without 30 days' written

notice given to the CITY. The commercial general liability policy shall be on an occurrence basis and shall include an endorsement naming the CITY as an additional insured and stating that coverage under such policy is primary over and non-contributory with any insurance the CITY may maintain. TRANSIT may demonstrate a program of self-insurance in satisfaction of this insurance requirement.

15. Nondiscrimination

TRANSIT agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The CONTRACTOR shall not discriminate in any employment action because of race, religion, creed, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, veteran or military status, the presence of any sensory, mental or physical disability or the use of a trained dog guide or service animal by a disabled person. In the event of non-compliance by the CONTRACTOR with any of the non-discrimination provisions of this Contract, the CITY shall be deemed to have cause to terminate this Contract, in whole or in part.

16. Conflict of Interest

No officer, employee or agent of the CITY, nor any member of the immediate family of any such officer, employee or agent as defined by City ordinance, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The CONTRACTOR shall comply with all federal, state, and City conflict of interest laws, statutes and regulations.

The CONTRACTOR also agrees that its violation of the CITY'S Code of Ethics contained in Chapter 1.46 of the Tacoma Municipal Code shall constitute a breach of this Contract subjecting the Contract to termination.

17. City ownership of Work/Rights in Data and Publications:

- A.** To the extent that CONTRACTOR creates any Work subject to the protections of the Copyright Act (Title 17 U.S.C) in its performance of this Contract, CONTRACTOR agrees to the following: The Work has been specially ordered and commissioned by CITY. CONTRACTOR agrees that the Work is a "work made for hire" for copyright purposes, with all copyrights in the Work owned by CITY. To the extent that the Work does not qualify as a work made for hire under applicable law, and to the extent that the Work includes material subject to copyright, CONTRACTOR hereby assigns to CITY, its successors and assigns, all right, title and interest in and to the Work, including but not limited to, all patent, trade secret, and other proprietary rights and all rights, title and interest in and to any inventions and designs embodied in the Work or developed during the course of CONTRACTOR'S creation of the Work. CONTRACTOR shall execute and deliver such instruments and take such other action as may be required and requested

by CITY to carry out the assignment made pursuant to this section. Any documents, magnetically or optically encoded media, or other materials created by CONTRACTOR pursuant to this Contract shall be owned by CITY and subject to the terms of this subsection. To the maximum extent permitted by law, CONTRACTOR waives all moral rights in the Work. The rights granted hereby to CITY shall survive the expiration or termination of this Contract.

- B.** The CONTRACTOR shall be solely responsible for obtaining releases for the performance, display, recreation, or use of copyrighted materials.

18. Public Disclosure

- A.** This Contract and documents provided to the CITY by CONTRACTOR hereunder are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, the CITY may be required, upon request, to disclose this Contract and documents related to it unless an exemption under the Public Records Act or other laws applies. In the event CITY receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and CONTRACTOR has complied with the requirements of sub-section B herein, CITY agrees to provide CONTRACTOR ten (10) days written notice of impending release. Should legal action thereafter be initiated by CONTRACTOR to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by CONTRACTOR, including any damages, attorneys' fees or costs awarded by reason of having opposed disclosure. CITY shall not be liable for any release where notice was provided and CONTRACTOR took no action to oppose the release of information. Notice of any proposed release of information pursuant to Chapter 42.56 RCW, shall be provided to CONTRACTOR according to the "Notices" provision herein.
- B.** If CONTRACTOR provides the CITY with records that CONTRACTOR considers confidential or proprietary, CONTRACTOR must mark all applicable pages of said record(s) as "Confidential" or "Proprietary." If CONTRACTOR fails to so mark record(s), then (1) the CITY, upon request, may release said record(s) without the need to satisfy the requirements of subsection A above; and (2) the CONTRACTOR expressly waives its right to allege any kind of civil action or claim against the CITY pertaining to the release of said record(s).

19. Dispute Resolution

In the event of a dispute pertaining to this Contract, the parties agree to attempt to negotiate in good faith an acceptable resolution. If a resolution cannot be negotiated, then the parties agree to submit the dispute to voluntary non-binding mediation before pursuing other

remedies. This provision does not limit the CITY'S right to terminate authorized by this Contract.

20. Miscellaneous Provisions

- A. Governing Law and Venue. Washington law shall govern the interpretation of this Contract. Pierce County shall be the venue of any mediation, arbitration or litigation arising out of this Contract.
- B. Assignment. The CONTRACTOR shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract or for any of the compensation due hereunder without the prior written consent of the CITY.
- C. No Third Party Beneficiaries. This Contract shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.
- D. Waiver. A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.
- E. Severability and Survival. If any term, condition or provision of this Contract is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Contract, shall survive termination of this Contract.
- F. Entire Agreement. This Contract and the attached Exhibits, as may be modified herein, contain the entire agreement between the parties as to the services to be rendered hereunder. All previous and contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Contract are superseded hereby. The Parties hereto mutually acknowledge, understand and agree that the terms and conditions set forth herein shall control and prevail over any conflicting terms and conditions stated in any attachments hereto.
- G. Modification. No modification or amendment of this Contract shall be effective unless set forth in writing and signed by the Parties.

SAP Contract No. _____

- H. Authority to enter into this Contract.** The undersigned Contractor representative, by his/her signature below, represents and warrants that he/she is duly authorized to execute this legally binding Contract for and on behalf of Contractor.

IN WITNESS WHEREOF the parties hereto have accepted and executed this Contract as of the day and year first written above.

CITY OF TACOMA**PIERCE TRANSIT**

Mark Lauzier, Assistant City Manager

Sue Dreier, Chief Executive Officer

Wayne Fanshier, Chief Financial Officer

Andrew Cherullo, Finance Director

Deanne Jacobson, Clerk of the Board

Tax ID:

Approved as to Form:

Address:

Deputy City Attorney

3701 96th Street SW
Lakewood, WA 98499

EXHIBIT A
PIERCE TRANSIT STATEMENT OF WORK
FOR TRANSPORTATION DEMAND MANAGEMENT 2015-2017

OBJECTIVES

The City of Tacoma will coordinate and administer the distribution of funds described in RCW 70.94.521-551. The Washington State Department of Transportation (WSDOT) will provide funds to the CITY to assist in the CITY'S 2015-2017 implementation of Transportation Demand Management (TDM) programs. The CITY will provide funds to TRANSIT for the purpose of implementing and administering TDM programs including Commute Trip Reduction plans. Funds provided to the parties of this AGREEMENT are to be used solely for activities undertaken to fulfill the requirements of the ACT. The CITY will serve as a liaison between the WSDOT and TRANSIT.

1. ROLE DEFINITION

THE CITY is primarily responsible for assisting employers with program development, program review and approval, program modifications, and penalties. The CITY is responsible for overall monitoring of CTR activities within its jurisdiction. The affected jurisdiction is responsible for identifying affected employers, reviewing appeals, and communicating changes in the law. The CITY may transfer primary responsibility of any particular item in this agreement to Pierce Transit upon satisfactory settlement, which may or may not result in additional funding between the two parties.

TRANSIT is primarily responsible for employer training regarding the law; transportation services including bus, train/light rail, carpool, vanpool, bicycle, walk, compressed work week schedules, telework, and other program support elements; program implementation assistance; ongoing contact with employers to assist with program elements; and marketing efforts including development of materials and outreach.

2. ADMINISTRATIVE WORK PLAN

TRANSIT agrees to assist the CITY with the development of the WSDOT required administrative work plan.

- A. The work plan shall identify the deliverables, schedule, expected outcomes, performance measures and the budget specific to implementation strategies for the CTR Efficiency Act and other strategies as defined in approved and locally adopted CTR or CTR Downtown Tacoma Pilot

Page 11 of 18

Alternative plans. These may include, but are not limited to, recruiting new employer worksites, reviewing employer programs, administering surveys, reviewing program exemption requests, providing employer training, providing incentives, performing promotion and marketing, and providing emergency ride home and other commuter services.

B. The administrative work plan budget shall identify how TRANSIT will use the state funds provided in this AGREEMENT to complete work plan tasks associated with TRANSIT responsibilities.

C. The administrative workplan, upon completion to the mutual satisfaction of CITY and TRANSIT, shall be adopted by the parties and fully incorporated into the Agreement.

3. EMPLOYER DATABASE MAINTENANCE

TRANSIT will maintain a database of contact information for all CTR participating employers and employee transportation coordinators in Pierce County. The main purpose of this database will be for distributing materials and countywide communication pieces.

4. AFFECTED EMPLOYER CTR PROGRAM DEVELOPMENT

The CITY will be primarily responsible for all affected employer CTR program development activities. Program development activities include, but are not limited to: (1) leading the effort to meet with employers prior to the CTR program submittals by employers, (2) working collaboratively with employers in accordance with the CTR Guidelines when making recommendations to employers regarding the best mix of site-specific CTR strategies, (3) reviewing employer CTR programs, (4) making a determination of employer program acceptability, and assisting employers with required reporting and surveying .

From a coordination standpoint, TRANSIT will notify the CITY of all meetings to be held with employers and about any issues that arose during those meetings. The CITY will decide whether or not to attend those meetings. The CITY will follow the same procedure and TRANSIT will decide whether or not to attend meetings set up by the CITY.

The CITY will request TRANSIT's comments on affected employer CTR programs as needed. TRANSIT's comments will focus on the relevance of specific CTR strategies cited in the employer CTR programs in terms of the ability of the affected employer to meet its CTR goals.

5. ONGOING SUPPORT, WORKSHOPS, AND TRAINING

TRANSIT will meet regularly with the Employee Transportation Coordinators (ETCs) to review the effectiveness of their specific programs. TRANSIT will establish the format, structure, overall responsibilities, and logistics of this effort. TRANSIT effort will include, but will not be limited to,

training/workshops in specific areas (such as carpooling, vanpooling, teleworking, etc.), problem solving, conflict resolution, and general idea sharing. The CITY will assist TRANSIT in establishing a procedure and forum for ongoing ETC support for affected employers within its jurisdiction.

Newly affected employers will be provided with the opportunity to attend training sessions that are provided by TRANSIT in association with affected jurisdictions. TRANSIT will develop and maintain a training program including appropriate training materials that can be used to train new ETCs and employer representatives. The training program will be modified by TRANSIT based on the feedback received by the participants of previous sessions and by the affected jurisdictions. Training will occur (1) on an ad-hoc basis upon an employer's designation as affected, (2) on an individual basis as new ETCs are designated, and (3) in group settings when a need is demonstrated.

During TRANSIT's ongoing employer contacts for program implementation assistance, ETCs and employer representatives will be directed to contact the CITY for information regarding program modification, program review, the law, reporting, surveying and penalties.

6. PROGRAM IMPLEMENTATION

The CITY and TRANSIT will continue to meet with employers to provide ongoing support and to assist in the implementation of the services provided for in their approved CTR programs. Employer meetings will be attended by both the CITY and TRANSIT whenever possible.

TRANSIT will take the lead maintaining coordination with the CITY in assisting employers in such CTR Program implementation services as:

- Ridematch services for carpools and vanpools.
- Carpool and vanpool formation and operation.
- Commuter information centers or assistance with custom orders.
- Bus/train/light rail information and trip planning.
- Support services such as transportation events and marketing materials.
- Marketing material development.
- Emergency Ride Home administration.

The CITY will take the lead maintaining coordination with TRANSIT in assisting employers in such CTR Program implementation services as:

- Reporting requirements.
- Employer surveys and other survey instruments useful to employers.
- Parking management programs specific to individual employer site needs.

7. INTERAGENCY COORDINATION

The CITY and TRANSIT will participate in all meetings of the Pierce County Transportation Demand Management/CTR Technical Work Group.

The CITY and TRANSIT will notify each other at least monthly of all contacts with employers.

The CITY will provide TRANSIT with copies of employer reports and survey results.

8. MARKETING

TRANSIT will provide the following marketing activities:

- Assist with transportation events at employment sites to encourage employee participation in high-occupancy vehicle (HOV) alternatives and to assist in the promotion of employer offered HOV services and incentives.
- Maintain a commute options website for commuters and employers located in Tacoma.
- Prepare marketing brochures or other informational pieces on all various program elements and services as needed, and distribute them to affected CTR employers and other interested employers within the affected jurisdiction.
- Assist employers with their marketing efforts.
- Ensure adequate supplies of materials are provided for commuter information centers at affected employer locations.
- Respond to transit requests made directly by CTR-affected employers.
- Collaborate with the CITY on the CTR Downtown Pilot Alternative Program and Downtown on the Go on programs and marketing materials
- Assist with Bike Month and the annual Bike Swap event at the University of Puget Sound.

9. PROJECT PROGRESS REPORTING

TRANSIT will provide quarterly progress reports to the CITY using EXHIBIT D regarding its activities that directly relate to the CTR program within the geographical limits of the City of Tacoma. These reports are due eight (8) days after the end of the quarter. For the first seven (7) quarters these reports are due no later than thirty-five (35) days from the end of each calendar quarter. The Final Project Progress Report is due no later than fifteen (15) days from the expiration of this Agreement. The reports will contain

a minimum of the following elements:

- A summary of the employer contacts that were made during the quarter.

SAP Contract No. _____

- A copy of the updated phone/fax/e-mail employer list.
- Expenditures by budget categories for funds expended by TRANSIT during the previous quarter for the purpose of CTR implementation.
- A summary of CTR events, projects, training, and employer assistance for the quarter.
- A summary of marketing materials developed and produced.
- Any other key deliverables outlined in the WSDOT approved work plan.

EXHIBIT "B"

WSDOT GUIDANCE

WSDOT Guidance for TDM Incentives

WSDOT recognizes that government must always carefully steward public money and trust. This guidance establishes standards for contractor use of WSDOT administered funds to promote non-single occupancy vehicle modes of travel. Grantees/contractors that receive WSDOT administered funds are required to follow this guidance.

- 1. Any incentives or rewards purchased with WSDOT administered funds must be consistent with these standards. Incentive or reward expenses inconsistent with these standards will not be reimbursed.**
- 2. TDM program funded incentives and rewards:**
 - Must be earned before they are received, except for programs that provide financial subsidies for efficient trips (subsidized bus passes, carpool parking discounts, etc.)
 - Must directly relate to future non-single occupancy vehicle commute/trips and costs. For example, bus pass and vanpool discounts for future trips, money for employers that purchase efficient commute infrastructure like a new bicycle rack, carpool/vanpool parking signs, etc.
 - May not include incentives like VISA gift cards; general retail gift cards like Starbucks or Target or sweepstakes prizes like trips, fine dining or electronics. Cash incentives are never permissible. If your organization provides these types of rewards and incentives using non-WSDOT program funds or donations, you may propose the use of state-provided funds for project administration and marketing. If using donation or other -sourced funds for such incentives, the state should not be identified on promotional or outreach materials.
- 3. Communicate the personal and lasting benefits people receive when they choose alternatives to driving alone.**

In promotional materials, highlight the personal benefits that everyone receives. If you choose to emphasize incentives or prizes, that message should complement rather than substitute for messaging about the more important and universal benefits.

Personal benefit examples include: you will improve your health, reduce your stress, save time, save money, help protect air and water quality, reduce greenhouse gas emissions, save enough money on parking to buy three lattes, receive a free or reduced-price transit pass, or park in vanpool space close to the front door.

*This incentive guidance is effective with the 2013-2015 contracts. WSDOT wants to hear from our grantees/contractors about past practices and incentive ideas that would effectively promote travel mode behavior change. The guidance could be updated based upon feedback.
Effective date: July 2013.*

SAP Contract No. _____



Exhibit C

Invoice Voucher

MINORITY BUSINESSES	
MARK BOX(ES) IF APPROPRIATE	
M	%
W	%
E	%

VENDOR OR CLAIMANT (WARRANT TO BE PAYABLE TO) agency address city, state ZIP contact name Phone # email	VENDOR'S CERTIFICATE. I hereby certify under penalty of perjury that the items and total listed herein are proper charges for materials, merchandise or services furnished to the State of Washington, and that all goods furnished and / or services rendered have been provided without discrimination on the grounds of race, creed, color, national origin, sex or age. BY (SIGNATURES IN INK)
FEDERAL I.D. NUMBER OR SOCIAL SECURITY NUMBER (FOR REPORTING PERSONAL SVCS. CONTRACT PAYMENT TO IRS) 00-0000000	TITLE _____ DATE _____

INSTRUCTIONS TO VENDOR OR CLAIMANT: Show complete detail for each item below.

DATE	DESCRIPTION	CURRENT EXPENDITURES	EXPENDITURES TO DATE
	TDM Implementation		

Total Billed This Period			
AGREEMENT	INVOICE		
xxxx	DESCRIPTION Transportation Demand Management Implementation (TDM)	BILLING PERIOD	
ACCOUNTING CLASSIFICATION			
JOB NUMBER	WORK OP	ACCOUNT SUB OBJ	ORG. NUMBER
1P0000-00	0723	NZ13	631020
TOTAL →			
SIGNATURE OF APPROVING AUTHORITY		DATE	
RECEIVING VERIFICATION (SIGNATURE)		DATE RECEIVED	
CHECKED AND APPROVED FOR PROCESSING BY		DATE	
WARRANT NUMBER		VOUCHER NUMBER	

EXHIBIT “D” Project**Progress Report****TDM (CTR) Pilot Quarterly Project Report**

Reporting quarter:		Date:	
Organization:		Agreement number:	GCB
Biennial targets	Estimate of drive-alone trips to reduce to meet goal:		
Key deliverables: <i>(from work plan)</i>	•		
Completed activities this quarter			
•			
Planned activities for next quarter			
•			
Describe issues, risks or challenges and resolutions			
•			
Estimated expenditures of state funds for this quarter			
•			

FACT SHEET

TITLE: A Resolution Authorizing the Chief Executive Officer to Enter into and Execute an Interlocal Agreement with Pierce County for Pierce Transit to Provide Commute Trip Reduction (CTR) Services and Outreach to CTR Affected Employers in Pierce County

DIVISION: Transit Development

ORIGINATOR: Sharon Stockwell
Sr. Employer Services Coordinator

PRECEDING ACTION:

Resolution No. 92-142, Authority to Execute an Interlocal Agreement with Pierce County Jurisdictions for the Development and Implementation of the Commute Trip Reduction Plans and Programs

Resolution No. 14-017, Authority to enter into and execute an Interlocal Agreement with Pierce County for Pierce Transit to Provide Commute Trip Reduction (CTR) Services and Outreach to CTR Affected Employers in Pierce County

COORDINATING DEPARTMENT:

APPROVED FOR SUBMITTAL:

Chief Financial Officer

APPROVED FOR AGENDA:

Chief Executive Officer

General Counsel

ATTACHMENTS:

Proposed Resolution
Exhibit A, Proposed Interlocal Agreement

BUDGET INFORMATION

2016 Budget Amount
N/A

Required Expenditure
N/A

Impact
\$0.00

Explanation:

\$64,437 in revenue to Pierce Transit is expected for work performed during the 2015-2017 biennium.

BACKGROUND:

The Washington State Legislature passed the Commute Trip Reduction (CTR) law in 1991 to address traffic congestion, air pollution and fuel consumption. The CTR law requires employers with 100 or more full-time employees at a single worksite, scheduled to begin work between the hours of 6-9 a.m. to develop transportation

programs to reduce drive alone trips and vehicle miles traveled. Now known as the CTR Efficiency Act, the focus is directed to employers located within an Urban Growth area. Pierce County employers are subject to this requirement.

With this law, the State provides funding to local jurisdictions to assist employers in developing, implementing, and promoting their transportation programs. Since 1992, Pierce Transit has partnered with Pierce County to provide employer services and outreach to Pierce County CTR worksites through an Interlocal Agreement with Pierce County each biennium.

ALTERNATIVES:

Decline authorization, and therefore cease Pierce Transit employer outreach to City of Tacoma worksites.

RECOMMENDATION:

Approve Resolution No. 15-059, authorizing the Chief Executive Officer to enter into and execute an Interlocal Agreement with Pierce County for Pierce Transit to Provide Commute Trip Reduction (CTR) Services and Outreach to CTR Affected Employers in Pierce County from July 1, 2015 through June 30, 2017.

