

COST SHARING AGREEMENT

FOR ENGINEERING AND DESIGN OF BASE EXPANSION PROJECT

This Agreement is made on June 15, 2016 and entered into by Puget Sound Regional Transit Authority ("Sound Transit") and Pierce County Public Transportation Benefit Area Corporation ("Pierce Transit"), which may be referred to individually as "Party" or collectively as "Parties."

RECITALS

- A. Sound Transit is a duly organized regional transit authority under chapters 81.104 and 81.112 RCW and has all powers necessary to construct transit facilities, operate transit services, and enter into this Agreement.
- B. Pierce Transit is a municipal corporation pursuant to Chapter 36.57A RCW with all powers necessary to construct transit facilities, operate transit services, and enter into this Agreement.
- C. Pierce Transit operates and maintains a portion of Sound Transit's regional bus fleet in accordance with the terms of the Interagency Agreement for ST Express Bus Service Operations and Maintenance that expires on December 31, 2017 with an option to extend through 2019 ("Service Agreement").
- D. Pierce Transit's current bus operating facility in Lakewood is reaching maximum capacity. Currently, there are 289 fixed route buses on site, 116 of which are Sound Transit buses.
- E. In order to accommodate the projected growth of both Pierce Transit's and Sound Transit's bus fleet, Pierce Transit may need to upgrade and expand its current transit base facilities.
- F. Sound Transit and Pierce Transit believe that it would be of public benefit for the parties to share the costs for a Facility Needs Assessment and Base Master Plan Update for Pierce Transit's Maintenance, Operations and Administrative base..

The Parties therefore agree as follows:

1. SCOPE OF WORK

The scope of work (sometimes referred to as "Work") includes: Pierce Transit Maintenance, Operations, and Administrative Base facility needs assessment and space programming; master planning; implementation and phasing planning; and estimating and budgeting.

2. WORK ADMINISTRATION AND OVERSIGHT

2.1. Selection and Execution of Contract for the Work

Pierce Transit will procure services for the Work through its applicable competitive public works or procurement processes. Pierce Transit will involve Sound Transit's representative in proposal evaluations and contract negotiations.

2.2. Administration of the Work

Pierce Transit will provide Sound Transit adequate time to review and provide input to planned Work. Pierce Transit will administer the Work under this Agreement using its own staff and consultants.

Pierce Transit may make changes to the Work in order to meet project goals and will provide all change order documentation to Sound Transit's Designated Representative for review. Pierce Transit will provide proposed change orders to Sound Transit's designated representative for review and approval prior to authorizing its master planning consultants to proceed with scope changes to the Work. Pierce Transit will manage the production of the Work in good faith.

Pierce Transit will issue a periodic report on the status of project activities. This report will contain schedule, completed work, and upcoming milestones.

2.3. Oversight

Sound Transit will provide the following services:

- a) Participation in proposal review and consultant selection process;
- b) Participation in meetings to review and coordinate the work; and
- c) Review change orders.

3. DESIGNATED REPRESENTATIVES

To ensure effective intergovernmental cooperation and efficiencies, Sound Transit and Pierce Transit will each designate a representative ("Designated Representative") who will be responsible for coordination of communications between the Parties as well as its consultants and will act as a central point of contact for each agency. The Designated Representatives will also be responsible for ensuring his or her agency's performance under this Agreement, including compliance with schedule, budget, and funding limitations.

Either Party may change its Designated Representatives, by written notice to the other Party. Each Party's Designated Representative is named below with the individual's contact information.

	PIERCE TRANSIT	SOUND TRANSIT
Contact:	Janine Robinson, AICP Senior Planner Capital Planning T: 253-984-8156 jarobinson@piercetransit.org	Barry Alavi, PE, PMP Project Manager Capital Projects T: 206-398-5433 F: 206-398-5216 Barry.Alavi@soundtransit.org
Address:	PO Box 99070 3701 96th Street SW Lakewood, WA 98496-0070	401 S. Jackson Street Seattle, WA 98104

4. MAXIMUM REIMBURSEMENT AND PAYMENT PROCEDURE

4.1. Budget

The budget established for the Work is \$253,000.

4.2. Sound Transit's Maximum Contribution

Sound Transit will reimburse Pierce Transit for 40% of the actual cost of the consultant services for the Work in an amount not to exceed \$101,000.00.

