

**Interlocal Agreement Between
Pierce County Public Transportation Benefit Area
And
Washington State Transit Insurance Pool (WSTIP)
For Collision Avoidance System Project**

This Agreement is made by and between Pierce County Public Transportation Benefit Area Corporation (“Pierce Transit”), a Washington municipal corporation; and Washington State Transit Insurance Pool (“WSTIP”), referred to hereinafter individually as “Party” or collectively as the “Parties.”

RECITALS

Whereas, Pierce Transit is a public transportation benefit area formed under RCW 36.57A providing public transportation services in the urbanized areas of Pierce County, including local and regional fixed-route service, paratransit, and vanpool services; and

Whereas, WSTIP is a self-insurance pool formed under RCW 48.62 and comprised of 25 transit agency members in Washington State, including Pierce Transit, its largest member; and

Whereas, WSTIP acts as Pierce Transit’s primary insurer, and together, Pierce Transit and WSTIP work to identify and adopt safety improvements and risk mitigation for Pierce Transit; and

Whereas, like any transit agency, Pierce Transit is involved in collisions from time to time; and

Whereas, improving safety and avoiding collisions is the top priority for both Parties;

Whereas, in 2015, the Parties engaged in a pilot project under the Transportation Research Board’s Innovations Deserving Exploratory Analysis (IDEA) program whereby an earlier version of a collision avoidance warning system (CAWS) was installed on three Pierce Transit buses; and

Whereas, Pierce Transit had no collisions during the pilot project on the buses equipped with the Shield+ technology that was installed for the IDEA grant; and

Whereas, as a result of the 2015 pilot project, the Parties were able to identify modifications to the technology intended to improve the next generation of CAWS; and

Whereas, the Parties have an interest in expanding and studying the use of this technology to all of Pierce Transit’s fleet and have identified a partnership opportunity for Pierce Transit to deploy approximately 100 buses equipped with Generation 2 Shield + collision avoidance warning system (CAWS), and to upgrade a minimum of 30 buses with pedestrian avoidance safety system (PASS) and automated emergency braking (AEB)(together, “the Project”) which is assistive technology aimed at improving the safety of Pierce Transit operations; and

Whereas, the Project is designed to deploy, test, analyze, and evaluate the effectiveness of CAWS, PASS and EWS and the utility and value of such technology for Pierce Transit and other transit agency members of WSTIP;

Whereas, Partners in the Project include: Pierce Transit; the Federal Transit Administration (FTA); WSTIP; Rosco Visions Systems, Inc.; DCS Technologies, Inc.; Munich Reinsurance America, Inc.; the University of Washington; Virginia Tech Transportation Institute; Veritas Forensic Accounting; Janet Gates; and Jerome Lutin, Ph.D. (together, "Partners"); and

Whereas, the Parties have identified funding from the Federal Transit Administration (FTA) and the insurance Partners to evaluate the effectiveness of the technology; and

Whereas, Pierce Transit is amenable to testing this technology on its fleet and WSTIP has agreed to support this Project as further set forth herein.

Whereas, this Agreement is made pursuant to and shall be governed by the Interlocal Cooperation Act, Chapter 39.34;

Now therefore the Parties agree as follows, incorporating by reference the above Recitals:

1. PURPOSE and SCOPE OF AGREEMENT

The purpose of this Agreement is to enter a mutually beneficial contractual relationship to establish the general responsibilities of the Parties and Partners in relation to the Project. Nothing herein is intended to change the terms of the Parties' existing contractual relationship pursuant to the parties' 2014 Interlocal Agreement creating a joint self-insurance program, WSTIP's coverage documents, or the rights and responsibilities of Pierce Transit as a member of WSTIP.

2. PROJECT DESCRIPTION AND IDENTIFICATION OF PARTNERS

2.1 Project Description: The Project will involve an expanded deployment of assistive technology including Generation 2 Shield + of CAWS technology to approximately 100 buses in Pierce Transit's fleet and to upgrade a minimum of 30 buses with pedestrian avoidance safety system (PASS) and automated emergency braking (AEB). The Project will be aimed at improving the safety of Pierce Transit operations and allowing the insurance Partners and research Partners the opportunity to evaluate and study this technology in use with a transit agency. The Project is more fully described in the Scope of Work approved by the FTA and attached hereto as Exhibit A.

2.2 Project Partners: The Project involves the following entities in the generally-described roles:

- a) Pierce Transit – Transit agency, fleet owner. Overall project manager, will be profiling its fleet and facilities for the project, and will be responsible for financial management of FTA grant funding. Pierce Transit will

reach an agreement with WSTIP and will hold contracts with: Rosco and DCS, and will execute a memorandum of understanding with Munich RE which will provide \$83,245 in funding directly to Pierce Transit;