RESOLUTION NO. 15-059

A RESOLUTION of the Board of Commissioners of Pierce Transit Authorizing the Chief Executive Officer to Enter Into and Execute an Interlocal Agreement with Pierce County for Pierce Transit to Provide Commute Trip Reduction (CTR) Services and Outreach to CTR Affected Employers in Pierce County

WHEREAS, by Resolution No. 92-142, approved on the 26th day of October 1992, the Board of Commissioners of Pierce Transit authorized execution of an Interlocal Agreement with Pierce County for the development and implementation of the commute trip reduction plans and programs; and

WHEREAS, by Resolution No. 14-017, approved on the 14th day of April, 2014, the Board of Commissioners of Pierce Transit authorized execution of an Interlocal Agreement with Pierce County for Pierce Transit to provide Commute Trip Reduction (CTR) services and outreach to CTR affected employers in Pierce County for the term of July 1, 2013 through June 30, 2015; and

WHEREAS, the Washington State Legislature passed the Commute Trip Reduction (CTR) law in 1991 to address traffic congestion, air pollution and fuel consumption; and

WHEREAS, the CTR law requires employers with 100 or more full-time employees at a single worksite scheduled to begin work between the hours of 6-9 a.m. to develop transportation programs to reduce drive alone trips and vehicle miles traveled; and

WHEREAS, the State provides funding to Pierce County and its local jurisdictions to assist employers in developing, implementing, and promoting their transportation programs; and

WHEREAS, since 1992, Pierce Transit has partnered with Pierce County to provide employer services and outreach to Pierce County CTR affected worksites through an Interlocal Agreement with Pierce County each biennium;

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. The Board of Commissioners authorizes the Chief Executive Officer to enter into and execute an Interlocal Agreement with Pierce County, attached hereto as Exhibit A, for Pierce Transit to provide Commute Trip Reduction (CTR) services and outreach to CTR employers in Pierce County for the term of July 1, 2015 through June 30, 2017.

ADOPTED by the Board of Commissioners of Pierce Transit at their regular meeting thereof held on the 9th day of November, 2015.

PIERCE TRANSIT

Rick Talbert, Chair
Board of Commissioners

ATTEST/AUTHENTICATED

Deanne Jacobson, CMC
Clerk of the Board

**MEMORANDUM OF AGREEMENT
BETWEEN PIERCE COUNTY AND PIERCE TRANSIT
REGARDING
TRANSPORTATION DEMAND MANAGEMENT**

THIS MEMORANDUM OF AGREEMENT is entered into this day by and between **Pierce County** (hereinafter referred to as the COUNTY) and **Pierce Transit**, Public Transportation Benefit Area Corporation (hereinafter referred to as TRANSIT).

W I T N E S S E T H

WHEREAS, RCW 70.94.527, (Commute Trip Reduction Efficiency Act "ACT") requires counties containing urban growth areas and cities and towns with "major employers," that are located within urban growth areas with a state highway segment exceeding the threshold of one hundred person hours of delay or jurisdictions that are located in contiguous urban growth areas, or are within an urban growth area with a population greater than seventy thousand people that adopted an ordinance before the year 2000 or jurisdictions that are located in contiguous urban growth areas, or contain a major employment installation in an affected county to develop ordinances, plans and programs to reduce Vehicle Miles Traveled (VMT) and drive alone commute trips, and thereby reduce vehicle-related air pollution, traffic congestion and energy use, and

WHEREAS, RCW 70.94.541 (2) provides for technical assistance to counties, cities, and towns in developing and implementing Commute Trip Reduction ("CTR") plans and programs, and

WHEREAS, RCW 70.94.521 through RCW 70.94.555 establishes the State's leadership role, and the requirements and parameters to reduce traffic congestion, fuel use, and air pollution through the Commute Trip Reduction programs, including the Growth and Transportation Efficiency Centers in Washington State; and

WHEREAS, RCW 47.06.050 requires that when planning capacity and operational improvements, the State's first priority is to assess strategies to enhance the operational efficiency of the existing system, and states that strategies to enhance the operational efficiencies include, but are not limited to, access management, transportation system management, and demand management ("Strategies"); and

WHEREAS, RCW 47.01.078 directs the State to develop strategies to reduce the per capita vehicle miles traveled, to consider efficiency tools including commute trip reduction and other demand management tools, and to promote the integration of multimodal planning in support of the transportation system policy goals described in RCW 47.04.280; and

WHEREAS, the Legislature has directed the State to increase the integration of public transportation and the highway system, to facilitate coordination of transit services and planning, and to maximize opportunities to use public transportation to improve the efficiency of transportation corridors (RCW 47.01.330); and

WHEREAS, RCW 47.80.010 encourages the State and local jurisdictions to identify opportunities for cooperation to achieve statewide and local transportation goals; and

WHEREAS, the State of Washington in its Sessions Laws of 2015, Chapter 10, Section 220 (6) and (7), authorizes funding for Public Transportation and Commute Trip Reduction programs and other special proviso funding through the multi-modal transportation account as identified in the budget through its 2015-2017 biennial appropriations to WSDOT; and

WHEREAS the WSDOT Public Transportation Division is responsible for administering funds on behalf of the Washington State Legislature;

WHEREAS, pursuant to the Commute Trip Reduction Efficiency Act, the COUNTY can allocate to TRANSIT a share of the funds that Washington State is distributing to the COUNTY; and

NOW, THEREFORE, in consideration of covenants, conditions, performances, and promises hereinafter contained, the parties hereto agree as follows:

SECTION 1.0 PURPOSE

The purposes of this AGREEMENT are: (1) to allocate to TRANSIT its proportionate share of State funds for implementing and administering a CTR plan support programs and services, and (2) to continue a cooperative approach among TRANSIT, the COUNTY, and other jurisdictions in Pierce County required to plan and administer programs under the ACT in order to address interjurisdictional issues and to meet the statutory requirements of coordination and consistency among the jurisdictions' respective CTR plans.

SECTION 2.0 FUNDING

The sole funding source for this AGREEMENT is funds obtained by COUNTY from WSDOT. Distribution of WSDOT funds to TRANSIT shall be based on the formula set forth in "Attachment A," Fund Allocation Methodology for Washington State Department of Transportation Commute Trip Reduction Funds, attached hereto and incorporated herein by this reference. Funding under this AGREEMENT is dependent upon the COUNTY'S receipt of funds from WSDOT in accordance with the provisions of Agreement Number GCB2163.

SECTION 3.0 SERVICE PROVISIONS

Funds provided to TRANSIT under this AGREEMENT shall be used solely for activities undertaken to fulfill the requirements of "Attachment B," Pierce Transit Statement of Work for Commute Trip Reduction, attached hereto and incorporated herein by this reference.

SECTION 4.0 AGREEMENT PERIOD

Regardless of the execution date, the effective date of this AGREEMENT shall be July 1, 2015. The expiration date shall be June 30, 2017.

SECTION 5.0 REIMBURSEMENT PROVISION

Payment requests by TRANSIT must be made by July 7, 2017 or within eight (8) days of the termination of this AGREEMENT, whichever occurs sooner. Untimely payment requests need not be honored by the COUNTY.

All invoices and warrants shall be based on and paid on eligible work performed and eligible costs incurred up to the maximum amount identified in Attachment A. Upon the COUNTY'S receipt of funds from WSDOT, the COUNTY will remit a warrant for payment of these funds to TRANSIT by using the formula set forth in Attachment A.

SECTION 6.0 PROJECT RECORDS

TRANSIT agrees to establish and maintain for the project either a separate set of accounts or accounts within the framework of an established accounting system, in order to sufficiently and properly reflect all eligible direct and related indirect project costs claimed to have been incurred in the performance of this AGREEMENT. Such accounts are referred to herein collectively as the "Project Account." All costs claimed against the Project Account must be supported by properly executed payrolls, time records, invoices, contracts, and payment vouchers evidencing in sufficient detail the nature and propriety of the costs claimed.

SECTION 7.0 AUDITS, INSPECTIONS AND RECORDS RETENTION

TRANSIT shall cooperate with and freely participate in any monitoring or evaluation activities conducted by WSDOT that are pertinent to the intent of this AGREEMENT.

WSDOT, the State Auditor, and any of their representatives shall have full access and the right to examine during normal business hours and as often as deemed necessary all the records of TRANSIT with respect to matters covered in this AGREEMENT. Such representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls, and records of matters covered by the AGREEMENT. In order to facilitate any audits and inspections, all documents, papers, accounting records, and other materials pertaining to this AGREEMENT shall be retained by TRANSIT for six (6) years from the date of

completion of the project or the project final payment date; or, in case of litigation, TRANSIT must retain all records until litigation is completed. TRANSIT shall be responsible to assure that it, WSDOT, the State Auditor, and any of their representatives, retain comparable audit rights with respect to subcontractors to the TRANSIT within the scope of this Agreement.

SECTION 8.0 PROGRESS REPORTS

TRANSIT shall submit to the COUNTY quarterly progress reports so that the COUNTY and WSDOT may adequately and accurately assess the progress made under the terms of this AGREEMENT. The progress reports shall be prepared as prescribed by WSDOT on the forms provided in Attachment C, "Project Progress Report" and/or as provided and modified by WSDOT staff. TRANSIT shall provide a final progress report, as prescribed in Attachment D, "Final Project Progress Report" and/or as provided and modified by WSDOT staff. Project Progress Reports for the first seven (7) quarters are to be submitted to the COUNTY no later than thirty-five (35) days from the end of each calendar quarter. The Final Project Progress Report for the eighth quarter is due to the COUNTY no later than July 7, 2017 or eight (8) days past termination of the contract, whichever is applicable.

SECTION 9.0 COMPLIANCE WITH LAWS AND REGULATIONS

In carrying out the terms of this agreement, TRANSIT agrees to abide by all applicable state and federal laws and regulations, including but not limited to those concerning employment, equal opportunity employment, nondiscrimination assurances, project record keeping necessary to evidence agreement compliance, and retention of all such records. In carrying out the terms of this agreement, TRANSIT will adhere to all of the nondiscrimination provisions in Chapter 49.60 RCW and will also comply with the Americans with Disabilities Act, Public Law 101-336, which provides comprehensive civil rights protections to individuals with disabilities in the areas of employment public accommodations, state and local government services and telecommunication. In carrying out the terms of this agreement, TRANSIT will adhere to RCW 73.16.010 which provides employment preference in every public department and upon all public works of the state for certain veterans.

SECTION 10.0 AGREEMENT MODIFICATIONS

Either party may request changes to this agreement, including changes in the Statement of Work. Such changes, which are mutually agreed upon, shall be incorporated as written amendments to the AGREEMENT. No variation or alteration of the terms of this AGREEMENT shall be valid unless made in writing and signed by authorized representatives of the parties hereto.

SECTION 11.0 TERMINATION OF AGREEMENT

This agreement may be terminated immediately upon provision of written notice by one party in the event the other fails to perform its obligations as described in this AGREEMENT.

Any party may also terminate this AGREEMENT for convenience and without cause by providing the other party with written notice not less the sixty (60) days in advance.

This AGREEMENT may be terminated upon provision of written notice not less than (14) fourteen days prior to the effective date of termination, if the requisite state funding is reduced or becomes unavailable through failure of appropriation or otherwise.

This AGREEMENT may be terminated immediately upon provision of written notice should WSDOT determine that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds.

If this AGREEMENT is terminated prior to fulfillment of the terms stated herein, TRANSIT shall be reimbursed only for actual and eligible expenses incurred under this AGREEMENT prior to the date of termination and only to the extent of appropriated funds available at the time of termination.

SECTION 12.0 SPECIAL PROVISION

The COUNTY'S or TRANSIT'S failure to insist upon the strict performance of any provision of this AGREEMENT or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this AGREEMENT.

SECTION 13.0 DEFENSE AND INDEMNITY

The parties agree to defend, indemnify and save harmless each other, and each party's appointed and elected 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 or demands for damages because of the indemnifying party's acts or omissions giving rise to claims or demands for personal or bodily injury, including death at any time resulting from, sustained by any person or persons and for damages to property including loss of use thereof, but in the event of alleged concurrent negligence of the parties, this provision applies only to the extent of the indemnifying party's proportionate share of any such negligence. This defense, indemnity, and hold harmless provision does not apply in instances in which such injury or damage as shall have been occasioned by the sole negligence of a party or, its appointed or elected officials or employees.

The preceding paragraph is valid and enforceable only to the extent that damages arise out of services or work in connection with or collateral to, a contract or agreement relative to construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith, a contract or agreement for architectural, landscape architectural, engineering, or land surveying services, or a motor carrier transportation contract. The indemnification provided herein shall apply to and require each party to defend, indemnify and hold harmless the other party for claims brought by an employee of one party against the other party if said claims are alleged to have arisen from the alleged negligent actions or omissions of the employee's employer, and in such case, the parties, with respect to each other only, waive and will not assert against each other, any immunity under the Washington State Industrial Insurance Act (RCW Title 51). This waiver is limited to actions by and between parties only and does not extend to the employees of either party. The parties expressly do not waive their immunity against claims brought by their own employees.

SECTION 14.0 GOVERNING LAW AND VENUE

This AGREEMENT shall be construed and enforced in accordance with and the validity and performance hereof shall be governed by the laws of the State of Washington. Venue of any suit between the parties arising out of this AGREEMENT shall be the Superior Court of Pierce County, Washington.

SECTION 15.0 SEVERABILITY

In the event any term or condition of this AGREEMENT or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, of this AGREEMENT that can be given effect without the invalid term, condition. To this end, the terms and conditions of this AGREEMENT are declared severable.

SECTION 16.0 RECAPTURE PROVISION

If the State determines that Commute Trip Reduction funds that have been allocated and distributed to TRANSIT have not been expended in accordance with State law and requests the COUNTY'S assistance in resolving the matter, the COUNTY may withhold further disbursements to TRANSIT until the State notifies the COUNTY that disbursements may be resumed.

If, the State demands that the COUNTY repay to the State funds that have been allocated and distributed by the County to TRANSIT pursuant to Attachment "A", then TRANSIT shall, within 30 days of written demand, repay the equivalent amount to the COUNTY. Such right to demand repayment shall exist for a period not to exceed three (3) years following the termination of this AGREEMENT. In the event that the COUNTY is required to institute legal proceedings to enforce this repayment provision, the COUNTY shall be entitled to its costs thereof including reasonable attorney's fees and court costs.

SECTION 17.0 REDUCTION IN FUNDS

The COUNTY may unilaterally reduce the Statement of Work or budget under this AGREEMENT, if there is a reduction of funds by the source of those funds.

IN WITNESS WHEREOF, the COUNTY and TRANSIT have executed this AGREEMENT as of the date and year written below.

PIERCE COUNTY

BRIAN J. ZIEGLER
Public Works Director

Date

APPROVED AS TO FORM:

Deputy Prosecuting Attorney

Date

Budget and Finance

PIERCE TRANSIT

SUE DREIER
Chief Executive Officer

Date

WAYNE FANSHIER
Chief Financial Officer

Date

ATTEST:

Clerk of the Board

Date

Attachment A
FUND ALLOCATION METHODOLOGY FOR
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
COMMUTE TRIP REDUCTION (CTR) FUNDS

Funding allocated by WSDOT for local implementation of CTR activities is based on the following formula:

1. Fifty percent of the WSDOT allocation to Pierce County shall be allocated to Pierce Transit.
2. The remaining state funding for local CTR implementation will be allocated to the affected jurisdictions based on the number of affected worksites in each jurisdiction.
3. At the end of the final quarter any unclaimed state funds shall be allocated to the entities which have reported expenses beyond their allocations. The allocation of unclaimed amounts shall follow steps 1 and 2 as stated above. Over expenditures will be determined by the amounts reported in the final progress reports.

July 1, 2015 – June 30, 2017 Allocation
Based on numbers as of April 15, 2015

	Number of Worksites	Total Allocation
Pierce Transit	n/a	\$64,437
Pierce County	10	\$18,950
City of DuPont	4	\$7,581
City of Fife	3	\$5,686
City of Gig Harbor	2	\$3,791
City of Lakewood	7	\$13,265
City of Puyallup	4	\$7,581
City of Sumner	2	\$3,791
City of University Place	2	\$3,791
TOTAL	34	\$128,873

ATTACHMENT B
PIERCE TRANSIT STATEMENT OF WORK
FOR COMMUTE TRIP REDUCTION

OBJECTIVES

The COUNTY will coordinate and administer the distribution of funds described in RCW 70.94.521-551. WSDOT will provide funds to the COUNTY to assist in the COUNTY'S implementation of Commute Trip Reduction programs. The COUNTY will provide funds to TRANSIT and to the cities with affected employers within the COUNTY that are implementing and administering Commute Trip Reduction plans. Funds provided to the parties of this AGREEMENT are to be used solely for activities undertaken to fulfill the requirements of the ACT. The COUNTY will serve as a liaison between the WSDOT and the parties to this AGREEMENT.

1. ROLE DEFINITION

The affected jurisdiction is primarily responsible for assisting employers with program development, program review and approval, program modifications, and penalties. The affected jurisdiction is responsible for overall monitoring of CTR activities within its jurisdiction. The affected jurisdiction is responsible for identifying affected employers, reviewing appeals, and communicating changes in the law. The affected jurisdiction may transfer primary responsibility of any particular item in this agreement to Pierce Transit upon satisfactory settlement, which may or may not result in additional funding between the two parties.

TRANSIT is primarily responsible for employer training regarding the law; transportation services including bus, train/light rail, carpool, vanpool, bicycle, walk, compressed work week schedules, telework, and other program support elements; program implementation assistance; ongoing contact with employers to assist with program elements; and marketing efforts.

2. ADMINISTRATIVE WORK PLAN

TRANSIT agrees to assist the COUNTY with the development of WSDOT required an administrative work plan by the end of the first quarter.

- A. The work plan shall identify the deliverables, schedule, expected outcomes, performance measures and the budget specific to implementation strategies for the CTR Efficiency Act and other strategies as defined in approved and locally adopted CTR or GTEC plans. These may include, but are not limited to, recruiting new employer worksites, reviewing employer programs, administering surveys, reviewing program exemption requests, providing employer training, providing incentives,

performing promotion and marketing, and providing emergency ride home and other commuter services.

- B. The administrative work plan budget shall identify how TRANSIT will use the state funds provided in this AGREEMENT to complete work plan tasks associated with TRANSIT responsibilities. The work plan shall also provide an estimate of the other financial resources not provided in this AGREEMENT will be used to complete work plan tasks.

3. EMPLOYER DATABASE MAINTENANCE

TRANSIT will maintain a database of contact information for all CTR participating employers and employee transportation coordinators in Pierce County. The main purpose of this database will be for distributing materials and countywide communication pieces.

4. AFFECTED EMPLOYER CTR PROGRAM DEVELOPMENT

The affected jurisdiction will be primarily responsible for all affected employer CTR program development activities. Program development activities include, but are not limited to: (1) leading the effort to meet with employers prior to the CTR program submittals by employers, (2) working collaboratively with employers in accordance with the CTR Guidelines when making recommendations to employers regarding the best mix of site-specific CTR strategies, (3) reviewing employer CTR programs, (4) making a determination of employer program acceptability, and assisting employers with required reporting and surveying .

From a coordination standpoint, TRANSIT will notify the affected jurisdiction of all meetings to be held with employers and about any issues that arose during those meetings. The affected jurisdiction will decide whether or not to attend those meetings. The affected jurisdiction will follow the same procedure and TRANSIT will decide whether or not to attend meetings set up by the affected jurisdiction.

The affected jurisdiction will request TRANSIT's comments on affected employer CTR programs as needed. TRANSIT's comments will focus on the relevance of specific CTR strategies cited in the employer CTR programs in terms of the ability of the affected employer to meet its CTR goals.

5. ONGOING SUPPORT, WORKSHOPS, AND TRAINING

TRANSIT will meet regularly with the Employee Transportation Coordinators (ETCs) to review the experiences of their specific programs. TRANSIT will establish the format, structure, overall responsibilities, and logistics of this effort. TRANSIT effort will include, but will not be limited to, training/workshops in specific areas (such as carpooling, vanpooling, teleworking, etc.), problem solving, conflict resolution, and general idea sharing. The affected jurisdiction will assist TRANSIT in establishing a

procedure and forum for ongoing ETC support for affected employers within its jurisdiction.

Newly affected employers will be provided with the opportunity to attend training sessions that are provided by TRANSIT in association with affected jurisdictions. TRANSIT will develop and maintain a training program including appropriate training materials that can be used to train new ETCs and employer representatives. The training program will be modified by TRANSIT based on the feedback received by the participants of previous sessions and by the affected jurisdictions. Training will occur (1) on an ad-hoc basis upon an employer's designation as affected, (2) on an individual basis as new ETCs are designated, and (3) in group settings when a need is demonstrated.

During TRANSIT's ongoing employer contacts for program implementation assistance, ETCs and employer representatives will be directed to contact the affected jurisdiction for information regarding program modification, program review, the law, reporting, surveying and penalties.