4.3. Invoicing

Pierce Transit will request reimbursement by way of a properly documented invoice upon approval and acceptance of the final engineering and design Work. Pierce Transit will submit an invoice request to Sound Transit in an amount equal to 40% of the invoiced amount up to \$101,000.00. A copy of the appropriate consultant invoices must accompany the Pierce Transit invoice. Pierce Transit will send its invoice and documentation of Work completed to Sound Transit at the following address:

**Accounts Payable
Sound Transit
401 S. Jackson St.
Seattle, Washington 98104-2826**

4.4. Reimbursement

Sound Transit will reimburse Pierce Transit within 30 days of receipt of a properly completed invoice and related documentation supporting the cost of the Work completed and send payment to the following address:

**Accounts Receivable
Pierce Transit
PO Box 99070
3701 96th Street SW
Lakewood, WA 98496-0070**

5. ADMINISTRATION

5.1 Availability of Records

All project records in support of all costs incurred and actual expenditures kept by Pierce Transit will be maintained in accordance with procedures prescribed by the state auditor's office and the applicable federal funding agencies. The records will be open to inspection by Sound Transit and the federal government during normal business hours, and be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to Pierce Transit. Copies of these records will be furnished to Sound Transit and the federal government upon request. This requirement will be included in all subcontracts related to the Work entered into by Pierce Transit to fulfill the terms of this Agreement.

5.2 Audit of Records

If an audit is requested by Sound Transit or required by any applicable federal agency requirements, Pierce Transit will cooperate fully with an independent auditor chosen and retained by Sound Transit for auditing costs incurred under this Agreement or with any audit required by the federal funding agency. In the event that Sound Transit has paid Pierce Transit in excess of Sound Transit's funding commitment under this Agreement, the excess amount will be repaid to Sound Transit, or if underpaid, Sound Transit will pay such amount to Pierce Transit.

5.3 Compliance with Law

Sound Transit and Pierce Transit will comply, and to the best of their ability will ensure, that their employees, agents, consultants and representatives comply with all federal, state, and local laws, regulations, and ordinances applicable to the Work and services to be performed. Pierce Transit will ensure that the Work complies with all applicable public works and procurement laws and regulations, including bonding, prevailing wage, non-discrimination, retainage, insurance, and workers compensation requirements. In addition, to the extent federal funds are utilized, Pierce Transit will comply with federal contract and funding requirements.

5.4 Disadvantaged Business Enterprises

Pierce Transit will be the contract administrator and project manager of this project and will comply with the Disadvantaged Business Enterprises (DBE) program it has established in accordance with the regulations of the U.S. Department of Transportation (USDOT) 49 CFR 26 and the terms of Section 3.4(c) of Exhibit B (FTA Provisions) of this Agreement.

5.5 EEO Commitment

Pierce Transit will be the contract administrator and project manager of this project and will comply with any employment goals or programs it has established and the terms of Section 3.4 of Exhibit B (FTA Provisions) of this Agreement.

6 PUBLIC COMMUNICATIONS

6.1 Public Disclosure Requests

Under the Washington State Public Disclosure Act (chapter 47.17 RCW) the Parties may be required to disclose documents requested by the public, unless such requests call for documents that are specifically exempted from disclosure. If a Party receives such public disclosure requests for disclosure of documents, it will request that such public disclosure requests be made in writing in a stipulated form to the Party having possession or control of the document. If public disclosure requests are made for documents under the control of Pierce Transit's consultant, Sound Transit will refer the request to Pierce Transit for the collection, compilation, indexing, and copying of the actual records and vice versa if the request is made for documents under the control of Sound Transit.

Pierce Transit's will ensure that its consultants maintain the records in a condition that will facilitate such responses and will provide necessary staff for this purpose.

6.2 Pierce Transit Activities

Pierce Transit will be the lead agency in public and community involvement activities. Should Sound Transit elect to provide additional public outreach activities, Sound Transit will coordinate its efforts with Pierce Transit.

7 INDEMNIFICATION

To the extent permitted by applicable law, each Party will defend, indemnify, and

hold harmless the other Party, its respective officials, agents and employees, from and against any and all claims, damages, injuries, liabilities, actions, fines, penalties, costs and expenses (including reasonable attorney fees) that arise out of or are related to the negligent acts or omissions of the indemnifying Party and its officials, agents, employees acting within the course and scope of their employment and its contractors ("actors") in performing the Party's obligations under this Agreement. In the event any liability arises from the concurrent negligence of the Parties, then the indemnity obligation of this Section will apply only to the extent of the negligence of the indemnifying Party and its actors. The foregoing provision specifically and expressly is intended to constitute a waiver of each Party's immunity under industrial insurance, Title 51 RCW, with respect to the other Party's employees, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been expressly negotiated by the Parties. This indemnity provision survives the termination or expiration of this Agreement.

8 TERMINATION OF AGREEMENT

8.1 Termination for Convenience

Either Party may terminate this Agreement for convenience. The terminating party will pay an amount for services satisfactorily performed to the date of termination, in addition to termination settlement costs that Pierce Transit's contractors reasonably incurred relating to commitments that had become firm before the termination.

8.2 Duties of the Parties upon Termination

A termination by any Party will not extinguish or release either Party from liability, claims or obligations to third parties existing as of the time of termination. Any costs incurred prior to proper notification of termination will be borne by the Parties in accordance with the terms of this Agreement. Upon request of the non-terminating Party, the other Party will assign its contract to the other Party.