6. PROGRAM IMPLEMENTATION

The affected jurisdiction and TRANSIT will continue to meet with employers to provide ongoing support and to assist in the implementation of the services provided for in their approved CTR programs. Employer meetings will be attended by both the affected jurisdiction and TRANSIT whenever possible.

TRANSIT will take the lead maintaining coordination with the affected jurisdiction in assisting employers in such CTR Program implementation services as:

- Ridematch services for carpools and vanpools.
- Carpool and vanpool formation and operation.
- Commuter information centers or assistance with custom orders.
- Bus/train/light rail information and trip planning.
- Support services such as transportation events and marketing materials.
- Marketing material development
- Emergency Ride Home administration

The affected jurisdiction will take the lead maintaining coordination with TRANSIT in assisting employers in such CTR Program implementation services as:

- Reporting requirements
- Employer surveys and other survey instruments useful to employers.
- Parking management programs specific to individual employer site needs.

7. INTERAGENCY COORDINATION

The affected jurisdictions and TRANSIT will participate in all meetings of the Pierce County TDM/CTR Technical Work Group.

The affected jurisdictions and TRANSIT will notify each other at least monthly of all contacts with employers.

Affected jurisdictions will provide TRANSIT with copies of employer reports and survey results.

8. MARKETING

TRANSIT will provide the following marketing activities:

- Assist with transportation events at employment sites to encourage employee participation in high-occupancy vehicle (HOV) alternatives and to assist in the promotion of employer offered HOV services and incentives.
- Maintain a commute options website for commuters and employers located in Pierce County.
- Prepare marketing brochures or other informational pieces on all various program elements and services as needed, and distribute them to affected CTR employers and other interested employers within the affected jurisdiction.
- Assist employers with their marketing efforts.
- Ensure adequate supplies of materials are provided for commuter information centers at affected employer locations.
- Respond to transit requests made directly by CTR-affected employers.

The affected jurisdiction anticipates that additional CTR marketing may be required over and above the dollars proposed under this agreement. Where there is a clear need for additional marketing services including CTR literature, posters, advertisements, brochures, and incentive programs, the affected jurisdiction at its discretion will develop a supplement to this agreement. Pierce Transit, through its continual work with employers, will assist the affected jurisdiction in identifying those needs.

9. PROJECT PROGRESS REPORTING

TRANSIT will provide quarterly progress reports to the COUNTY using Attachment C and Attachment D regarding its activities that directly relate to the CTR program within the geographical limits of all affected jurisdictions. The reports will contain a minimum of the following elements:

- A summary of the employer contacts that were made during the quarter.
- A copy of the updated phone/fax/e-mail employer list.
- Expenditures by budget categories outlined in Attachment C for funds expended by TRANSIT during the previous quarter for the purpose of CTR implementation.

- A summary of CTR events, projects, training, and employer assistance for the quarter.
- Any other key deliverables outlined in the WSDOT approved work plan.

ATTACHMENT C**Project Progress Report****Commute Trip Reduction (CTR) Quarterly Project Report**

Reporting quarter:		Date:	
Organization:		Agreement number:	GCB 2163
Biennial targets	Estimate of drive-alone trips to reduce to meet goal:		
Key deliverables: <i>(from work plan)</i>	<ul style="list-style-type: none"> • 		
Completed activities this quarter			
<ul style="list-style-type: none"> • 			
Planned activities for next quarter			
<ul style="list-style-type: none"> • 			
Describe issues, risks or challenges and resolutions			
<ul style="list-style-type: none"> • 			
Estimated expenditures of state funds for this quarter			
<ul style="list-style-type: none"> • 			

ATTACHMENT D
Final Project Progress Report

Commute Trip Reduction (CTR) Final Project Report

Biennium:	2015-2017	Date:	
Organization:		Agreement number:	GCB 2163
Biennial targets	Estimate of drive-alone trips to reduce to meet goal: •		
Deliverables: <i>(from work plan)</i>	•		
Describe your progress on each of your deliverables this biennium.			
•			
Did you meet your targets for this biennium? Why or why not?			
What were your major successes this biennium? How did they help you make progress toward the goals in your jurisdiction's CTR plan(s)?			
•			
What were your major challenges this biennium? How did they hinder your progress toward the goals in your jurisdiction's CTR plan(s)?			
•			
How do you measure the performance of your strategies?			
•			
What did you learn this biennium?			
•			
What would help you be more successful in the future? Please be specific (If it's more resources, how much and what would they be for, etc.).			
•			

For each of the strategies in your administrative work plan, describe your expected outcomes, whether you met those outcomes, and why or why not.

Strategy	Expected outcomes	Performance measures	Outcomes met?	Why or why not?

If your organization used other financial resources besides state CTR funds to implement the activities in your administrative work plan for this agreement, please provide the information below.

Source of local funds	Total spent this agreement	How the funds were used
Total local funds:		

If your organization disbursed any state CTR funds to other organizations to implement the activities in your administrative work plan for this agreement, please list the total amount disbursed for the biennium below.

Organization	Total disbursed this agreement	Purpose of disbursal
Total disbursement:		

FACT SHEET

TITLE: A Resolution Authorizing the Purchase of Sixty-One (61) Grant Funded Replacement Vanpool Vans From Washington State Contract No. 03613

DIVISION: Operations

ORIGINATOR: Bill Spies, Fleet Manager

PRECEDING ACTION:

COORDINATING DEPARTMENT: Finance

APPROVED FOR SUBMITTAL:

Chief Financial Officer

APPROVED FOR AGENDA:

Chief Executive Officer

General Counsel

ATTACHMENTS:

Proposed Resolution

BUDGET INFORMATION

2016 Budget Amount
\$1,946,406

Required Expenditure
Total Expenditure: \$1,879,820
Local: \$1,316,282
Grant: \$ 563,538

Impact
\$66,586
(under budget)

Explanation: Purchase of sixty-one (61) replacement vanpool vans in accordance with the Pierce Transit approved replacement schedule. Purchase of replacement vans is contingent upon Board approval of the 2016 Budget.

BACKGROUND:

This resolution seeks authority to purchase sixty-one (61) replacement Vanpool vans: four (4) 7-Passengers, twenty-eight (28) 12-passenger, and twenty-nine (29) 15-passenger replacement Vanpool vans from Washington State Contract No. 03613 in January 2016.

The Agency budget for 2016 includes funding for four (4) 7-Passengers, twenty-eight (28) 12-passenger, and twenty-nine (29) 15-passenger Vanpool replacements (Replacement policy: 7 years or 120,000 miles). The vans being replaced are 10-years old with average mileage of 133,947 and are consistent with Pierce Transit's Replacement Policy. The State of Washington has established vehicle contracts that allow use by political

subdivisions and these contracts will be available for use in January 2016. Staff has reviewed the contracts available and has identified vehicles appropriate for our intended purpose.

Vehicles to be purchased are 7-passenger Dodge Grand Caravans, 12-passenger Ford Transit Connects, and 15-passenger Ford Transit Connects. State contract pricing is obtained on a competitive bid basis and is considered to be fair and reasonable. Federal Grant funds awarded through the Congestion Mitigation and Air Quality (CMAQ) Improvement Program in the amount of \$563,538 will be used to purchase these vans.

ALTERNATIVES:

Develop specifications and solicit bids ourselves; however, in the past we were not able to achieve the deep discounts offered in the state contracts due to statewide purchasing volume.

RECOMMENDATION:

Approve Resolution No. 15-060, authorizing the purchase of sixty-one (61) grant funded replacement Vanpool vans: four (4) 7-passenger; twenty-eight (28) 12-passenger; and twenty-nine (29) 15-passenger from Washington State Contract No. 03613 in the amount of \$1,879,820, contingent upon adoption of the 2016 Budget.

RESOLUTION NO. 15-060

A RESOLUTION of the Board of Commissioners of Pierce Transit Authorizing the Purchase of Sixty-One (61) Grant Funded Replacement Vanpool Vans From Washington State Contract No. 03613

WHEREAS, the Agency Budget for 2016 includes funding for the purchase of sixty-one (61) replacement Vanpool vans: four (4) 7-passenger, twenty-eight (28) 12-passenger and twenty-nine (29) 15-passenger vans; and

WHEREAS, grant funding is available from the Congestion Mitigation and Air Quality (CMAQ) Improvement Program in the amount of \$563,538; and

WHEREAS, the Agency Replacement policy for vanpool vans is seven (7) years or 120,000 miles and vans being replaced are 10-years old with average mileage of 133,947; and

WHEREAS, Washington State Vehicle Contract No. 03613 was competitively bid and is considered to be fair and reasonable; and

WHEREAS, the proposed purchase is contingent upon Board approval of the 2016 Budget which includes the Vanpool Replacement 2016 Capital Project; and

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. The Board of Commissioners authorizes the Chief Executive Officer to purchase sixty-one (61) grant funded replacement Vanpool vans: four (4) 7-passenger; twenty-eight (28) 12-passenger; and twenty-nine (29) 15-passenger from Washington State Contract No. 03613 in the amount of \$1,879,820.

ADOPTED by the Board of Commissioners of Pierce Transit at their regular meeting thereof held on the 9th day of November, 2015.

PIERCE TRANSIT

Rick Talbert, Chair
Board of Commissioners

ATTEST/AUTHENTICATED

Deanne Jacobson, CMC
Clerk of the Board

FACT SHEET

TITLE: Creation of the Care-A-Van Grant Program For Donation Of Surplus Vehicles To Qualifying Non-Profit Organizations

DIVISION: Operations

ORIGINATOR: Cherry Thomas
Sr. Planner, Paratransit

PRECEDING ACTION: None

COORDINATING DEPARTMENT: Paratransit

APPROVED FOR SUBMITTAL:

Chief Financial Officer

APPROVED FOR AGENDA:

Chief Executive Officer

General Counsel

ATTACHMENTS: Proposed Resolution
Draft program documents including: Application, Eligibility Rules and Requirements and Selection Criteria, Sample Agreement, and Sample Resolution for Specific Recipients

BUDGET INFORMATION

2015 Budget Amount
N/A

Required Expenditure
N/A

Impact
N/A

Explanation:

There is no current financial impact associated with the proposal to establish this program; in the future, the Board will be presented with information on specific surplussed vehicle donations, the anticipated value at auction, and the anticipated value of service that would be offset by donation.

BACKGROUND:

From time to time, Pierce Transit surpluses rolling stock and equipment that has exceeded its useful life for public transit. The vehicles are typically surplussed vanpool vans, but Service Supervisor vans and SHUTTLE cutaway "vans" are also eligible to be surplussed. These types of vans are the vehicles intended for the Care-A-Van Grant Program.

In the past, Pierce Transit has sold surplus rolling stock at auction for relatively small amounts, because when a vehicle is surplused, it typically is beyond its reasonable service life and usually has little to no appreciable market value. In 2015, Pierce Transit made \$50,967.01 on the sale of 27 surplused vehicles at auction, an average of \$1,887.66 per vehicle.

A number of local non-profit organizations have expressed a need for and interest in utilizing Pierce Transit's surplused vehicles to transport the organization's members or clients to and from medical appointments, job sites, activities, and the like throughout Pierce County. Accessible vehicles, in particular, are in high demand by non-profit organizations that serve people with disabilities. It is anticipated that the provision of transportation services by non-profit organizations would defray the cost of Pierce Transit's service, since those organizations would be providing trips that would otherwise be provided by Pierce Transit, including trips that would be SHUTTLE eligible at the current budgeted cost of approximately \$52.99 per trip.

Though some vehicles would not be appropriate for further use after being surplused, Pierce Transit staff expect to be able to identify a number of surplused vehicles that could meet the needs of non-profit organizations based on vehicle mileage and maintenance history.

In the proposed Care-A-Van vehicle donation program, interested non-profit organizations would have the opportunity to apply for the surplus vehicles through a competitive selection process. The application process would require the organization to demonstrate the financial capacity to follow all state and federal laws regarding maintaining and insuring the vehicle and provide a description of how the vehicle will meet the transportation needs of Pierce County residents and visitors. Organizations selected to receive a vehicle from Pierce Transit would be required to sign a contract obligating the organization to: acknowledge the mileage and as-is condition of the vehicle; assume responsibility to maintain and insure the vehicle; provide sufficient service to cover the approximate salvage value of the vehicle; and report to Pierce Transit on the number and types of trips that are provided by the organization in the vehicle for a period of one year. The agreement would also transfer all future financial obligations and liabilities related to the use and ownership of the vehicle to the organization. Only after the organization has met all contractual obligations and has provided sufficient service to cover the approximate salvage value of the vehicle, would title to the vehicle be transferred to the organization.

The actual donation of vehicles through the Care-A-Van Grant Program would occur through resolution and presentation by the Pierce Transit Board of Commissioners.

ALTERNATIVE:

Do not create this program and continue selling surplused vehicles at auction.

RECOMMENDATION:

Approve Resolution No. 15-061 Creating the CARE-A-VAN Grant Program For Donation Of Surplus Vehicles To Qualifying Non-Profit Organizations.

RESOLUTION NO. 15-061

A RESOLUTION Of The Board Of Commissioners Creating the Care-A-Van Grant Program For Donation Of Surplus Vehicles To Qualifying Non-Profit Organizations

WHEREAS, from time to time, Pierce Transit surpluses rolling stock that has exceeded its useful life for public transit; and

WHEREAS, in the past, Pierce Transit has sold surplus rolling stock at auction for relatively small amounts, because when a vehicle is surplussed, it typically is beyond its reasonable service life and usually has little to no appreciable market value; and

WHEREAS, certain non-profit organizations have expressed a need for and interest in utilizing Pierce Transit's surplussed vehicles to provide transportation services to Pierce County residents and visitors; and

WHEREAS, though some vehicles would not be appropriate for additional use after being surplussed, Pierce Transit staff anticipate being able to identify a number surplussed vehicles that could meet the needs of non-profit organizations based on the vehicle's mileage and maintenance history; and

WHEREAS, the provision of transportation services by non-profit organizations is expected to defray the cost of Pierce Transit's service, since many of those organizations would be providing trips that would otherwise be provided by Pierce Transit, including trips that would be SHUTTLE eligible at the current budgeted cost of approximately \$52.99 per trip; and

WHEREAS, if the Pierce Transit Board of Commissioners created the Care-A-Van vehicle donation program, interested non-profit organizations would have the opportunity to apply for the surplus vehicles through a competitive selection process; and

WHEREAS, the application process would require the organization to demonstrate the financial capacity to follow all state and federal laws regarding maintaining and insuring the vehicle and provide a description of how the vehicle will meet the transportation needs of Pierce County residents; and

WHEREAS, non-profit organizations selected to receive a vehicle from Pierce Transit would be required to sign a contract obligating the organization to: acknowledge the mileage and as-is condition of the vehicle; assume responsibility to maintain and insure the vehicle; provide sufficient service to cover the approximate salvage value of the vehicle; and report to Pierce Transit on the number and types of trips that are provided by the organization in the vehicle for one year. The agreement would also transfer all future financial obligations and liabilities related to the use and ownership of the vehicle to the organization; and

1 WHEREAS, after the organization has met all contractual obligations and has provided sufficient
2 service to cover the approximate salvage value of the vehicle, title to the vehicle would be transferred to the
3 organization; and

4 WHEREAS, all donations of vehicles through the Care-A-Van Grant Program must be approved by the
5 Pierce Transit Board of Commissioners.

6 NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

7 Pierce Transit staff is authorized to implement the Care-A-Van Grant Program establishing a
8 process, intention, application, contract and other necessary items to provide for the donation of
9 surplussed vehicles to qualified non-profit organizations.

10 ADOPTED by the Board of Commissioners of Pierce Transit at their regular meeting thereof held on
11 the 9th day of November, 2015.

12 PIERCE TRANSIT

13
14
15 _____
16 Rick Talbert, Chair
17 Board of Commissioners

18 ATTEST/AUTHENTICATED

19 _____
20 Deanne Jacobson, CMC
Clerk of the Board

CARE-A-VAN GRANT PROGRAM

Application for Vehicle

SECTION 1: GENERAL INFORMATION

Primary Applicant Agency/Organization: _____

Mailing Address: _____

Contact Person-Name/Phone: _____

E-Mail Address: _____

Partner Agency/Organization: _____

Partner Agency/Organization: _____

Type of Applicant(s) (check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Dialysis | <input type="checkbox"/> Public Agency | <input type="checkbox"/> School / Daycare |
| <input type="checkbox"/> Social Service Organization | <input type="checkbox"/> Senior Center / Assisted Living Center | <input type="checkbox"/> Other, Please Specify _____ |

Vehicle Type Preference:

- ☐ 7-15 Passenger Van (Retired Vanpool Van)
- ☐ 8-12 Passenger Accessible Van (Retired SHUTTLE Van)
- ☐ 6 Passenger Accessible Van

Because these vehicles are only donated after being declared surplus by the Agency, Pierce Transit may not have the type of vehicle you seek available at the time of your application.

SECTION 2: DESCRIPTION OF PROPOSED VEHICLE USE

1. Describe the community transportation problem you are proposing to solve with this vehicle and the benefit you want to achieve. Include in your answer the population you will serve, the area of Pierce County you will serve, type of service you will provide, purpose of the transportation, extent of vehicle use and any other information you want us to know. (Attach an additional sheet if needed)

2. How many passenger trips do you expect to provide over the course of the next year? For the purposes of this application, a passenger trip is defined as a one way trip for one person i.e.: pickup from home/drop-off at work = one passenger trip. Please show how you arrived at your estimate and describe the basis of your projection. Trips to or from religious worship, devotion or instruction may not be counted in meeting the selection criteria, but this would not affect the use of the vehicle once an award has been made.

Of the passenger trips you expect to carry over the course of next year, specify how many trips are estimated to be ADA Paratransit eligible.

3. Will the vehicle be used to expand service (such as, establishing a new service, increasing the frequency of an existing service, etc.) to replace an existing service or both?

☐ Expand Service ☐ Replace Existing ☐ Both

If the vehicle will be used to expand service, estimate the number of new trips that will be provided and/or explain how the vehicle will be used to expand service. (Attach additional sheets if necessary).

4. Describe the typical profile of the passengers you anticipate serving with this vehicle. Profiles include, but are not limited to: persons with disabilities, senior citizens, persons with low income, at risk youth, veterans, and general public.

5. Describe your proposed geographic service area. Include in your answer the portions of Pierce County that you propose to serve.

6. Describe how your organization coordinates transportation efforts with other community programs.

7. Describe how your organization coordinates transportation needs with other transportation providers, including Pierce Transit.

8. What method of transportation does your program currently use to meet your organization's transportation needs?

9. To what extent does existing bus and SHUTTLE service meet your organization's transportation needs?

10. Describe what transportation gaps you propose to address that are not currently served by Pierce Transit?

Is this application in coordination with any other agencies?

☐ Yes ☐ No

If yes:

- List the name of the primary applicant who will be named as buyer on vehicle title if selected as a vehicle recipient.

- Briefly explain how the use of the vehicle will be serve the multiple organizations involved. All participating agencies/organizations are required to sign the certification and should also be identified on Page 1 of this application.

11. List any coordinated transportation groups/committees within Pierce County that you or anyone in your organization participates in.

12. If awarded, do you have the financial and management capacity to maintain and insure the vehicle? Explain if necessary:

13. Describe how the proposed transportation program will be maintained and funded and how the organization will manage the program to include drivers and the vehicle.

14. Please provide any additional information you would like for the Agency to consider in evaluating your application:

SECTION 3: CERTIFICATION

I certify that, to the best of my knowledge, the information in this application is true and accurate and that this agency/organization has the necessary financial and managerial capability to adequately operate, maintain and insure the vehicle for which this application is being made.

Signature of Lead Agency/Organization

Board Chair/Executive Officer: _____

Typed Name/Title: _____ Date: _____

Signature of Partner Agency/Organization

Board Chair/Executive Officer: _____

Typed Name/Title: _____ Date: _____

Signature of Partner Agency/Organization

Board Chair/Executive Officer: _____

Typed Name/Title: _____ Date: _____

CARE-A-VAN GRANT PROGRAM

Eligibility Rules/Requirements and Selection Criteria

BACKGROUND

Pierce Transit is pleased to offer creative and flexible approaches to providing transportation for individuals and community non-profit groups in Pierce County. The Care-a-Van Grant Program is available to qualifying non-profits, government organizations, community agencies, or organizations with 501(c)(3) designations to enhance transportation options. When a Pierce Transit van or SHUTTLE vehicle has been earmarked for retirement by the Agency, the vehicle will be evaluated for donation. The recipient agrees to provide trips that would otherwise be unavailable or provided by Pierce Transit at a greater expense. Even over a short time, it is expected that these trips will more than "buy back" the value of the vehicle.