8.3 Activities upon Termination

In the event of termination due to default, the defaulting Party will compensate the other Party for all costs expended, committed, or otherwise encumbered up to the date of termination up to the maximum amount of the other Party's commitments under this Agreement.

8.4 Survival of Provisions

The provisions of this section survive and remain applicable to each Party notwithstanding any termination or expiration of this Agreement.

9 DISPUTE RESOLUTION

Pierce Transit and Sound Transit will work collaboratively to resolve disagreements arising from activities performed under this Agreement. Disagreements will be resolved promptly and at the lowest level of hierarchy. The following is a guide intended to resolve the maximum number of issues at the lowest organizational level:

The Designated Representatives will use their best efforts to resolve disputes and issues arising out of or related to the tasks covered by this Agreement. The Designated Representatives will communicate regularly to discuss the status of the tasks to be performed and to resolve any issues or disputes related to the successful performance of this Agreement.

A Designated Representative will notify the other in writing of any problem or dispute that the Designated Representative believes needs formal resolution. The Designated Representatives will meet within five business days of receiving the written notice in an attempt to resolve the dispute. The Parties may utilize the services of a mediator to assist with problem identification and resolution.

In the event the Designated Representatives cannot resolve the dispute within ten business days of first meeting to resolve the dispute, they will notify Pierce Transit's Executive Director of Planning and Community Development and Sound Transit's Executive Director of Design, Engineering and Construction Management, or designees, and they will meet and engage in good faith negotiations to resolve the dispute.

In the event that these Directors cannot resolve the dispute within ten business days of the Directors' first meeting to resolve the dispute, Pierce Transit's Chief Executive Officer and Sound Transit's Chief Executive Officer will meet and engage in good faith negotiations to resolve the dispute.

The Parties have no right to seek relief under this Agreement in a court of law until and unless each of these procedural steps is exhausted. The preceding sentence does not apply to the extent that any applicable statute of limitations will or may run during the time that may be required to exhaust the procedural steps set forth above provided, however, that the Parties agree that any legal proceeding brought during such period may be stayed, if consistent with applicable law and if the rights of the Parties will not be prejudiced thereby, while the procedural steps set forth above are satisfied.

10 MISCELLANEOUS

10.1 Relationship of Parties

No joint venture or partnership is formed because of this Agreement. No employees, agents, or subcontractors of one Party are, deemed, or represent themselves to be, employees of the other Party.

10.2 Parties in Interest

Nothing in the Agreement, whether express or implied, is intended to (1) confer any rights or remedies under or by reason of the Agreement on any persons other than the Parties and their respective successors and permitted assigns; (2) relieve or discharge the obligation or liability of any third party to a Party to the Agreement; nor (3) give any third parties any right of subrogation or action over or against a Party to this Agreement.

10.3 Assignment

Neither Party will assign, transfer, or otherwise substitute its obligations under the Agreement without the prior written consent of the other Party. Any assignment made in violation of this provision is invalid.

10.4 Waiver of Default

Waiver of any default will not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement will not be deemed a waiver of any other or subsequent breach and will not be construed to be a modification of the terms of this Agreement.

10.5 Entire Agreement

This Agreement, including exhibits, constitutes the entire Agreement between the Parties relative to the Work.

10.6 Amendments and Modifications

This Agreement may only be amended or modified in writing, signed by personnel authorized to bind the Parties.

10.7 Environmental Compliance

Pierce Transit will be the lead agency for compliance with SEPA (State Environmental Policy Agency). If determined to be necessary, Pierce Transit will also be the lead agency along with the relevant federal partner agency (FTA) for compliance with NEPA (National Environmental Act). Pierce Transit will prepare the necessary environmental documentation and issue the appropriate determinations under NEPA and SEPA. Pierce Transit will also be responsible to process or procure any environmental or other permits and approvals necessary for the Work. Pierce Transit will coordinate with Sound Transit environmental and project staff in the preparation and issuance of environmental documentation and determinations. Sound Transit will be given an opportunity to review and comment on environmental documentation before it is finalized and issued to the public and other agencies.

10.8 Future Agreements

The fact that the Parties have entered into this Agreement may not be construed to be a commitment for future funding of any future projects or other work.

10.9 Authority

The persons signing this Agreement represent that they are authorized to do so.


10.10. Counterparts

This Agreement may be executed in two counterparts, each of which are deemed an original, but both of which together constitute the same instrument.

The Parties are signing this Agreement on the date below their respective signatures.

PIERCE TRANSIT

PUGET SOUND REGIONAL TRANSIT AUTHORITY



Sue Dreier
Chief Executive Officer *HHS for WF*



Peter Rogoff
Chief Executive Officer

6/15/16

Date

4-6-16

Date

Approved as to Form:



Sound Transit Legal Counsel