OVERVIEW OF PROCESS

These vehicles are granted to eligible non-profits, government organizations, community agencies, or organizations with 501(c)(3) designations serving Pierce County. Pierce Transit will only donate previously surplussed vehicles that have been deemed by Pierce Transit's maintenance department to be in good working order as of the time of donation. Whether or not to place a vehicle in the donation program is exclusively in Pierce Transit's discretion.

All non-profits, government organizations, community agencies, or organizations with 501(c)(3) designations which serve Pierce County are eligible to apply. Given the limited pool of available surplus vehicles, the application process is competitive and applications will be evaluated by a committee of Pierce Transit staff. The evaluation committee will make recommendations to the Board of Commissioners; the Board will award the vehicles.

Questions about eligibility and other questions about the program should be directed to: Cherry Thomas, Senior Planner-Paratransit at (253) 983-3699.

ELIGIBILITY RULES AND REQUIREMENTS

- Applicants must be a non-profit or government organization, community agency, or organization with 501(c)(3) designation.
- Vehicles must be used for a transportation-related purpose for residents who live or work within Pierce County.
- Applications must clearly designate the primary applicant who will be named as "buyer" on vehicle title, if selected as a recipient.
- Trips must have an origin OR destination within Pierce County, WA.
- Trips to or from religious worship, devotion or instruction may not be counted in meeting the selection criteria. This restriction does not affect the use of the vehicle once an award has been made.
- Awarded applicants shall not use the vehicle for assisting a campaign for election or for the promotion of or opposition to any ballot proposition
- Awarded applicants must provide a copy of the 501(c)(3) non-profit certification.
- Awarded applicants will be required to sign an agreement relating to the exchange of vehicles for transportation-related services. A sample agreement is included in this packet.
- Awarded applicants must track ridership, hours, miles of service and vehicle use description and provide a monthly report to Pierce Transit for one (1) year after the date the vehicle was granted.
- Awarded applicants shall use the supplied vehicle to only provide transportation to their clients, members, guest or other similar users as designated in the application. They shall not provide transportation to the general public.
- Successful applicants must obtain automobile liability insurance with limits of no less than \$1 million per occurrence, with a \$2 million aggregate, and shall name Pierce Transit as an additional insured on such policy during the one year term of the parties' agreement. Proof of insurance will be required before the vehicle will be granted to the applicant.

SELECTION PROCESS

Selection Committee

A committee of 3 – 5 Pierce Transit staff will be convened at least quarterly to review and evaluate the applications that have been submitted in the last quarter. The committee will evaluate the applications by taking into consideration the below criteria, and may seek additional information or a meeting with the applicant. The committee will make recommendations to the Pierce Transit Board of Commissioners; the Board will award the vehicles.

Selection Criteria Summary

The selection process is competitive and involves review and evaluation using the criteria identified below. In addition to these specific criteria, geographic equity, diversity in population groups served and previous grant award(s) will be considered in evaluating the application.

	CRITERIA	WEIGHT
1	Demonstrated Community Benefit	30%
2	Total Number of Trips Provided	25%
3	Transportation Coordination	25%
4	Ability of Organization to Maintain Service	10%
5	Clarity and Quality of Application	10%

Selection Criteria

Applicants will be asked to provide information and responses to the following general criteria – questions are within the application:

1. Demonstrated Community Benefit

The scope and nature of your agency's transportation need and what data you have to support or demonstrate that need. How granting your application would serve an unmet public transportation need in Pierce County. Including: what service you currently utilize; what other options are available to your organization; and how your program will meet that need. The breadth of the community benefit from the service.

2. Total Number of Trips Provided

Estimated number of trips to be provided annually, given in a clear and defined calculation. The best prediction on where the trips would travel to/from. Whether you are providing transportation to ADA eligible customers and the percentage of those trips in relation to all trips provided. Trips to or from religious worship, devotion or instruction may not be counted in meeting the selection criteria. This restriction does not affect the use of the vehicle once an award has been made.

3. Transportation Coordination

How your current and proposed service coordinates with other transportation services and/or other social services programs in the area. Why existing Pierce Transit services cannot meet the need and how your program will coordinate with other programs to achieve maximum use. Your organization's participation in any coordinated transportation group/committee in Pierce County.

4. Ability of Organization to Maintain Service

How the proposed transportation program will be maintained, funded and insured. How the organization will manage the program.

5. Clarity and Quality of Application

Applications will be rated on content, clarity, presentation and quality of application proposal. Based on legibility, completeness, provision of data and clear definition of transportation needs and planned vehicle use.

**AGREEMENT RELATING TO THE EXCHANGE AND GRANT OF
VEHICLE FOR TRANSIT RELATED SERVICES
PIERCE TRANSIT CARE-A-VAN PROGRAM**

THIS AGREEMENT between Pierce County Public Transportation Benefit Area Corporation ("Pierce Transit"), and _____, hereinafter referred to as the "Recipient") is as follows:

WHEREAS, Pierce Transit, from time to time, declares vehicles to be surplus when those vehicles are beyond their useful service life;

WHEREAS, Pursuant to Pierce Transit Board of Commissioners Resolution No. _____, Pierce Transit may grant surplussed vehicles to qualified non-profit organizations after a competitive evaluation process and subject to Board of Commissioners' approval and the terms of this Agreement;

WHEREAS, _____ applied for and was selected by the Pierce Transit Board of Commissioners to receive a surplussed vehicle so that _____ may provide certain transportation services to residents and visitors to Pierce County;

WHEREAS, _____ has agreed to provide _____ (#) hours of _____ (type) service and report to Pierce Transit on the number and types of trips that _____ makes with the vehicle over the course of a year so that Pierce Transit may be assured that _____ has provided sufficient service to offset the value the vehicle would otherwise have gained at auction, and to defray the cost of Pierce Transit's service.

WHEREAS, with the grant of this vehicle, both parties seek to provide efficient and cost-effective transportation services within Pierce County.

THEREFORE, In consideration of the mutual promises of the parties, it is hereby agreed as follows:

1. Pierce Transit shall provide to the Recipient the following described vehicle for Recipient's use, subject to the terms and conditions set forth herein:

Make: _____

Year: _____

Model: _____

VIN: _____

Estimated Fair Market Value: _____

Mileage: _____

2. The Recipient shall provide the following services in consideration for the use, and ultimately the ownership of the aforementioned vehicle:
 - a. To provide ----- trips of transportation services for individuals who live, work, or travel within Pierce County as described in Recipient's application for grant of vehicle at Sec. 2, "Description of Proposed Vehicle's Use" which is incorporated herein. Until title of the vehicle is transferred to Recipient, as further set forth in this agreement, use of the vehicle for other purposes is prohibited.
 - b. For a period of one (1) year from the date of this agreement, Recipient shall provide Pierce Transit with _____ monthly reports on the number and types of trips provided by Recipient in Vehicle in a form to be provided by Pierce Transit.
 - c. The Vehicle Recipient will ensure that all trips must have an origin or destination within Pierce County.

Vehicle Recipient specifically shall not use the vehicle for assisting a campaign for election or for the promotion of or opposition to any ballot proposition.

Failure to use the Vehicle for the above-described transportation service or failure to report on such use shall constitute a breach of this agreement and shall result in the forfeiture by Recipient of the vehicle. Upon declaration of breach and forfeiture by Pierce Transit, the vehicle shall be returned to Pierce Transit within thirty (30) days thereafter. Pierce Transit may use any remedy provided by law for breach of this agreement.

3. After successful completion of all requirements of the Vehicle Recipient as set forth herein, title and ownership of the vehicle will be transferred to Recipient by Pierce Transit. Determination of whether or not the Vehicle Recipient has successfully completed these requirements and is eligible for transfer of title is in the sole discretion of Pierce Transit.
4. Pierce Transit is allowing the Vehicle Recipient to use and eventually own the aforementioned vehicle AS IS, WHERE IS, and WITH ALL FAULTS and WITHOUT RECOURSE regarding the condition of the aforementioned vehicle. Pierce Transit makes NO EXPRESSED or IMPLIED WARRANTIES of MERCHANTABILITY; NO EXPRESS or IMPLIED WARRANTIES of FITNESS; and no EXPRESS or IMPLIED WARRANTIES or GUARANTEES of any kind regarding the aforementioned vehicle. As of the effective date of this agreement, Vehicle Recipient is responsible for all maintenance of the subject vehicle.
5. The parties to this agreement agree that Pierce Transit shall have no liabilities of any sort arising from or related to the vehicle or vehicles covered by this Agreement. The Vehicle Recipient(s) and any successor shall defend, indemnify and hold harmless Pierce Transit, its officers, agents and employees from any claims or suits at law or equity, costs and/or demands of any sort, including

reasonable attorneys' fees, arising out of or related to this Agreement, the vehicle or vehicles covered by this Agreement, or any use by any person of such vehicles.

6. During the term of this agreement, Vehicle Recipient may not sell, donate, lease, or transfer the vehicle without the express written consent of Pierce Transit. At any time, if the Vehicle Recipient sells, donates or transfers any vehicle or vehicles covered by this Agreement, the Vehicle Recipient shall require the transferee to execute a binding agreement to defend, indemnify and hold Pierce Transit and its officers, agent and employees harmless as set out in the above provision.
7. The Vehicle Recipient shall be responsible for all licensing, permits and insurance of the aforementioned vehicle. Vehicle Recipient shall obtain motor vehicle liability insurance with limits of no less than \$1 million per occurrence, with a \$2 million aggregate, and Pierce Transit shall be named as an additional insured on such policy until such time as title for the vehicle is transferred to Vehicle Recipient. Proof of insurance and Pierce Transit's status as an additional insured shall be provided to Pierce Transit as a condition of delivery of the aforementioned vehicle. Vehicle Recipient shall promptly carry out all steps necessary to transfer vehicle title to it from Pierce Transit.
8. During the term of this agreement, the Vehicle Recipient shall provide Pierce Transit a report, by the 10th of each month, containing vehicle odometer readings, number of passengers carried, and description of use of trips made by vehicle. Reports shall be submitted to Cherry Thomas, Senior Planner-Paratransit, Pierce Transit Authority, 3701 96th St SW, Lakewood, WA 98496, or emailed to cthomas@piercetransit.org.
9. The term of this agreement shall be for one year from the date of execution.

DATED: _____

PIERCE TRANSIT

BY: _____

TITLE: _____

DATE: _____

ATTEST: VEHICLE RECIPIENT

BY: _____

TITLE: _____

DATE: _____

RESOLUTION NO. 15-xxx

A RESOLUTION of the Board of Commissioners of Pierce Transit Donating Vehicle _____ to _____

WHEREAS, By Resolution No. _____, the Pierce Transit Board of Commissioners adopted the Care-A-Van Program pursuant to which the Agency may donate an otherwise surplussed vehicle to a qualified non-profit organization, provided that the recipient organization agrees, among other contractual requirements, to maintain and insure the vehicle and provide and report on a certain level of transportation services to Pierce County residents and visitors sufficient to cover the approximate value of the surplus vehicle if it were otherwise sold at auction; and

WHEREAS, an application has been submitted by _____ for donation of a surplus vehicle from the Care-A-Van Program; and

WHEREAS, _____ is a qualified _____ (type of organization) organized under and existing pursuant to the laws of the State of Washington; and

WHEREAS, after a competitive evaluation process, Pierce Transit staff has recommended that _____ be the recipient of a vehicle pursuant to the terms of Pierce Transit's Care-A-Van Grant Program Agreement;

WHEREAS, Pierce Transit has a surplus _____ (type of vehicle), VIN _____, and Pierce Transit's Maintenance Department recommends that said vehicle be surplussed and has determined that the vehicle is appropriate for donation through the Care-A-Van program; and

WHEREAS, the donation of the vehicle will aid _____ in their work for the community while benefiting Pierce Transit by offsetting transportation services that would otherwise be provided by Pierce Transit at greater expense; and

WHEREAS, _____ is an organization {insert commendation to the organization for the value of their great work}; and

WHEREAS, this Board is of the opinion that it is in the best interests of the citizens and residents of Pierce County that vehicle _____ be donated to _____.

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

1. Vehicle _____ is hereby donated to _____ pursuant to the terms and conditions in substantially the same form as the Care-A-Van Grant Program Agreement attached hereto as Exhibit A.

3. Once _____ fulfills all terms of the Pierce Transit's Care-A-Van Grant Program Agreement, Pierce Transit staff is authorized to transfer title of said vehicle to _____.

ADOPTED by the Board of Commissioners of Pierce Transit at their regular meeting thereof held on the _____ day of _____, 2015.

PIERCE TRANSIT

Rick Talbert, Chair
Board of Commissioners

ATTEST/AUTHENTICATED

Deanne Jacobson, CMC
Clerk of the Board

FACT SHEET

TITLE: A Resolution Authorizing the Chief Executive Officer to Enter Into and Execute an Interlocal Agreement with the City of Lakewood for Off Duty Police Services

DIVISION: Operations

ORIGINATOR: Doug Middleton
Chief Operations Officer

PRECEDING ACTION: N/A

COORDINATING DEPARTMENT: Public Safety Department

APPROVED FOR SUBMITTAL:

Chief Financial Officer

APPROVED FOR AGENDA:

Chief Executive Officer

General Counsel

ATTACHMENTS:

Proposed Resolution
Exhibit A, Proposed Interlocal Agreement

BUDGET INFORMATION

2016 Budget Amount	Required Expenditure	Impact
\$449,020	Approximately \$449,020 per year	\$0
6908 hours based on current use	(hours based on usage)	

Explanation:

The expenditure amount quoted above is an estimate of annual costs based on the historical average of hours used to support transit services within Lakewood City limits. The total estimated cost for the four year Interlocal Agreement is 1.8 million dollars, excluding cost of living adjustments.

Background:

In 2016, Pierce Transit seeks to discontinue more than 100 individual contracts with off-duty police officers in order to streamline administration of the Department of Public Safety. The City of Tacoma and the City of Lakewood were invited to participate in a "task force" model to join with the Pierce County Sheriff's Office and provide off- or extra-duty officers for policing services for Pierce Transit. The City of Lakewood Police department responded to the request by committing officers through their extra duty program, which is billed hourly. The services and officers

assigned will be much the same as occurs in the existing service model, with the primary improvements being: this agreement eliminates many off-duty contracts in favor of one easier to manage interlocal agreement with the City; the City will retain liability for its officers' conduct; and the City retains responsibility for oversight and management of officer performance and scheduling. By contracting with local jurisdictions that have the infrastructure to support a police department, Pierce Transit will benefit from and leverage the expertise of those departments, and local police departments are in a better position to manage and oversee their officers' work loads. The City of Lakewood officers will be working in partnership with the Pierce Transit Public Safety Department to provide system-wide safety and security.

The City of Lakewood will be charging \$65 per hour for Law Enforcement services to Pierce Transit. The above figures represent the same coverage hours for basic services provided in 2015 under the off duty officer program, but Pierce Transit retains the right to request more or fewer hours depending on the Agency's need at the direction of the Pierce Transit Chief of Public Safety.

Beginning January 1, 2016, the hourly rate shall be increased by the percentage increase in the consumer price index for the previous twelve months (June to June) for the Seattle-Bremerton CPI-U. Any annual CPI-U increase shall be limited to a minimum of two point five percent (2.5%) and a maximum of four percent (4%).

Once the Interlocal Agreement is approved by the Board, staff will bring forward an update to the Pierce Transit Code to address proposed changes to the structure of the Department of Public Safety and other housekeeping matters at the next Board meeting on December 14, 2015.

ALTERNATIVES:

Do not approve the Interlocal, which will result in the Agency needing to hire additional support for public safety through the existing Pierce County Sheriff's Department Interlocal Agreement (at a rate of \$77.25/hr.) and additional Public Safety Officer staff (limited commission Pierce Transit full time employees).

RECOMMENDATION:

Approve Resolution No. 15-062, authorizing the Chief Executive Officer to enter into and execute an Interlocal Agreement with the City of Lakewood for Off Duty Police Services, beginning January 1, 2016 and ending on December 31, 2019.

RESOLUTION NO. 15-062

A RESOLUTION of the Board of Commissioners of Pierce Transit Authorizing the Chief Executive Officer to Enter Into and Execute an Interlocal Agreement with the City of Lakewood for Off Duty Police Services

WHEREAS, Pierce Transit seeks to contract with the City of Lakewood for police related services or assistance to support Pierce Transit's system pursuant to RCW 39.34; and

WHEREAS, Pierce Transit's base of operations and administration buildings as well as a significant portion of Pierce Transit's public transportation services are located in and around Lakewood, Washington; and

WHEREAS, the City of Lakewood has the resources available and is able to provide duly commissioned law enforcement officers to provide police related services to Pierce Transit detailed in the proposed City of Lakewood's Off Duty Police Services Interlocal Agreement, which is attached hereto as Exhibit A; and

WHEREAS, the duly commissioned officers who may provide such service will be assigned to extra duty under this contract during their off-duty hours which will not conflict with their law enforcement obligation to the City of Lakewood; and

WHEREAS, the parties intend that the City of Lakewood be reimbursed pursuant to the terms of the contract; and

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. The Board of Commissioners authorizes the Chief Executive Officer to enter into and execute an Interlocal Agreement, in substantially the same form as attached hereto as Exhibit A, with the City of Lakewood for Off Duty Police Services from January 1, 2016 through December 31, 2019.

ADOPTED by the Board of Commissioners of Pierce Transit at their regular meeting thereof held on the 9th day of November, 2015.

PIERCE TRANSIT

Rick Talbert, Chair
Board of Commissioners

ATTEST/AUTHENTICATED

Deanne Jacobson, CMC
Clerk of the Board

City of Lakewood
EXTRA DUTY POLICE SERVICES CONTRACT

This agreement is made and entered into this ____ day of _____, 2015 by and between the City of Lakewood (hereafter "City") and Pierce County Public Transportation Benefit Area Corporation (hereinafter "Pierce Transit").

WHEREAS, Pierce Transit's base of operations and administration buildings as well as a significant portion of Pierce Transit's public transportation services are located in and around Lakewood, Washington;

WHEREAS, Pierce Transit seeks to contract with the City for police related services or assistance to support Pierce Transit's system; and

WHEREAS, the City has the resources available and is able to provide duly commissioned law enforcement officers to provide police related services to Pierce Transit subject to the terms and conditions set forth in this Agreement and the approval of the City's Chief of Police or Designee; and

WHEREAS, the duly commissioned officers who may provide such service will be assigned to extra duty under this contract during their off-duty hours which will not conflict with their law enforcement obligation to the City; and

WHEREAS, the parties intend that the City be reimbursed, as nearly as possible for its cost of providing policing services to Pierce Transit and that there shall be neither profit nor subsidy in the rates for such services; and

WHEREAS, the parties are authorized to enter into this agreement by virtue of RCW 39.34 and 35.02.225;

NOW, THEREFORE, the parties agree as follows:

1. PURPOSE.

The purpose of this agreement is for the City to provide Pierce Transit with law enforcement services through the Lakewood Police Department (LPD). It is the intent of all parties that the services provided herein shall be provided in conjunction with the Pierce County Sheriff's Department to provide law enforcement services to support Pierce Transit's system.

2. SCOPE OF PERFORMANCE.

The City shall provide Pierce Transit with extra duty police officer services upon request by the Pierce Transit Chief of Public Safety. The parties acknowledge that the number of officers and number of hours requested by Pierce Transit may fluctuate depending on Pierce Transit's needs, and the City's Chief of Police and Pierce Transit's Chief of Public Safety shall work

together to determine the appropriate staffing level. Service provided by the City will be as is generally described below:

- (a) Number of officers: As requested by Pierce Transit subject to the approval of the City's Chief of Police. For planning purposes in the first year of this Agreement, the City should plan to have at least one (1) officer per shift, per day available to support this Agreement.
- (b) Hours and dates to be worked: In the first year of this Agreement, Pierce Transit anticipates requesting services on all days throughout the year of the contract from 0600 to 2400 each day or as determined by Pierce Transit otherwise.
- (c) Specific location of service. As requested by Pierce Transit, subject to the approval of the City's Chief of Police. Pierce Transit requests service at various Pierce Transit stations, vehicles, bus routes, bus stops, facilities and properties located in Lakewood, Washington.
- (d) Duty of Officers: The officers assigned to support Pierce Transit pursuant to this agreement shall provide law enforcement services for and at various Pierce Transit stations, vehicles, bus routes, bus stops, facilities and properties and throughout Pierce Transit's system, including on transit vehicles. Such services shall include but are not limited to addressing issues of safety and security, responding to calls for service, conducting criminal investigations, making arrests, writing official reports, and issuing exclusion orders as well as monitoring activities at or on various Pierce Transit stations, vehicles, bus routes, bus stops, facilities, properties, and parking lots. Service also includes ensuring the safety and security of the patrons, employees, staff and visitors to the various Pierce Transit stations, vehicles, bus routes, bus stops, facilities and properties. The LPD officers are expected to be at Pierce Transit locations serving as a visual deterrent and liaison to the patrons and employees for a majority of the work shift. These services shall be provided in full uniform and shall be accompanied by a marked or other authorized police vehicle.

It is the expectation of the parties that the officers scheduled for a pre-determined shift will be present to complete his/her shifts, except for the following circumstances: agency callback, late call/report from primary employment, family emergency, personal illness, all of which will be considered excused. The officers understand that it shall be their responsibility to make appropriate notification to the management and to make every attempt to find a replacement for their shifts.

- (e) The City shall furnish and supply all necessary personnel, supervision, equipment, uniforms, communication equipment, vehicles and supplies

necessary to maintain the level of service to be rendered hereunder, and shall pay all salaries and employee benefits and other costs in connection therewith.

- (f) The City shall maintain all records relating to the administration of this agreement and staffing for same, provided that Pierce Transit shall have access to all records (excluding personnel records) relating to this agreement and/or law enforcement services provided to Pierce Transit upon request.
- (g) While working for Pierce Transit, officers will monitor and respond to radio calls for service that originate from Pierce Transit. Pierce Transit will designate a Primary Talk group that officers must listen to and respond to calls for service.

3. ADMINISTRATION OF PERSONNEL.

All personnel assigned to Pierce Transit shall be employed by the City and governed by the City and LPD laws, rules, policies and collective bargaining agreements. Recruitment, replacement, and performance of all personnel shall be in accordance with such City laws, rules, policies, and agreement, provided however, that Pierce Transit may communicate performance concerns of City personnel to the City. Any assignment or re-assignment of personnel will be in the sole discretion of the City's Chief of Police.

4. CONTRACT TERM.

The term of performance of the contract shall be from January 1, 2016 through December 31, 2019.

Either party may terminate this Agreement for any reason and at any time when, in its sole discretion, it is in the best interest of the terminating party, by giving one hundred twenty (120) days prior written notice to the other party. The term of this agreement may be extended only upon the mutual written agreement between the parties, and subject to approval of their governing boards.

5. COMPENSATION.

Pierce Transit shall pay the City as full reimbursement for all police services furnished under this contract a fee of \$65.00 per hour, per officer, in calendar year 2016.

It is agreed upon that officers will be paid in 1/6 of an hour increments during times when officers work beyond their assigned shifts to complete reports, transports or other law enforcement duties that are Pierce Transit related.

Beginning January 1, 2016, the hourly rate shall be increased by the percentage increase in the consumer price index for the previous twelve months (June to June) for the Seattle-

Bremerton CPI-U. For example, 2016 would be based upon the CPI-U percentage change from June 2014 to June 2015. Any annual CPI-U increase shall be limited to a minimum of two point five percent (2.5%) and a maximum of four percent (4%). On the following holidays, the rate shall be one and one half times the hourly base rate: Christmas day, Thanksgiving Day, Independence Day, New Year's Eve, New Year's Day, Labor Day, Memorial Day and Martin Luther King, Jr. Day.

6. PAYMENT.

Pierce Transit shall reimburse the City for law enforcement services described herein pursuant to the all-inclusive payment rate shown above. The City shall invoice Pierce Transit on the 15th of the month following the service and include detailed service information, including actual service hours and all-inclusive hourly rate per officer. Payment shall be made by a check payable to the City of Lakewood and sent to the City within thirty (30) calendar days after receipt of invoice. Payments will include a processing fee of \$10.00 per month. Payments to the City that are received later than thirty (30) days following the invoice dates shall accrue interest at the rate of twelve percent (12%) per annum on the balance due. All payments shall first be applied to the accrued interest.

Pierce Transit shall not be financially liable for scheduled law enforcement services which are not actually performed if non-performance occurred because an officer was unable to complete his shift. However, Pierce Transit is financially liable for scheduled law enforcement services at the designated hourly minimum in all other circumstances.

7. COORDINATION WITH CHIEF OF PUBLIC SAFETY.

Pierce Transit has or will be contracting with Pierce County Sheriff's Department to provide a Chief of Public Safety who will be responsible for coordinating the daily delivery of policing services to Pierce Transit in conjunction and cooperation with the City and any other applicable law enforcement agencies. Pierce Transit reserves the right to directly hire a Chief of Public Safety as a Pierce Transit employee. The Chief of Public Safety will be tasked with coordinating all law enforcement efforts along with the City's LPD officers. It shall be the responsibility of the Chief of Public Safety to determine the appropriate coverage, amount of hours, and type of work needed by LPD officers to support Pierce Transit's system. The Chief of Public Safety will coordinate with the City's Chief of Police as needed, to ensure appropriate levels of law enforcement coverage for Pierce Transit.

8. DUTY STATUS.

Each police officer assigned to work, pursuant to this contract, is subject to call or assignment elsewhere by the City's Chief of Police or the Chief's designee, at any time for emergencies, special assignment, or overtime duty. Extra duty employment shall not infringe or interfere with the officer's primary obligations associated with his or her employment obligations to the City.

9. ADHERENCE TO CITY POLICIES AND PROCEDURES--SCOPE OF WORK.

Police officers engaged in extra duty employment are obligated to discharge all duties of their office and adhere to the City's Police department policies and procedures at all times. Such officers shall obey, uphold and enforce the laws of the City and State of Washington and the Constitutions of the State of Washington and the United States of America at all times. Such officers shall understand that while they are on duty or engaged in extra duty assignment under this contract, they may remain subject to the supervision, direction, and/or discipline by the City, and subject to any applicable collective bargaining agreement in effect with the City. Police officers performing work pursuant to this contract shall only provide law enforcement/peacekeeping services as specified in Section 2(d) of this contract and they are at all times while performing said services subject to the direction and control of the City police department only.

10. ACTIVITY REPORTS.

Upon request, the City will provide reports to Pierce Transit, through the Chief of Public Safety on criminal activity within the City of Lakewood on or involving Pierce Transit's system. Extra duty officers assigned by the City will report their daily activities for those hours worked in the Pierce Transit system pursuant to this Agreement. Pierce Transit will provide the City with an electronic activity reporting tool if needed.

11. NO SPECIAL DUTY TO CONTRACTOR OR OTHERS.

Police officers on extra duty assignment have a primary obligation to the City, not Pierce Transit. They are expected to discharge all duties of their office while performing pursuant to this contract and are not required to perform any non-law enforcement/peacekeeping functions for Pierce Transit. Furthermore, this contract and performance thereof by the City police officers shall not create any special relationship with any person or duties to protect any specific persons from harm or injury including the party signing this contract. The law enforcement/peacekeeping duties to be performed pursuant to this contract are the same in extent and scope as those provided by police officers to every member of the public.

12. NONDISCRIMINATION.

The parties shall not discriminate on the basis of race, color, sex, religion, national origin, creed, age or the presence of any sensory, mental or physical handicap. The City and Pierce Transit certify that they are Equal Opportunity Employers.

13. INDEPENDENT CONTRACTOR.

The City is, and shall at all times be deemed to be, an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between Pierce Transit and the City or any of the City's agents or employees. The City shall retain all authority for rendition of services, standards of performance, control of

personnel, and other matters incident to the performance of services by the City pursuant to this Agreement.

Nothing in this agreement shall make any employee of Pierce Transit a City employee or any employee of the City a Pierce Transit employee for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded City or Pierce Transit employees by virtue of their employment.

14. INSURANCE COVERAGE.

The City shall maintain at all times during the course of this agreement a general liability insurance policy or other comparable coverage with a self-insured retention of no more than \$500,000.00 and a policy limit of no less than \$5,000,000.00 dollars.

15. LIABILITY AND INDEMNIFICATION.

Each party shall be responsible and liable for the consequences of any act or failure to act on the part of itself, its employees or officers. While providing services hereunder, the acts or omissions of extra duty officers in the course and scope of supporting or otherwise providing services to Pierce Transit under this Agreement shall be deemed to be acts or omissions of City employees which shall be the sole responsibility of the City. Each party shall be responsible for its own negligence and that of its employees. Each party shall defend, indemnify and save harmless, the other party or the other party's officers, employees and agents from any and all costs, claims, judgments or awards of damages, resulting or arising from the acts or omissions of the indemnifying party, its officers or employees arising out of or in connection with the performance of this agreement. This indemnity provision shall survive the expiration or termination of this Agreement.

16. DISPUTE RESOLUTION.

In the event of a dispute in the administration of this agreement, Pierce Transit CEO or her designee shall discuss the dispute with the City's Chief of Police in an attempt to resolve the problem. If Pierce Transit CEO and the City's Chief of Police are unable to resolve a claim or dispute stemming from this Agreement, the parties agree to participate in non-binding mediation before a third party professional mediator, whose selection will be mutually agreed upon. The cost of mediating the dispute will be borne equally by both parties, and mediation should occur within thirty (30) days of a request by either party to engage in mediation. No claim or suit may be brought until the dispute resolution procedures as set forth in this section have been exhausted. If dispute resolution efforts under this section are not successful, either party may institute legal action to enforce the terms and conditions of this agreement. Exclusive jurisdiction for any such dispute shall be Pierce County Superior Court in Tacoma, Washington.

17. NOTICES.

All notices and other material to be delivered under this contract shall be in writing and shall be delivered or mailed to the following addresses:

City of Lakewood
6000 Main Street
Lakewood, WA 98499
ATTN: Chief of Police

Pierce Transit
3701 96th St SW
Lakewood, WA 98499
ATTN: Chief Operations Officer

Pierce Transit
3701 96th St SW
Lakewood, WA 98499
ATTN: General Counsel

Or such other addresses as either party may, from time to time, designate in writing.

18. SIGNATURES.

The parties agree that all signatures, whether original, copy or faxed on this agreement will be considered originals.

19. SEVERABILITY.

If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

20. CONFLICTS.

In the event of a conflict between any other agreements between the parties including, this Agreement shall govern.

21. ENTIRE AGREEMENT.

No modification or amendment of this contract shall be effective unless in writing and signed by authorized representatives of the parties after approval of their respective governing body. This contract contains the entire agreement between the parties and may not be enlarged, modified or altered except in writing signed by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on this date, the _____ day of _____, 2015.

CITY OF LAKEWOOD

PIERCE TRANSIT

Mike Zaro, Interim Chief of Police/Date

Sue Dreier, CEO

Attest:

Attest:

Alice Bush, City Clerk/Date

Deanne Jacobson, Clerk of the Board/Date

Approved as to legal form only:

Approved as to legal form only:

Kimberly J. Cox, Asst. City Attorney/Date

Dana A. Henderson, General Counsel/Date

FACT SHEET

TITLE: A Resolution Authorizing Adoption of the Federal Advocacy Program 2016-2017

DIVISION: Executive

ORIGINATOR: Justin D. Leighton
Government Relations Officer

PRECEDING ACTION:

COORDINATING DEPARTMENT:

APPROVED FOR SUBMITTAL:

Chief Financial Officer

APPROVED FOR AGENDA:

Chief Executive Officer

General Counsel

ATTACHMENTS:

Proposed Resolution
Exhibit A, Federal Advocacy Program 2016-2017

BUDGET INFORMATION

2016 Budget Amount
N/A

Required Expenditure
N/A

Impact
N/A

Explanation: N/A

BACKGROUND:

Policies and laws passed by Congress and implemented by the Federal Government can have significant impact on Pierce Transit. Pierce Transit staff and the Agency's contracted federal liaison have tracked and advocated for the advancement of priorities to assist in efficient and effective operations of the agency. This action authorizes Pierce Transit staff and consultants to advocate, protect and/or pursue the positions outlined in the attached Federal Advocacy Program document. As issues develop, staff will seek advice and guidance from Board's Executive Finance Committee and full Board, as appropriate. Board members are encouraged to advance these priorities with consultation with staff and the federal liaison during their business trips to Washington DC. Additionally, the Chief Executive Officer and Government Relations Officer plan several trips to Washington DC to meet with the

Federal Transit Administration, Congressional Delegation and their staff to further advance the Agency's Federal Advocacy Program.

ALTERNATIVES:

Revise or do not approve the Federal Advocacy Program 2016-2017.

RECOMMENDATION:

Approve Resolution No. 15-063, authorizing adoption of the Federal Advocacy Program 2016-2017 as presented in Exhibit A.

RESOLUTION NO. 15-063

A RESOLUTION of the Board of Commissioners of Pierce Transit Authorizing
Adoption of the Federal Advocacy Program 2016-2017

WHEREAS, the Board of Commissioners desires to give guidance and direction to its staff and
contracted Federal Liaison; and

WHEREAS, Congress proposes and passes laws that both positively and negatively impact Pierce
Transit; and

WHEREAS, rule making and implementation of laws by both the Executive Branch and Federal
Agencies, may positively and negatively impact Pierce Transit; and

WHEREAS, the Board of Commissioners wishes to assure that its policies and positions are effectively
communicated to its Congressional Delegation, the Federal Transit Administration, and the Executive Branch
of the United States; and

WHEREAS, the Board of Commissioners wishes to support Federal priorities of other transit, local and
regional governmental agency partners that positively support the Agency; and

WHEREAS, the Board of Commissioners finds it is in the best interest of Pierce Transit to adopt a
Federal Advocacy Program for 2016 and 2017; and

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. The Board of Commissioners authorizes the adoption of the Pierce Transit Federal
Advocacy Program 2016-2017 as presented in Exhibit A.

ADOPTED by the Board of Commissioners of Pierce Transit at their regular meeting thereof held on
the 9th day of November, 2015.

PIERCE TRANSIT

Rick Talbert, Chair
Board of Commissioners

ATTEST/AUTHENTICATED

Deanne Jacobson, CMC
Clerk of the Board



Pierce Transit provides over 10 million boardings annually to seniors, students, commuters, and people with disabilities. Pierce Transit is impacted by federal policies and regulations which create barriers in providing safe, reliable and quality transit service. The Agency has identified its top federal legislative priorities and seeks to implement the following:

Long Term and Sustainable Federal Funding for Public Transportation:

Transit funding is at risk as Congress and the Administration deliberate on long term funding for transportation. Pierce Transit supports and advocates for long term and sustainable funding for Transit.

Public Transportation Infrastructure Funding:

Pierce Transit has a growing need for both capital bus replacement and facility needs associated with both maintenance and service. "MAP-21" legislation provided less funding for the Bus and Bus Facilities program and Pierce Transit supports the re-establishment of this program as well as a renewed commitment to funding capital needs.

Transportation Grants:

Major federal transportation resources, including the Small Starts program, the TIGER grants, and TIFIA loans, are all available to fund future Pierce Transit projects on a competitive basis. Evaluate which future projects should have federal capital participation and seek funding working with the Congressional delegation and DOT.

Alternative Fuel Tax Credit:

Pierce Transit relies considerably on the Alternative Energy Tax Credit, which has been kept alive legislatively by one-year "extenders". It is under review with ongoing tax reform deliberations and Pierce Transit seeks to formalize the Alternative Fuel Tax Credit, which will provide sustainable financial planning for the Agency.

Internet Sales Tax Reform:

Enactment of legislation as tax compliance, not a new tax, would allow states to collect sales tax on internet purchases by residents of their states, which could generate substantial revenue for Pierce Transit as the Agency is 72% dependent on sales tax revenue.

Non-Emergency Medical Transportation:

Non-Emergency Medical Transportation (NEMT) administered by the Centers for Medicare and Medicaid Services provides funding for the cost of a NEMT trip. Pierce Transit seeks state and federal parity of the system between private and public providers.

Support Effective and Efficient Delivery of Pierce Transit Services:

Pierce Transit supports efforts that facilitate safe, cost effective and efficient delivery of transit and opposes legislation that would negatively impact the oversight, financing, safety and delivery of essential public transportation to the community.

For any questions regarding Pierce Transit or our legislative priorities, please contact:

Justin D. Leighton | Government Relations Officer
jleighton@piercetransit.org | 253-984-8166

Len Simon | Simon & Company
simon@simoncompany.com | 202-659-2229

Mission:

Pierce Transit improves peoples' quality of life by providing safe, reliable, innovative and useful transportation services that are locally based and regionally connected.

Drafted 10/21/2015

FACT SHEET

TITLE: A Resolution Authorizing Adoption of the 2016
State Legislative Priorities

DIVISION: Executive

ORIGINATOR: Justin D. Leighton
Government Relations Officer

PRECEDING ACTION: N/A

COORDINATING DEPARTMENT: N/A

APPROVED FOR SUBMITTAL:

Chief Financial Officer

APPROVED FOR AGENDA:

Chief Executive Officer

General Counsel

ATTACHMENTS:

Proposed Resolution
Exhibit A, 2016 State Legislative Priorities

BUDGET INFORMATION

2016 Budget Amount
N/A

Required Expenditure
N/A

Impact
N/A

Explanation: N/A

BACKGROUND:

The Washington State Legislature convenes its 2016 session on January 11, 2016. The purpose of this resolution is to adopt the 2016 Legislative Priorities that are attached as Exhibit A and to direct staff to continue to evaluate issues for impacts to the Agency and to give Pierce Transit staff guidance and direction so that staff can effectively communicate and advocate the Board's position and policies. This action authorizes Pierce Transit staff and consultants to advocate and/or pursue the position outlined in the attached 2016 State Legislative Priorities during the upcoming legislative session. As issues develop during session, staff will seek advice and guidance from the Board's Executive Finance Committee and full Board, as appropriate. Staff will send updates via email to the Board during the legislative session and call upon Board members to assist in advancing these legislative priorities.

ALTERNATIVES:

Do not approve the 2016 State Legislative Priorities.

RECOMMENDATION:

Approve Resolution No. 15-064, authorizing adoption of the 2016 Legislative Priorities as presented in Exhibit A.

RESOLUTION NO. 15-064

A RESOLUTION of the Board of Commissioners of Pierce Transit
Authorizing Adoption of the 2016 State Legislative Priorities

WHEREAS, the Board of Commissioners desires to give guidance and direction to its staff and contracted Legislative Liaison; and

WHEREAS, the State Legislature will convene the 2016 legislative session on January 11, 2016; and

WHEREAS, the Board of Commissioners wishes to assure that its policies and positions are effectively communicated to the members of the Washington State Legislature, Washington State Agencies and the Office of the Governor; and

WHEREAS, the Board of Commissioners wishes to support the legislative priorities of other transit, local and regional governmental agency partners; and

WHEREAS, the Board of Commissioners finds it is in the best interest of Pierce Transit to adopt an agenda of legislative priorities; and

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

Section 1. The Board of Commissioners authorizes the adoption of the 2016 State Legislative Priorities as presented in Exhibit A.

ADOPTED by the Board of Commissioners of Pierce Transit at their regular meeting thereof held on the 9th day of November, 2015.

PIERCE TRANSIT

Rick Talbert, Chair
Board of Commissioners

ATTEST/AUTHENTICATED

Deanne Jacobson, CMC
Clerk of the Board

Pierce Transit 2016 Legislative Priorities



Pierce Transit is the State's *partner* in providing public transportation services that connect people to jobs and assist our community's most vulnerable members by providing access to transit to meet life's basic needs. Pierce Transit has worked collaboratively with local, regional, and state partners in developing the enclosed State Legislative Priorities for 2016, and asks that the State support our efforts.

CNG: Pierce Transit fuels nearly 90% of its fixed route fleet on CNG, saving the Agency thousands of dollars. Protecting CNG as a true alternative clean fuel option for transit is a top priority. Pierce Transit will seek legislative clarification on taxes imposed on manufacturing of compressed natural gas by transit agencies.

SEPA: The transportation revenue package passed in 2015 includes many projects that may negatively impact transit during and after construction. Pierce Transit would like to request that transit mitigation be included in the Environmental Impact Statement (EIS) process for major WSDOT transportation projects that may impact transit service.

Vanpool Investment: Pierce Transit supports the expansion of the Vanpool Investment Grant program to include capital replacement in addition to expansion.

Rule 171: Predictability in planning and construction of capital facilities is vital to the financial success for the Agency. Pierce Transit supports clarification of the Department of Revenue Rule 171, which governs the application of sales tax on construction of transit agency capital facilities.

Regional Tolling: Pierce Transit supports the creation of a uniform policy for the tolling of transit vehicles on Washington highway facilities. This process should include input from stakeholders, including transit agencies that face an unpredictable financial burden associated with current toll policies.

PTBA De-Annexation: In 2012 Pierce Transit's boundaries were constricted as a result of a Public Transportation Improvement Conference process, authorized by statute. To make the process consistent with annexing into a PTBA, which requires a vote of the people, Pierce Transit seeks legislation to require a local vote of the people before de-annexation from a PTBA becomes final.

Pierce Transit serves 70% of
Pierce County's population

600 vehicles providing essential
public transportation to the community

Over 11 million rides taken by
passengers on the Bus, SHUTTLE
Paratransit and Vanpools



GMA/Land Use: As the Puget Sound continues to grow at an unprecedented rate, consideration of transportation is an essential part of planning. Pierce Transit will support the development of land use policies that include consideration of effective transit service in future development.

Open Public Meetings Act: Pierce Transit opposes legislation that would mandate all collective bargaining and negotiations with labor groups be subject to the OPMA.

Public Records: Pierce Transit recognizes the need to balance the priority of government transparency with maintaining information security and individuals' privacy. Pierce Transit supports efforts to clarify the Public Records Act in a manner that addresses the cost to public agencies of responding to public records requests.

Support and/or monitor policies and legislation related to:

NEMT: Continue to seek solutions that lower the burden on transit agencies of providing non-emergency medical transportation.

Monitor: Federal Guideline Implementation, Growth Management Act, performance measures, accountability and/or governance that might negatively alter the oversight, financing, construction, and/or operations of Pierce Transit.

WSTA: Pierce Transit works collaboratively with the Washington State Transit Association and is supportive of all WSTA legislative priorities that are in the best interest of the Pierce Transit organization.

For any questions regarding
Pierce Transit or our legislative priorities, please contact:

Justin D. Leighton
Government Relations Officer
E-mail: jleighton@piercetransit.org
Tell: 253-984-8166 | Cell: 253-278-2565

Mission:

Pierce Transit improves peoples' quality of life by providing safe, reliable, innovative and useful transportation services that are locally based and regionally connected.

FACT SHEET

TITLE: A Resolution Authorizing Execution of a Multi-Year Land Lease Agreement with IWG Towers Assets I, LLC (d/b/a and Referred to Herein as "In-Site Wireless")

DIVISION: Operations

ORIGINATOR: Carlos Davis
Radio Program Administrator

PRECEDING ACTION:

Resolution No. 06-004, Authority to Negotiate and Execute a Master Agreement for the Mobile Communications System, Task Order No. 1 for Voice and Data Radio and Task Order No. 2 for CAD/AVL with Motorola and Amendment of the 2006 Capital Budget.

Resolution No. 10-024, Authority to Amend the 2010 Operating Budget and Execution of Sole Source Purchases of Radio/CAD/AVL Equipment with Motorola and ACS for Installation on Sound Transit Coaches

Resolution No. 11-004, Authority to execute an Interlocal Agreement with Pierce County for the Operations of a Combined Communications Network.

Resolution No. 14-053, Authority to Purchase Radio Communications Equipment from Motorola Solutions, Inc., and Aviat Networks to Upgrade the UHF Data Communication Network.

Resolution No. 14-074, Authority to execute an Interlocal Agreement with Pierce County for the Creation, Operation, Sustainment and Governance of a Combined Communication Network.

Resolution No. 15-056, Authority to amend Lease with PRC Tacoma-1, LLC until March 31, 2016; and Authority to Purchase a Communication Tower and Site Assets from PRC Tacoma-1, LLC.

COORDINATING DEPARTMENT: Radio Communications

APPROVED FOR SUBMITTAL:

Chief Financial Officer

APPROVED FOR AGENDA:

Chief Executive Officer

General Counsel (as to form only)

ATTACHMENTS:

Exhibit A, Tower Site Lease Agreement
Exhibit B, Cost of Lease

BUDGET INFORMATION

<u>2015 Budget Amount</u>	<u>Required 2015 Expenditure</u>	<u>Impact</u>
<i>In-Site Wireless Land Lease</i> \$24,000	\$4,400 (retroaction to 11-1-15)	\$0

Explanation:

The proposed land lease with InSite Wireless shall be funded within the approved 2015 Radio Maintenance Budget. The total cost of the tower lease site based on a ten-year lease and four (4) five-year options with a 3% escalator will be \$1,255,991 as described in Exhibit B.

BACKGROUND

In December 2014, the Board of Commissioners adopted the 2015 budget. The 2015 UHF Data Communication Network Upgrade capital project purchases Radio Communications Equipment from Motorola Solutions, Inc., and Aviat Networks to provide adequate data radio coverage supporting Pierce Transit's expanded operational service areas. To determine areas that needed appropriate actions, a detailed design review (DDR) and individual site assessment process was completed and finalized on June 3, 2015. This DDR process identified the tower at 917 37th Ave. NE in Tacoma, a location known as and referred to herein as "Indian Hill" as a location requiring upgrades. Specifically, the DDR process identified that the existing tower located at Indian Hill needs to be replaced so that it meets the current City of Tacoma loading standards, the engineered "G" tower standard, and FCC/FAA certified requirements for Public Safety towers as confirmed by "North-West Tower Engineering" NWTE Structural Analysis Report No. 131306.01. Other improvements include a Public Safety Compliant Facility with various other construction related upgrades to meet current building codes.

BACKGROUND ON INDIAN HILL TOWER LOCATION: PRC Tacoma – I LLC (PRC) owns a radio communications tower and related assets (together, "PRC Tower") on Indian Hill. PRC's Tower is situated on land owned by IWG TOWERS ASSETS 1, LLC (d/b/a and referred to herein as "InSite Wireless"), and PRC holds a Tower Site License Agreement with InSite which grants PRC limited rights to operate a public radio station on the PRC Tower at Indian Hill. In October of 2015, the Pierce Transit Board of Commissioners approved the purchase of the PRC Tower; the agreement that Pierce Transit has reached with PRC provides that the purchase of the PRC Tower is contingent upon successful negotiation of a land lease with the property owner. To date, Transit staff have not yet moved forward with the PRC Tower purchase in the hopes that the land lease could be secured.

Pierce Transit desires to purchase the PRC Tower because it was a part of the original Pierce Transit design and because of its critical location providing coverage for Pierce Transit's greater Tacoma, the Tide Flats and Federal Way service areas. The Indian Hill Communication Site is a key element of the Single County Wide Communication System (SCWCS) and is strategically located within Pierce County, providing valuable voice and data radio coverage for the Combined Communication Network Enterprise (CCN) joint venture and for First Responders and Public Safety communications within the Puget Sound area.

PROPOSED TRANSACTION:

LAND LEASE

As presented to the Board in October of 2015, Pierce Transit and In-Site Wireless have negotiated a proposed land lease agreement that is in-line with a certified appraisal of the rental value of the property as completed by Collier's International and with staff analysis of similar regional communication site leases. Since the October, 2015 Board meeting, based on feedback from the Board, Pierce Transit staff attempted to renegotiate the proposed land lease for more favorable terms of the annual rent increase. In-site Wireless is unwilling to agree to a lower annual increase. Staff has confirmed that other site leases within the region support InSite's claim that a fixed 3% annual increase is reasonable and within market expectations.

The Board also requested information on the process and timeline for condemnation options for the Indian Hill location. Pierce Transit does have the authority to condemn the Indian Hill site, but based on the timeline for a condemnation proceeding (between 7 – 20 months) and the legal costs estimated for same, staff recommends against condemnation as a lengthy and cost-prohibitive process. This is particularly so since In-Site Wireless

has negotiated fairly and the proposed land lease agreement is in-line with Collier International appraisal's estimates and industry standards.

The proposed land lease would be a 10-year lease with options for up to four (4) additional consecutive periods of five (5) years each. Rent for the Premises would be Twenty-Six Thousand Four Hundred and No/100 Dollars (\$26,400.00) per annum for the first full year of the Term (Base Rent). Base Rent will increased annually by three percent (3%) at the anniversary date.

Pierce Transit contracted with Colliers International, a communication valuation professional company, to conduct a market analysis of the Indian Hill Property, confirming that a fair lease value for this location was up to \$2200 per month.

This resolution seeks authority to enter into the Land Lease Agreement with In-Site Wireless for the Indian Hill Site located at 4917 37th Avenue NE, Tacoma, Washington.

ALTERNATIVES:

There is no other viable option that does not increase costs providing reliable and efficient Public Safety Communications.

RECOMMENDATION:

Approve Resolution No. 15-065, authorizing the Chief Executive Officer to enter into and execute a multi-year land lease agreement for the property known as Indian Hills Site with In-Site Wireless for the terms and conditions described in Exhibit A.

RESOLUTION NO. 15-065

1 A RESOLUTION of the Board of Commissioners of Pierce Transit
2 Authorizing the Chief Executive Officer to Enter Into and Execute a Multi-Year Land Lease with IWG Towers
3 Assets I, LLC (d/b/a "InSite Wireless")
4

5 WHEREAS, by Resolution No. 06-004, approved on the 13th day of February, 2006, the Board of
6 Commissioners of Pierce Transit authorized execution of a master agreement for a Mobile Communications
7 System, Task Order No. 1 for Voice and Data Radio and Task Order No. 2 for CAD/AVL with Motorola and
8 Amendment of the 2006 Capital Budget; and

9 WHEREAS, by Resolution No. 10-024, approved on the 13th day of September, 2010, the Board of
10 Commissioners of Pierce Transit Amended the 2010 Operating Budget and authorized the execution of Sole
11 Source purchases of Radio/CAD/AVL equipment with Motorola and ACS for installation on Sound Transit
12 coaches; and

13 WHEREAS, by Resolution No. 11-004, approved on the 10th day of January, 2011, the Board of
14 Commissioners of Pierce Transit authorized entering into an interagency agreement with Pierce County for the
15 Operations of a Combined Communications Network; and

16 WHEREAS, by Resolution No.14-053, approved on the 5th day of September, 2014, the Board of
17 Commissioners of Pierce Transit authorized to purchase Radio Communications Equipment from Motorola
18 Solutions, Inc. and Aviat Networks to Upgrade the UHF Data Communications Network; and

19 WHEREAS, by Resolution No. 14-074, approved on the 10th day of November, 2014, the Board of
20 Commissioners of Pierce Transit authorized entering into and the execution of an interlocal Agreement with
21 Pierce County for the Creation, Operation, and Governance of a Combined Communication Network; and

22 WHEREAS, by Resolution No. 15-056, approved on the 12 day of October, 2015, the Board of
23 Commissioners of Pierce Transit authorized amending a Tower Lease Amendment Agreement until March
24 2016 and a Tower Purchase Agreement with Public Radio Capitol (PRC) subject to negotiation of a land lease;
25 and

26 WHEREAS, PRC Tacoma – I LLC (PRC) owns a radio communications tower and related assets
27 (together, "PRC Tower") located at 917 37th Ave. NE, Tacoma, Washington, a location known as and
28 referred to herein as "Indian Hill;" and

29 WHEREAS, In-Site Wireless owns the property on which the PRC Tower is situated; and

30 WHEREAS, Pierce Transit has reached a proposed land lease agreement with In-Site Wireless that
31 is a 10 year lease with options for up to four (4) additional consecutive periods of five (5) years each at a

1 rate of \$2,200 per month (subject to a 3% increase annually) for the right to operate a tower at Indian
2 Hill; and

3 WHEREAS, Colliers International, a communication valuation professional company, confirmed in an
4 appraisal dated March 23, 2014 that fair market rent for a land lease at Indian Hill as up to \$2,200 per
5 month; and

6 WHEREAS, Pierce Transit's 2015 Radio Maintenance Budget has adequate funding for the up to
7 \$26,400 per year for the Land Lease; and

8 WHEREAS, the Board of Commissioners of Pierce Transit finds it in the best interest of Pierce Transit to
9 enter into the Land Lease as set forth in Exhibit A, attached hereto; and

10 NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Pierce Transit as follows:

11 Section 1. The Chief Executive Officer is herewith authorized to enter into and execute a multi-year
12 land lease in substantially the same form as the lease attached hereto as Exhibit A.

13 ADOPTED by the Board of Commissioners of Pierce Transit at a regular meeting thereof held on the 9th
14 day of November, 2015.

15
16 PIERCE TRANSIT

17
18
19 _____
20 Rick Talbert, Chair
21 Board of Commissioners

22 ATTEST/AUTHENTICATED

23
24 _____
25 Deanne Jacobson, CMC
26 Clerk of the Board
27

TOWER SITE LEASE AGREEMENT

This Tower Site Lease Agreement (this “**Lease**”) made as of _____, 2015 (the “**Effective Date**”) by and between PIERCE COUNTY PUBLIC TRANSPORTATION BENEFIT AREA CORPORATION, a Washington municipal corporation (“**Lessee**”), with a principal place of business located at 3701 96th Street SW, Lakewood, Washington 98499, and IWG TOWERS ASSETS I, LLC., a Delaware limited liability company (“**Lessor**”), f/k/a CTI Towers Assets I, LLC, as successor in interest to CTI Towers, Inc., with a principal place of business located at 1199 N. Fairfax Street, Suite 700, Alexandria, VA 22314.

WHEREAS, Lessor owns fee title to the land located at 4917 37th Avenue NE, Tacoma, Washington, and more particularly described on Exhibit A attached hereto (“**Lessor’s Property**”); and

WHEREAS, PRC Tacoma-I, LLC, a Colorado limited liability company (“**PRC**”), previously owned a 450-foot telecommunications tower (the “**Existing Tower**”) located on a portion of the Lessor’s Property, which Existing Tower was permitted by Lessor pursuant to a Tower Site License Agreement dated January 1, 2013, between Lessor and PRC (the “**PRC License Agreement**”); and.

WHEREAS, effective concurrently with commencement of this Lease, Lessee has acquired the Existing Tower from PRC, together with all of PRC’s right, title and interest in and to any other improvements located on Lessor’s Property; and

WHEREAS, in connection with the acquisition of the Existing Tower by Lessee, PRC and Lessor have agreed to terminate the PRC License Agreement; and

WHEREAS, Lessee desires to lease from Lessor, and Lessor desires to Lease to Lessee, the site on which the Existing Tower is located as well as surrounding portions of Lessor’s Property as described on Exhibit B, together with any and all existing improvements thereon to the extent such improvements are owned by Lessor (collectively, the “**Premises**”), all on the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties agree as follows:

1. **DELIVERY OF PREMISES.** Lessor hereby leases to Lessee, and Lessee hereby accepts from Lessor, the Premises in their currently existing, as-is condition. In addition, Lessor hereby grants Lessee, on a non-exclusive basis, the right to access and use those portions of Lessor’s Property necessary for the access and use of the Premises for the purposes permitted under this Lease, including, without limitation, the right of pedestrian and vehicular ingress and egress over any road or driveways on Lessor’s Property, the right to park vehicles in any areas of Lessor’s Property designated or used for such purpose and the right to run utility lines to and from the Premises. Lessor shall maintain those portions of Lessor’s Property necessary for access to and the use and operation of the Premises in good condition and repair.

2. **TERM.** The Premises shall be delivered to Lessee and the term of this Lease shall commence on the later to occur of the Effective Date or the date upon which Lessee closes upon the acquisition of the Existing Tower (the “**Commencement Date**”), and shall expire on the last day of the one hundred twentieth (120th) full calendar month following the Commencement Date (the “**Term**”). If the Commencement Date occurs on a day other than the first day of a calendar month, then the first year of the Term shall be deemed to include such partial month and the twelve (12) full calendar months thereafter. Lessee may extend the Term at Lessee’s option for up to four (4) additional consecutive periods of five (5) years each (each, an “**Extended Term**”). Lessee’s option for each Extended Term shall be deemed automatically exercised, unless Lessee gives Lessor written notice of its intent not to exercise its option for the next Extended Term not less than one hundred eighty (180) days prior to the expiration of the then-current Term. Upon exercise or deemed exercise by Lessee of the option to extend the Term for an Extended Term, such Extended Term shall be deemed included in the “**Term**” for all purposes under this Lease. Notwithstanding the foregoing, Lessee shall have no option to extend the Term if there is an outstanding Lessee Default as of the last day of the then-current Term.

3. **RENT.**

(a) In addition to all other costs, charges and expenses that it is required to pay hereunder, Lessee shall pay to Lessor rent for the Premises in the amount of Twenty-Six Thousand Four Hundred and No/100 Dollars (\$26,400.00) per annum (“**Base Rent**”) for the first full year of the Term. Said Base Rent shall be payable monthly, in advance, in equal installments of Two Thousand Two Hundred and No/100 Dollars (\$2,200.00) beginning on the Commencement Date and subsequent installments will be payable on the first day of each successive calendar month of the Term. If the Commencement Date occurs on a day other than the first day of the calendar month, then Base Rent for such first calendar month shall be prorated based on the number of days from and including the Commencement Date through the last day of such calendar month bears to the total number of days in such calendar month. Base Rent shall be increased in each subsequent year of the Term accordance with the provisions of Section 3(b).

(b) Beginning with the first day of the thirteenth (13th) full calendar month of the Term, and on the same date in each subsequent year of the Term, Base Rent shall increase annually by three percent (3%).

(c) In the event Lessee shall fail to pay the Base Rent reserved herein or any other amounts due hereunder within ten (10) days after the date when due, said delinquent Base Rent or other amount shall bear interest at a rate equal to the lesser of eighteen percent (18%) per annum or the highest rate allowed by law (the “**Default Interest Rate**”), from the due date thereof until paid.

4. **USE AND OWNERSHIP OF IMPROVEMENTS.**

(a) Subject to the provisions and conditions hereof, Lessee shall have the exclusive right to use the Premises for purposes of construction, maintaining and operating the Tower and other Facilities (as such terms are hereinafter defined) for purposes of receiving and transmitting radio signals and other forms of communication and uses ancillary thereto (the “**Permitted Use**”), all in accordance with applicable law, including rules and regulations of the Federal Communications Commission (“**FCC**”). Lessee shall obtain and maintain all necessary approvals, permits, licenses and authorizations and provide copies of same to Lessor upon request. Lessee shall not use the Premises for any other purpose without the prior written consent of Lessor. Lessee shall be responsible for grounding all external and internal electrical wiring installed by Lessee. Lessee shall obtain Lessor’s prior written approval, which approval shall not be unreasonably withheld, of Lessee’s grounding plans.

(b) In addition to the Existing Tower, the Premises include certain additional existing improvements, fixtures and equipment that are ancillary to and support the operation of the Tower (collectively, together with any renewals and replacements thereof and additions thereto, the “**Facilities**”). In connection with its acquisition of the Existing Tower, Lessee received from PRC a quitclaim deed conveying to Lessee all of PRC’s interest in the existing Facilities, to the extent the same constitute real property, and a bill of sale conveying to Lessee all of PRC’s interest in the existing Facilities, to the extent the same constitute personal property. Lessor and Lessee agree that, as between Lessor and Lessee, the Facilities are the property of Lessee, subject to the rights of Lessor set forth herein in accordance with Section 15(f). Lessee may maintain, repair, upgrade, replace, modify, alter, or remove any portion of the Tower or Facilities at any time, with prior written notice to Lessor, provided any such work is performed in accordance with all applicable laws.

(c) Lessee presently intends, but shall not be obligated to, replace the Existing Tower with a new tower (the “**New Tower**”; and the Existing Tower or the New Tower, as applicable from time to time, the “**Tower**”), provided that the fabrication and erection of the New Tower, as well as the removal and disposal of the Existing Tower, shall be performed by Lessee at Lessee’s expense. In connection with the erection of the New Tower, Lessee presently intends, but shall not be obligated, to make modifications to the existing Facilities, which may include building a new structure on the Premises and demolishing the existing structure. At least sixty (60) days prior to commencing any work on the New Tower, Lessee shall notify Lessor and deliver to Lessor a complete set of working drawings (the “**Working Drawings**”) setting forth the plans and specifications for the New Tower and the installation and erection thereof, as well as the plans for the removal of the Existing Tower. Such Working Drawings shall be subject to the approval of Lessor, which approval shall not be unreasonably withheld, conditioned or delayed. Lessee shall, at Lessor’s request and on reasonable advance notice from Lessor, make available Lessee’s project manager, general contractor and any engineer involved in the preparation of the Working Drawings for consultations with Lessor. If Lessor does not grant its approval of the Working Drawings or provide to Lessee reasonable comments to such Working Drawings within thirty (30) days following Lessee’s submittal thereof, Lessor shall be deemed to have approved such Working

Drawings. If Lessor delivers reasonable comments to the Working Drawings, Lessor and Lessee shall cooperate in good faith to modify such Working Drawings to address such comments, and Lessor shall not unreasonably withhold, condition or delay its approval of such revised Working Drawings. Upon Lessor's approval or deemed approval of the Working Drawings, the approved version of the Working Drawings shall be the "**Approved Working Drawings**." Upon approval of the Approved Working Drawings, Lessee may, but shall not be obligated, to perform all or any portion of the work contemplated by such Approved Working Drawings, which may be conducted in one or more phases. All such work shall be performed by Lessee or a licensed contractor on behalf of Lessee and shall be performed in a good and workmanlike manner and in accordance with the Approved Working Drawings and applicable law. In the event that Lessor withholds consent to any Working Drawings proposed by Lessee and Lessee believes such consent has been withheld unreasonably, Lessee's sole remedy shall be to pursue an action for injunctive relief; provided that, if Lessee's action for injunctive relief is successful, Lessee shall be entitled to recover from Lessor its reasonable attorney's fees and disbursements in connection with such action. Lessee's initial plans for the New Tower and related improvements are attached hereto as Exhibit C, and are provided for informational purposes only, but are not approved or deemed approved by Lessor.

5. **PERMITS.** Lessee shall at Lessee's sole expense obtain and maintain throughout the Term all federal, state, and local licenses, permits and authorizations to construct, install and operate the Tower and Facilities ("**Government Approvals**"). Lessor makes no representation that Lessee will be able to obtain the Government Approvals or that the Premises are suitable for Lessee's intended purposes. In the event any Government Approval required by Lessee or Lessor, through no fault of Lessee, is denied or is canceled, expires, or is otherwise withdrawn or terminated so that the Premises becomes unusable by Lessee and Lessee is unable to cure or renew such government approvals within one hundred eighty (180) days of denial, cancelation, expiration, or termination, then this Lease may be terminated by either party without further liability, except payment of Base Rent and all other monetary obligations owed to Lessor and accrued as of the date of termination. Lessor shall reasonably cooperate, without the obligation to incur any expenses, with Lessee in obtaining and maintaining any Government Approvals with respect to installation of the New Tower and any modifications to the Facilities.

6. **ACCESS.**

(a) Lessor acknowledges that Lessee is a public entity and that, in accordance with Section 18, the Premises and the Tower may be used by other public entities, including law enforcement agencies, for public safety communications. As a result, the Premises may be subject to laws, rules and regulations, as well as contractual obligations on the part of Lessee to third parties, regarding security of public property and communications and public safety infrastructure. Therefore, subject to Lessor's rights of access set forth in Section 6(b), Lessee shall have exclusive possession of the Premises, including the Tower and the Facilities, and shall have the sole right to exclude from the Premises any individual who has not been authorized by Lessee to access the Premises. Lessee may, at Lessee's expense, install a fence or other barrier to enclose all or any portion of the Premises, provided that

Lessee shall provide Lessor with a copy of any keys or access codes necessary to access the Premises and any Facilities.

(b) Notwithstanding Section 6(a), Lessor, or its officers, employees, agents or contractors, may, upon at least forty-eight (48) hours prior written notice to Lessee, enter on the Premises at any time to exercise any rights expressly granted or reserved to Lessor hereunder; provided that any individual accessing the Premises on behalf of Lessor shall, at Lessee's discretion, be accompanied by an employee of Lessee or a third party designated by Lessee for such purpose. Notwithstanding the foregoing, if Lessor reasonably determines that a condition exists in or around the Premises that poses imminent risk of injury or material property damage (an "**Emergency Condition**"), such that providing prior written notice of entry to the Premises would be unreasonable under the circumstances, Lessor may enter the Premises without providing such prior written notice, provided that Lessor shall make every reasonable effort to contact an authorized officer or employee of Lessee to notify Lessee of such Emergency Condition prior to or as soon as practicable following such entry.

7. **UTILITIES.** Lessee shall furnish and shall bear the cost of all power, utilities and any other services needed to operate or maintain the Tower and the Facilities. Lessee shall install, unless prohibited by law or unavailable at the Premises, at its own cost, a separate electrical panel and meter for the Tower and the Facilities. Lessee further agrees that Lessor has no obligation or responsibility to provide emergency or "backup" power to Lessee, and Lessee acknowledges that any such provision of emergency or "backup" power shall be the sole responsibility of Lessee.

8. **INTERFERENCE.**

(a) **Interference by Lessee.** Should Lessee use of the Tower or the Facilities cause or contribute to interference with the operation of other equipment operating on Lessor's Property as of the Effective Date (the "**Existing Uses**"), Lessee agrees, at its own expense, to take all steps necessary to correct and eliminate the interference. In the event of such interference by Lessee's use, Lessor shall notify Lessee of the same by contacting Lessee pursuant to the notice provision in this Lease (an "**Interference Notice**"). Lessee shall acknowledge the Interference Notice within twelve (12) hours and shall make commercially reasonable efforts to remedy the interference within forty-eight (48) hours of receipt of the Interference Notice. In the event Lessee does not remedy the interference within seventy-two (72) hours of receipt of the Interference Notice, Lessee shall be deemed to be in default of this Lease. Lessee shall have ten (10) days from receipt of written notice of such default from Lessor to cure such default. If the interference does not cease within such ten (10) day period, Lessor may, in Lessor's sole discretion, require Lessee to terminate its operations on seventy-two (72) hours of notice from Lessor. Notwithstanding the foregoing, if Lessee is using best practices in the industry to resolve the interference and diligently prosecutes its efforts to successful resolution, then Lessor shall cooperate with Lessee in resolving the interference and Lessee shall not be in default under this Lease as long as Lessee continues to diligently prosecute such efforts. Notwithstanding the foregoing, Lessor acknowledges that Lessee

has been operating at the Premises since 2007 pursuant to a lease from PRC and (i) Lessor has no actual knowledge of, and has not received any notice from any other user of Lessor's Property of, any such interference.

(b) **Interference to Lessee's Operations.** Lessor agrees that, except for Existing Uses, Lessor shall not, and shall not permit any other user of Lessor's Property, to operate equipment on Lessor's Property in a manner that causes radio frequency interference or otherwise unreasonably interferes with Lessee's Permitted Use or the operation of the Tower and the Facilities by Lessee. In the event Lessee experiences radio frequency interference or other unreasonable interference resulting from any use of Lessor's Property, other than from Existing Uses, Lessee shall notify Lessor in writing of such interference. Lessor shall use reasonable efforts, at its expense, to cause such other user to correct such interference. If such interference is not resolved within seventy-two (72) hours of Lessor's receipt of Lessee's notice, Lessor shall use reasonable efforts, at its expense, to cause the interfering use of Lessor's Property to terminate immediately and such use shall not be permitted to resume until such interference is resolved.

9. INDEMNIFICATION.

(a) **Lessee Indemnification.** Lessee agrees to defend, indemnify and hold harmless Lessor and its officers, directors, employees, agents and contractors (the "**Lessor Indemnified Parties**") from any claim, expense, loss or damage of any kind, including reasonable attorney's fees, arising from Lessee's installation, operation or maintenance of the Tower and the Facilities, any other use of the Premises by Lessee, or the breach of any provision of this Lease, excepting, however, such claims or damages as may be due solely to the negligence or willful misconduct of any Lessor Indemnified Party. Lessee indemnifies and saves the Lessor Indemnified Parties harmless from and against all loss, cost, damage, liability, and expense, including reasonable attorneys' fees, arising from injury or death of any person or damage to property in and about the Premises, excepting, however, such claims or damages as may be due to the negligence or misconduct of any Lessor Indemnified Party. Lessee shall pay on demand, and shall indemnify and save the Lessor Indemnified Parties harmless from, all amounts paid by any Lessor Indemnified Party for all loss, cost, damage, liability, and expense, including reasonable attorneys' fees and court costs, incurred in the successful enforcement by any Lessor Indemnified Party of any obligation of Lessee hereunder. Except for any claims for which Lessee is entitled to indemnification from Lessor pursuant to Section 9(b), Lessee shall bear the sole risk of loss, damage or injury to or from the Tower, Facilities and personal property of every kind in or upon the Premises. The provisions of this Section 9(a) shall survive termination or expiration of this Lease.

(b) **Lessor Indemnification.** Lessor agrees to defend, indemnify and hold harmless Lessee and its officers, directors, employees, agents and contractors (the "**Lessee Indemnified Parties**") from any claim, expense, loss or damage of any kind, including reasonable attorney's fees, arising from Lessor's installation, operation or maintenance of Lessor's equipment on Lessor's Property, any other use of Lessor's Property by Lessor, or the breach of any provision of this Lease, excepting, however, such claims or damages as

may be due solely to the negligence or willful misconduct of any Lessee Indemnified Party. Lessor indemnifies and saves the Lessee Indemnified Parties harmless from and against all loss, cost, damage, liability, and expense, including reasonable attorneys' fees, arising from injury or death of any person or damage to property in and about the Premises to the extent the same result from the negligence or misconduct of any Lessor Indemnified Party. Lessor indemnifies and saves the Lessee Indemnified Parties harmless from and against all loss, cost, damage, liability, and expense, including reasonable attorneys' fees, arising from injury or death of any person or damage to property in and about the Lessor's Property (but excluding the Premises), excepting, however, such claims or damages as may be due to the negligence or misconduct of any Lessee Indemnified Party. Lessor shall pay on demand, and shall indemnify and save the Lessee Indemnified Parties harmless from, all amounts paid by any Lessee Indemnified Party for all loss, cost, damage, liability, and expense, including reasonable attorneys' fees and court costs, incurred in the successful enforcement by any Lessee Indemnified Party of any obligation of Lessor hereunder. The provisions of this Section 9(b) shall survive termination or expiration of this Lease.

(c) **Limitations.** The foregoing indemnities shall run to the parties specified in the capacities specified and shall not affect the rights or obligations of Lessor or Lessee, or their respective officers, directors, employees, agents or contractors in their individual capacities, except as specified herein. The indemnification obligations contained in this Section 9 shall not be limited by any worker's compensation, benefit or disability laws. Lessor and Lessee each hereby expressly and specifically agree that it shall not assert as to such indemnity obligation any limitations or immunity that such party may have under the Washington Industrial Insurance Act, RCW Title 51 similar worker's compensation, benefit or disability laws. Each party's agreement not to assert limitations or immunity under such laws extends only to claims brought by the other party and does not extend to claims by such party's employees against such party. Each party agrees that this agreement was specifically bargained for as part of the Lease consideration. Furthermore, notwithstanding anything to the contrary in this Section 9, Lessor and Lessee hereby expressly and specifically agree that, to the extent any claim giving rise to an indemnification obligation under this Lease relates to the construction or any other activity described in RCW 4.24.115, then no party shall be entitled to indemnification for its sole negligence and, to the extent any such claim results from the concurrent negligence of Lessor and/or Lessor's agents or employees and Lessee and/or Lessee's agents or employees, then the party entitled to indemnification hereunder shall only be entitled to indemnification to the extent of the indemnifying party's negligence.

10. **INSURANCE.**

(a) **Lessee's Insurance.** Lessee shall procure prior to the Effective Date and shall keep in effect throughout the Term:

i. Commercial General Liability Insurance Covering Operations and Premises Liability; Contractor's Protective Liability; Completed Operations; Product Liability; Contractual Liability; Personal Injury; and Property Damage caused by explosion,

collapse and underground damage; Broad-Form Property Damage Endorsement; and Employer's Liability Insurance. The limits of such liability insurance shall be no less than One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate;

ii. To the extent required by law, Lessee shall acquire and maintain Worker's Compensation in statutory amounts with combined limits of One Million Dollars (\$1,000,000); provided, however, Lessee may instead elect to self-insure for worker's compensation insurance so long as Lessee is a public entity;

iii. Umbrella Excess Liability; Coverage on a follow-form basis in an amount no less than Two Million Dollars (\$2,000,000) for each occurrence; and

iv. "All-Risks" Property Insurance: Property Insurance covering all risks of physical damage (subject to standard exclusions) and including, but not limited to, sprinkler leakage and water damage to contractors' materials, equipment, supplies, personal property, removable trade fixtures and equipment. Coverage is to be on a replacement cost basis and is to include the interests of Lessor, as its interests may appear.

All such insurance shall be carried with companies with a minimum A.M. Best Rating of A-VII, licensed to do business in the State of Washington, and, in the case of the liability policies, shall name the Lessor as an additional insured parties. All such insurance shall be primary and non-contributory to any insurance policies maintained by Lessor and shall provide a waiver of subrogation in favor of Lessor where permitted by law.

Lessee agrees that Lessor may, from time to time during the Term, require that additional insurance be obtained and maintained in amounts reasonably related to use of the Premises.

Each insurance policy required hereunder, shall be endorsed to provide that it will not be canceled or amended except after prior written notice in accordance with policy provisions to Lessor, delivered to the address indicated herein, and the policy and policy endorsements shall contain the following endorsement: "It is hereby understood and agreed that any material change to this policy, cancellation of this policy, or the intention not to renew the policy shall not be effective unless notice thereof has been provided to Lessor by registered mail without prior written notice in accordance with policy provisions to such change, cancellation or non-renewal."

In the event of any cancellation or any policy change not acceptable to Lessor, Lessor reserves the right to provide replacement insurance coverage and to charge any reasonable premium expense therefor to Lessee and to deduct such cost from any amounts due or to become due to Lessee hereunder.

The liability of Lessee shall not be limited by said insurance policies or the recovery of any amounts thereunder.

Notwithstanding anything to the contrary herein, all of the coverages required to be maintained by Lessee hereunder may be maintained pursuant to a program of self-insurance pool such as the Washington State Transit Insurance Pool, or any successor or replacement program, provided that the coverage limits satisfy the thresholds set forth in this Section 10(a). In lieu of providing certificates or policies of insurance as set forth in this Section 10(a), Lessee may provide to Lessor evidence of participation in such program together with evidence of coverage reasonably acceptable to Lessee.

(b) **Lessor's Insurance.** Lessor shall maintain general liability insurance insuring against liability for bodily injury, death or damage to personal property with combined single limits of One Million Dollars (\$1,000,000). In addition, to the extent required by law, Lessor shall maintain worker's compensation in statutory amounts and employer's liability insurance with combined single limits of One Million Dollars (\$1,000,000). Lessor shall provide Lessee with evidence of such insurance in the form of a certificate of insurance prior to Lessee obtaining occupancy and throughout the Term.

(c) **Waiver of Subrogation.** Lessor and Lessee each waive any claim it might have against the other for any damage to or theft, destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy that covers Lessor's Property, the Premises, Lessor's or Lessee's fixtures, personal property or business, or is required to be insured against under the terms hereof, regardless of whether the negligence of the other party caused such loss. Lessor and Lessee each hereby waive any right of subrogation and right of recovery or cause of action for injury including death or disease to respective employees of either as covered by Worker's Compensation (or which would have been covered if Lessor or Lessee, as the case may be, was carrying the insurance as required by this Lease). Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the other party.

11. **CONDEMNATION.** If all or substantially all of the Premises shall be taken by any public authority under the power of eminent domain or conveyed in lieu thereof (in either case, a "**Taking**"), then this Lease shall terminate effective as of the date that title to the Premises is conveyed to the condemning authority. If there is a Taking of less than all or substantially all of the Premises and, in the reasonable determination of Lessee, the remaining portion of the Premises is no longer suitable for the Permitted Use, or if the cost of adapting the remaining portion of the Premises for continued use for the Permitted Use would be prohibitive, then Lessee shall have the right to terminate this Lease upon written notice to Lessor delivered within thirty (30) days following the date notice is received of such taking, which terminations shall be effective as of the date that title to the Premises is conveyed to the condemning authority.

12. **GROUND RIGHTS.**

(a) Lessee accepts this Lease subject and subordinate to any ground lease, mortgage, deed of trust, easement or other lien presently existing or hereafter arising upon Lessor's Property, and to any renewals, modifications, consolidation, refinancing, and extensions thereof, but Lessee agrees that any such ground lessor or mortgagee (as the case may be) shall have the right at any time to subordinate such ground lease, mortgage, deed of trust or other lien (as the case may be) to this Lease on such terms and subject to such conditions as such ground lessor or mortgagee may deem appropriate in its discretion. Notwithstanding the foregoing, the subordination of this Lease to any ground lease, mortgage, deed of trust or other lien first placed upon or encumbering Lessor's Property following the Effective Date shall be conditioned upon the lessor or holder thereof delivering to Lessee a commercially reasonable non-disturbance agreement pursuant to which such lessor or holder agrees that, so long as no Lessee Default is continuing at the time such lessor or holder acquires title to Lessor's Property, such lessor or holder shall not disturb Lessee's rights of occupancy and quiet enjoyment of the Premises. This provision is hereby declared to be self-operative and, except as set forth above, no further instrument shall be required to effect such subordination of this Lease.

(b) Subject to Section 12(a), this Lease and all of Lessee's rights hereunder are and shall be expressly subject and subordinate to all of the terms, covenants, and conditions contained in all deeds, easements, restrictions, covenants, encumbrances, or other matters of record to which the Premises are subject (the "**Title Encumbrances**"). Lessee covenants and agrees to comply with all covenants, conditions and restrictions applicable to the use and occupancy of the Premises under the Title Encumbrances existing as of the Effective Date, as well as any Title Encumbrances first arising following the Effective Date, provided that such future Title Encumbrances do not prohibit or unreasonably impede the use of the Premises for the Permitted Use and compliance therewith does not impose any additional monetary or material non-monetary burdens upon Lessee.

13. **WAIVER.** No provision of this Lease will be deemed to have been waived by either party unless the waiver is in writing and signed by the party against whom enforcement is attempted.

14. **DEFAULT.**

(a) Each of the following events shall be deemed to be an event of default by Lessee ("**Lessee Default**") or Lessor ("**Lessor Default**"), as the case may be:

i. If Lessee shall default in the payment of any Base Rent hereunder and such default shall continue for a period of fifteen (15) days after receipt of written notice from Lessor;

ii. If Lessee shall default in the payment of any other sum due Lessor hereunder and such default shall continue for a period of fifteen (15) days after receipt of written notice from Lessor;

iii. Except where different cure periods are expressly provided in this Lease to the contrary, if Lessee or Lessor shall default in the observance or performance of any of its non-monetary obligations under this Lease and such default shall continue for more than thirty (30) days after receipt of written notice of such default by the defaulting party, provided, however, that if such default is capable of being cured but not within such thirty (30) day period, the party in default shall have such additional period of time as may be reasonably necessary to complete the cure of such default so long as such party has commenced and thereafter diligently prosecutes such cure to completion;

iv. If Lessee or Lessor shall fail to comply with environmental provisions in Section 22;

v. If Lessee or Lessor default in their respective obligations under Section 8 and such default is not cured or otherwise addressed within the time periods set forth therein;

vi. The filing, execution, or occurrence of a petition in bankruptcy or other insolvency proceeding by a party; a voluntary assignment for the benefit of creditors by a party; or a petition or proceeding by a party for the appointment of a trustee, receiver or liquidator for the assets of such party; or

vii. The filing, execution, or occurrence of a petition in bankruptcy or other insolvency proceeding against a party; or a petition or proceeding against a party for the appointment of a trustee, receiver or liquidator for the assets of such party; or the commencement of a proceeding by any governmental authority for the dissolution or liquidation of a party, shall each constitute a default by that party; in each case, to the extent the same is not dismissed or discharged within ninety (90) days of the filing or commencement thereof.

15. **REMEDIES; TERMINATION.**

(a) **Withdrawal or Termination of Approval or Permit.** In the event any previously approved zoning or other required permit or license issued to Lessor or Lessee and necessary for the use of the Premises by Lessee for the Permitted Use is withdrawn or terminated despite the diligent efforts of the respective party (and good faith cooperation of the other party where applicable), then either party shall have the option to terminate this Lease on one hundred twenty (120) days prior written notice to the other party; provided, however, if the other party is able to obtain such zoning or other required permit or license sufficient to allow the continued or renewed use of the Premises by Lessee for the Permitted Use prior to the effective date of such termination, then such party may, at its option, elect to nullify the termination notice delivered by the terminating party, in which case this Lease shall continue in full force and effect.

(b) **Termination for Non-appropriation.** Lessee is a public entity and, as such, Lessee's ability to perform its obligation under any contract is contingent upon the

availability of appropriated funds from which payment for contract purposes can be made. In the event funds from any source are reduced or withdrawn, or limited in any way, Lessee may terminate this Lease upon written notice to Lessor.

(c) **Termination by Lessee.** Lessee may terminate this Lease on thirty (30) days prior written notice to Lessor if there exists a Lessor Default and Lessor fails to cure such Lessor Default prior to the expiration of such thirty (30) day period.

(d) **Termination or Reentry by Lessor.** If there exists a Lessee Default and Lessee fails to cure such default within thirty (30) days after receipt of written notice from Lessor, Lessor may:

i. immediately or at any time thereafter, pursuant to summary eviction or other legal proceedings, enter into and upon the Premises or any part thereof and repossess the same as of its former estate, without terminating this Lease, and expel Lessee and those claiming through or under it and remove its or their effects without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant; upon entry without terminating this Lease, Lessor may relet the Premises for the account of Lessee and, in such event, Lessee shall be entitled to a credit against its Base Rent obligations hereunder in the amount of rents received by Lessor from any such reletting of the Premises applicable to the unexpired Term; or

ii. terminate this Lease and demand payment of an amount equal to the excess of the balance of all Base Rent due or to become due throughout the then current Term over the fair market rental value of the Premises.

(e) **Right to Cure Defaults.** Following the occurrence of a Lessor Default or a Lessee Default, the non-defaulting party may, but shall not be obligated to, make any payment or perform or otherwise cure any obligation, provision, covenant or condition on the defaulting party's part to be observed or performed. Any such actions undertaken by a non-defaulting party shall not be deemed a waiver of the non-defaulting party's rights and remedies as a result of the default and shall not release the defaulting party from any of its obligations under this Lease. Any expenses incurred by the non-defaulting party in connection with such payment or performance on behalf of the defaulting party shall be reimbursed by the defaulting party upon written demand by the non-defaulting party and shall bear interest at the Default Interest Rate from and after the date of demand until the date of payment. Any amounts owed to a non-defaulting party under this Section 15(e) may be offset by such non-defaulting party against obligation owed by such non-defaulting party to the defaulting party under this Lease.

(f) **Removal of Property upon Termination.** Within sixty (60) days following the expiration or earlier termination of this Lease (the "**Termination Date**"), Lessee shall, at Lessee's sole cost and expense, without liens, remove the Tower, the Tower foundation to three feet (3') below grade, any Facilities constructed or installed by or on behalf of Lessee and all of Lessee's personal property (collectively, the "Removal

Property”) from the Premises. In the event Lessor does not remove all of the Removal Property within sixty (60) days after the Termination Date, then any remaining Removal Property may, at Lessor’s sole option, (i) be removed and stored or disposed of by Lessor at Lessee’s expense, or (ii) become the property of Lessor without compensation to Lessee. In the event Lessee elects to become the owner of any remaining Removal Property, Lessee shall, at Lessor’s option and at no cost to Lessor, provide Lessor with: (i) a quitclaim deed conveying to Lessor all of Lessee’s right, title and interest in the remaining Removal Property, to the extent the same constitute real property, and a bill of sale conveying to Lessor all of Lessee’s right, title and interest in the remaining Removal Property, to the extent the same constitute personal property; and (ii) an assignment to Lessor of all subleases and sublicenses related to the Premises.

(g) **Holdover.** Lessee shall not have the right to hold over in occupancy of the Premises following the Termination Date and Lessor may exercise any and all remedies at law and in equity to recover possession of the Premises, as well as any damages incurred by Lessor due to Lessee’s failure to vacate the Premises and deliver possession to Lessor as required by this Lease. If Lessee holds over after the Termination Date, Lessee shall be deemed a tenant at sufferance, at daily rent equal to one hundred twenty five percent (125%) of the daily Base Rent payable immediately prior to the Termination Date.

(h) **Survival.** The provisions of this Section 15 shall survive termination or expiration of this Lease.

16. **LIENS.** Lessee shall not suffer or cause the filing of any lien against Lessor’s Property. Lessee shall be responsible for the satisfaction or payment of any liens for any provider of work, labor, material or services claiming by, through or under Lessee. Lessee shall also indemnify, hold harmless and defend Lessor against any such liens, including the reasonable fees of Lessor’s attorneys. Such liens shall be discharged by Lessee within thirty (30) days after notice of filing thereof by bonding, payment or otherwise. Lessee shall not do anything in or about the Premises or Lessor’s Property that will in any way tend to increase the insurance rates on Lessor’s Property. Lessee agrees to pay as additional rent any increase in premiums for insurance that may be charged during the Term on the amount of insurance to be carried by Lessor on Lessor’s Property, resulting directly from the activities of Lessee on the Premises, whether or not Lessor has consented to same. The provisions of this Section 16 shall survive termination or expiration of this Lease.

17. **COMPLIANCE WITH LAWS.** Lessee covenants and agrees to use the Tower and the Facilities, to conduct its business and operations at the Premises, and to cause the Tower and the Facilities to be in compliance with, all applicable present and future federal, state and local statutes, codes, rules, regulations, and ordinances, and all present and future requirements of common law (together “**Laws**”) including but not limited to those of the FCC and the American National Standards Institute (“**ANSI**”).

18. **ASSIGNMENT AND SUBLETTING.**

(a) This Lease may not be assigned, sold, transferred, conveyed in any other manner transferred by Lessee, without the prior written consent of Lessor, which may be withheld at Lessor's sole discretion.

(b) Notwithstanding the foregoing, Lessee shall have the right, without Lessor's consent, but upon advance written notification to Lessor, to assign this Lease to any governmental or quasi-governmental entities or agencies that will use the Tower and the Facilities exclusively for public safety communications, or to any third party that contracts with any such governmental or quasi-governmental entity or agency, including, without limitation, Pierce County, that will use the Tower and the Facilities exclusively for public safety communications (any of the foregoing, a "**Public Safety User**"). Any such assignee shall be bound by the terms and conditions of this Lease. As of the Effective Date, the Public Safety Users are as set forth in Exhibit D.

(c) Lessee shall have the right, without Lessor's prior written consent, but upon advance written notification to Lessor, to sublease space on the Tower and in the Facilities to any Public Safety User, provided sufficient space is available to accommodate such Public Safety User. Lessee shall provide Lessor with a copy of each fully-executed sublease within ten (10) days of execution. In addition, and for the avoidance of doubt, other Public Safety Users may transmit from the Tower using equipment owned and installed on the Tower and in the Facilities by Lessee pursuant to this Lease, and such use shall not be deemed to constitute an assignment or a sublease or be deemed to impose any obligations upon such Public Safety Users under this Lease.

(d) Except for subleases to Public Safety Users permitted under Section 18(c) and to those Third-Party Users set forth in Exhibit D, Lessee shall not sublease all or any portion of the Premises, including any space on the Tower or in the Facilities without the prior written consent of Lessor, which may be withheld at Lessor's sole discretion.

(e) Nothing herein shall preclude or prevent the sale, transfer or assignment by Lessor of all or part of Lessor's Property. Notwithstanding the foregoing, Lessee will not be bound by such sale, transfer, or assignment until Lessor shall have provided Lessee written notification of such a sale, transfer or assignment. The obligations of Lessor under this Lease accruing from and after the date of the sale, assignment or other transfer shall no longer be binding upon Lessor in the event that Lessor sells, assigns or otherwise transfers its interest in Lessor's Property.

(f) Lessor may from time to time request that Lessee license to Lessor presently unused space ("Licensed Space") on the Tower to Lessor to be sublicensed to third party users. Lessee may approve or reject any such request to license Licensed Space on the Tower in Lessee's sole and absolute discretion, and Lessor acknowledges that, among other things, Lessee may elect to give priority to the actual or potential uses of Lessee and other Public Safety Users in making a determination as to whether to grant any such license. If Lessee agrees to license Licensed Space to Lessor, Lessor and Lessee shall enter into a license agreement (a "License Agreement") in form and substance reasonably acceptable to

Lessee and Lessor. The License Agreement shall provide that Lessor shall pay Lessee fifty percent (50%) of all sub-license fees paid to Lessor by any such Third-Party User for use of the Licensed Space.

19. **NOTICES.** Except as provided in Section 8, all notices or other communications provided for in this Lease shall be in writing and shall be deemed sufficient if sent by certified or registered mail, or by nationally recognized overnight courier service, addressed as follows:

To Lessee: Pierce Transit
3701 96th Street SW
Lakewood, Washington 98499
Attention: Dana A. Henderson, General Counsel

To Licensor: IWG Towers Assets I, LLC
ATTN: Legal Department
1199 N. Fairfax Street, Suite 700
Alexandria, VA 22314
(703) 535-3009
(703) 535-3051 FAX

with a copy to: InSite Wireless Group, LLC
ATTN: General Counsel
260 Newport Center Drive, Suite 302
Newport Beach, CA 92660
(949) 999-3319
(949) 999-3359 FAX

Any such address may be changed by either party by giving notice to the other party in the manner above provided. Notices shall be effective one (1) business day after deposit with a national courier service, or five (5) business days after deposit in the U.S. Mail. Inability to deliver due to change of address for which no notice was given or refusal to accept delivery shall be deemed delivery hereunder.

20. **QUIET ENJOYMENT.** Lessor hereby covenants and agrees that if Lessee shall fully and faithfully perform all of the covenants and agreements herein stipulated to be performed on Lessee's part, Lessee shall at all times during the Term have the peaceable and quiet enjoyment and possession of the Premises without hindrance from Lessor or any person or persons lawfully claiming the Premises by, through or under Lessor.

21. **MISCELLANEOUS.**

(a) Subject to the terms and conditions of Section 12, Lessor represents and warrants to the Lessee that it has the full right, power and authority to enter into and perform under this Lease and that it is under no obligation, contractual or otherwise which might in any way interfere with its full and complete performance of this Lease. Lessee represents

and warrants to Lessor that it has the full right, power and authority to enter into and perform under this Lease and that it is under no obligation, contractual or otherwise which might in any way interfere with its full and complete performance of this Lease.

(b) This Lease is binding upon and shall inure to the benefit of the parties hereto, and their respective permitted successors and permitted assigns.

(c) This Lease contains the entire agreement between the parties and supersedes all prior agreements, whether written or oral, pertaining to the subject matter hereof, and this Lease, including any Exhibits hereto, may not be amended except by a document signed by duly authorized officers of the parties hereto.

(d) Unless specifically stated otherwise, this Lease shall be governed and construed in accordance with the laws of the State of Washington.

(e) Nothing herein contained shall be deemed or construed by the parties hereto, nor by any other party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

(f) Notwithstanding anything contained in this Lease to the contrary, Lessee acknowledges and agrees that Lessee shall look solely to the estate and interest of Lessor in Lessor's Property for the collection of any judgment recovered against, or liability of, Lessor by reason of Lessor's breach of this Lease or otherwise, and no other property or assets of Lessor shall be subject to levy, execution, or other enforcement procedures for the satisfaction of Lessee's remedies under or with respect to either this Lease, the relationship of Lessor and Lessee hereunder, or Lessee's use of the Premises.

(g) Any obligation of the parties relating to monies owed, as well as those provisions relating to limitations on liability and actions, shall survive termination or expiration of this Lease.

22. ENVIRONMENTAL.

(a) Environmental Definitions.

i. "Environmental Laws" shall mean all federal, state and local laws, statutes, ordinances, regulations, codes and rules, now or hereafter in effect, and in each case as amended or supplemented from time to time, and any legally applicable judicial or administrative interpretation thereof, and any legally applicable order or decree, relating to the regulation and protection of human, public or employee health, safety, the environment, industrial hygiene and natural resources, and, without limiting the foregoing, all such laws governing or imposing requirements, including transportation requirements, liability or standards of conduct with respect to hazardous substances, chemicals, petroleum or petroleum products, PCBs, leaded paint, batteries, asbestos, recyclable materials, electronic wastes and materials, and universal wastes and other wastes. Environmental Laws include but are not limited to, the following statutes and all

legally applicable regulations, guidelines or policies issued or promulgated thereunder: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601, et seq.); the Emergency Planning and Community Right-To-Know Act, as amended (42 U.S.C. §11001 et seq.) (“**EPCRA**”); the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. §136, et seq.); the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901, et seq.); the Toxic Substances Control Act, as amended (15 U.S.C. §2601, et seq.); the Clean Air Act, as amended (42 U.S.C. §740, et seq.); the Federal Water Pollution Control Act, as amended (33 U.S.C. §1251, et seq.); the Hazardous Materials Transportation Act, as amended (49 U.S.C. §1801, et seq.); the Occupational Safety and Health Act, as amended (29 U.S.C. §651, et seq.); and the Safe Drinking Water Act, as amended (42 U.S.C. §300f, et seq.); the Model Toxics Control Act, as amended (Chapter 70.105D RCW); and all analogous applicable state and local counterparts or equivalents.

ii. “**Hazardous Materials**” shall mean any hazardous substances, chemicals, petroleum, wastes and by products, and any other materials, as defined and/or regulated under Environmental Laws, including but not limited to products containing any hazardous materials (by way of example and not limitation, such products shall include Uninterruptible Power Supply batteries and fuel used to power back-up generators).

iii. “**Environmental Remediation**” means any action or expenditure consistent with the purposes of any Environmental Laws to identify, eliminate, or minimize any threat posed by Hazardous Substances to human health or the environment including any investigative and/or monitoring activities with respect to any release or threatened release of a Hazardous Substance and any health assessments and or any health effects studies conducted in order to determine the risk or potential risk to human health.

(b) **Covenants.** Lessor and Lessee each covenants and agrees to comply, at its sole cost and expense, with all applicable Environmental Laws with respect to its activities on Lessor’s Property, including the Premises. Lessee shall not store, handle, transport or otherwise bring on, in, around, or under Lessor’s Property, or any part thereof, any Hazardous Materials, with the exception of those Hazardous Materials commonly found in, or used with respect to the operations of, telecommunications equipment, and with respect thereto, Lessee shall properly manage and store such Hazardous Materials in accordance with Environmental Laws and to assure that such Hazardous Materials are not released onto or from Lessor’s Property. Lessee shall not install and/or utilize any underground storage tank on Lessor’s Property.

i. By way of example and not limitation, Lessee’s obligations to comply with Environmental Laws shall include the responsibility to make all reports and filings required by EPCRA with respect to Lessee’s storage and/or use of Hazardous Materials on Lessor’s Property (e.g., §302 and §303 planning requirements; §304 release reports; §311 submissions of Material Safety Data Sheets or lists of hazardous chemicals to the Local Emergency Planning Committee, State Emergency Response Commission

and local fire department; §312 submission of inventory form (Tier I or II as applicable); and §313 submission of Toxic Chemical Release Forms). Lessee shall, upon request of Lessor, provide Lessor copies of all such reports and filings.

ii. In the event that Lessee's activities authorized under this Lease on Lessor's Property require it to obtain any permits or approvals under Environmental Laws, Lessee shall have the sole responsibility of obtaining any such permits or approvals. Lessee shall notify Lessor, in writing, of its intent to apply for such permits and approvals and shall supply to Lessor, at its request, copies of all such applications, licenses, approvals, and ongoing submissions made by Lessee thereunder.

iii. In the event that any of Lessee's proposed activities might have an impact on the regulatory responsibilities of Lessor under Environmental Laws (by way of example and not limitation, in the event that the use/storage of a chemical by Lessee or the use of an emergency generator by Lessee could trigger new or expanded reporting by or permitting of Lessor relating to Lessor's Property), Lessee shall notify Lessor and consult with Lessor with respect to such potential reporting or permitting.

(c) **Notice.** Prior to entering onto Lessor's Property with any Hazardous Materials, Lessee shall provide to Lessor a list, with approximate quantities, of all Hazardous Materials that will be brought onto/used on Lessor's Property. Lessee shall provide an update of this list to Lessor prior to Lessee materially increasing the quantity of, or materially changing the types of, Hazardous Materials it intends to bring onto/use on Lessor's Property.

(d) **Cleanup Obligations.** In the event of the release of any Hazardous Materials on or from Lessor's Property resulting from Lessee's activities on Lessor's Property, or those of its employees, agents or invitees, Lessee shall immediately notify Lessor and any regulatory agencies to which notice is required under Environmental Laws. Lessee shall also immediately take all necessary actions to contain and remediate the release to Lessor's satisfaction.

(e) **Indemnification.**

i. Lessee shall indemnify, defend and hold harmless the Lessor Indemnified Parties from and against all claims, liabilities, damages, judgments, orders, fines, penalties, investigations or remedial measures, enforcement actions, costs and expenses, and claims by governmental agencies or third parties for Environmental Remediation (including reasonable attorneys' and experts fees and costs), to the extent resulting directly or indirectly from or in connection with Lessee's failure to fulfill its covenants or obligations under this Section 22 or Lessee's negligent acts or omissions. The parties agree that Lessor will not be considered as contributing to the injury or damage based solely on Lessor's status as an owner of the Lessor's Property and the Premises. The indemnity obligations contained herein shall survive the expiration or termination of the Lease.

ii. Lessor shall indemnify, defend and hold harmless the Lessee Indemnified Parties from and against all claims, liabilities, damages, judgments, orders, fines, penalties, investigations or remedial measures, enforcement actions, costs and expenses, and claims by governmental agencies or third parties for Environmental Remediation (including reasonable attorneys' and experts fees and costs), to the extent resulting directly or indirectly from or in connection with Lessor's past, present or future failure to fulfill its covenants or obligations under this Section 22 or Lessor's negligent acts or omissions. The parties agree that Lessee will not be considered as contributing to the injury or damage based solely on Lessee's status as a lessee or operator on the Premises. The indemnity obligations contained herein shall survive the expiration or termination of this Lease.

23. **BROKERS.** Lessor and Lessee each warrants that it has had no dealing with any broker or agent in connection with the negotiation or execution of this Lease, and each agrees to indemnify, defend and hold the other harmless from and against any claims by any other broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with such party with regard to this Lease. The foregoing indemnity shall survive the expiration or earlier termination of this Lease.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties hereto have caused this Tower Site Lease Agreement to be duly executed by their authorized representatives as of the date first written above.

LESSOR:

IWG TOWERS ASSETS I, LLC, a
Delaware limited liability company

By: _____
Name: _____
Title: _____

LESSEE:

PIERCE COUNTY PUBLIC TRANSPORTATION
BENEFIT AREA CORPORATION, a
Washington municipal corporation

By: _____
Name: _____
Title: _____

IWG Site: WA713 37th Avenue NE Tacoma

STATE OF _____)
) ss.
 COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of IWG Towers Assets I, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

 Notary Public
 Print Name _____
 My commission expires _____

STATE OF WASHINGTON)
) ss.
 COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of Pierce County Public Transportation Benefit Area Corporation to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notarial stamp/seal)

 Notary Public
 Print Name _____
 My commission expires _____

EXHIBIT A

**LEGAL DESCRIPTION OF
LESSOR'S PROPERTY**

The northwest quarter of Government Lot 2 in Section 14, Township 21 North, Range 3 East of the W.M., in Pierce County, Washington.

EXHIBIT B

**LEGAL DESCRIPTION OF
THE PREMISES**

EXHIBIT C

**INITIAL PLANS FOR
NEW TOWER**

EXHIBIT D**USERS**

<u>Entity Name</u>	<u>Date of Agreement</u>	<u>Current Term Expiration Date</u>	<u>Current Monthly Rent</u>	<u>Escalation</u>	<u>Remaining Renewal Options</u>
Third Party Users:					
Public Safety Users:					

Exhibit B

Cost of Land Lease - based on 10 years with 4, five-year options

BASE RENT

1	2	3	4	5	6	7	8	9	10	TOTAL
\$ 26,400	\$ 27,192	\$ 28,008	\$ 28,848	\$ 29,713	\$ 30,605	\$ 31,523	\$ 32,469	\$ 33,443	\$ 34,446	\$ 302,646

OPTION 1

11	12	13	14	15	TOTAL
\$ 35,479	\$ 36,544	\$ 37,640	\$ 38,769	\$ 39,932	\$ 188,365

OPTION 2

16	17	18	19	20	TOTAL
\$ 41,130	\$ 42,364	\$ 43,635	\$ 44,944	\$ 46,293	\$ 218,367

OPTION 3

21	22	23	24	25	TOTAL
\$ 47,681	\$ 49,112	\$ 50,585	\$ 52,103	\$ 53,666	\$ 253,147

OPTION 4

26	27	28	29	30	TOTAL
\$ 55,276	\$ 56,934	\$ 58,642	\$ 60,401	\$ 62,213	\$ 293,466

GRAND TOTAL \$ 1,255,991