- b) Federal Transit Administration (FTA) – Funder of the project by means of a \$1,664,894 award to Pierce Transit;
- c) WSTIP – Insurance pool, will: (i) provide primary insurance to Pierce Transit for claims or losses involving the Project or vehicles associated therewith; (ii) coordinate and hold contracts with all Research Partners (University of Washington; Virginia Tech Transportation Institute; Janet Gates; Veritas Forensic Accounting; and Jerome Lutin, Ph.D.); (iii) will coordinate information for Munich Reinsurance America, Inc. and (iv) provide an additional \$100,000 in funding from WSTIP to Pierce Transit.
- d) Rosco Visions Systems, Inc. – Vendor of MobilEye Advanced Driver Assistance System;
- e) DCS Technologies, Inc. – Vendor of Pedestrian Avoidance Safety System;
- f) Munich Reinurance America, Inc. – Insurance Partner, will provide \$83,245 to be paid to Pierce Transit;
- g) University of Washington – Research Partner, will coordinate and collect data, produce final report, will be under contract with WSTIP;
- h) Virginia Tech Transportation Institute – Research Partner, will conduct human factors research, pursuant to contract with WSTIP;
- i) Janet Gates – Research Partner, Project coordinator, will be providing project and data management, will be under contract with WSTIP;
- j) Veritas Forensic Accounting – Research Partner, will be performing the economic analysis pursuant to contract with WSTIP; and
- k) Jerome Lutin, Ph.D. – Research Partner, Principal investigator, coordinator of the Research Partners, will study and develop guidelines for future, oversee and manage knowledge transfer to the industry, will be under contract with WSTIP.

3. PIERCE TRANSIT'S RESPONSIBILITIES

For this Project, Pierce Transit shall:

- 3.1 Provide overall Project direction and management and serve as the administrator with overall responsibility for the Project.

- 3.2 Be responsible for overall financial management and budgeting for the Project and reimbursement of expenses to various partners and vendors from FTA and local match funds.
- 3.3 Using Pierce Transit local funds, pay the difference between the total of grants provided by FTA, WSTIP, and MunichRe and the overall cost of the Project in order to meet FTA's local match requirement of 20% of grant amount. To accomplish this, WSTIP will collect, review, and approve invoices from Research Partners and forward invoice packets to Pierce Transit for review and final approval. Pierce Transit will pay correct invoices to WSTIP, so that WSTIP will in turn distribute payment to the Research Partners. Pierce Transit will also invoice WSTIP for a total of \$100,000 through progress billing.
- 3.4 Enter into and manage agreements with and payments to vendor Partners: Roscoe Vision Systems, Inc. and DCS Technologies, Inc.
- 3.5 Provide overall safety and quality assurance for installation, testing and operation of buses equipped with collision avoidance warning systems (CAWS) and automated emergency braking (AEB).
- 3.6 Coordinate and support project review panels as needed.
- 3.7 Provide access to approximately 100 Pierce Transit-owned 40' buses for retrofit with Gen 2 Shield+ CAWS and provide access to existing three buses for upgrade of existing Gen 1 Shield+ CAWS.
- 3.8 Provide a minimum of 30 CAWS-equipped buses for retrofit with DCS Technologies Inc. Pedestrian Avoidance Safety System (PASS) AEB systems to be triggered by Gen 2 Shield+ and a fusion solution to be implemented by DCS Technologies.
- 3.9 Provide technicians to be trained by vendor to install and maintain Shield+ CAWS.
- 3.10 Provide drivers, maintenance personnel, and supervisors to assist in installation and testing of CAWS and AEB.
- 3.11 Provide space for CAWS installations, contractor personnel, and storage of installation kits and equipment.
- 3.12 Maintain an electronic "trouble ticket" log of maintenance issues with Shield+ system.
- 3.13 Monitor equipment condition and need for replacement as input to estimate life-cycle costs.
- 3.14 Train Bus Operators on use of CAWS and AEB.

- 3.15 Provide method for data collection and retrieval of on-board video and data generated by the Shield+ video and recording system.
- 3.16 Provide access to on-board video recorders and camera systems for connection to Shield+ systems and DCS AEB monitoring.
- 3.17 Provide logs showing route, trip, and operator for each bus during test period to allow monitoring of performance changes attributed to CAWS.
- 3.18 Participate in technology transfer activities by providing existing documentation and participating in video and webinar preparation.
- 3.19 Provide information, data, and assistance to WSTIP in estimating internal costs of collisions not recovered through insurance.

4. WSTIP'S RESPONSIBILITIES

For this Project, WSTIP shall:

- 4.1 Continue to provide risk management services as well casualty and liability insurance coverage to Pierce Transit for claims, losses or damage arising from or in any way relating to this Project.
- 4.2 Coordinate and procure insurance/reinsurance policies for Pierce Transit as needed.
- 4.3 Collect invoices from research partners and review, approve and forward invoices as a packet to Pierce Transit for payment. Invoice packets should include the invoices from the research partners and include back-up documentation such as travel receipts, time reporting, etc. After payment of correct invoices by Pierce Transit to WSTIP, WSTIP shall distribute payment to research partners.
- 4.4 Procure, enter into, and manage agreements with all Research Partners (comprised of: University of Washington, Virginia Tech Transportation Institute, Janet Gates, Veritas Forensic Accounting, and Jerome Lutin) to contractually require that the information, reports, and data required by the FTA as set forth in Exhibit A are provided.
- 4.5 Within thirty (30) days of receipt of a correct invoice(s) from Pierce Transit, WSTIP will also pay a total of \$100,000 in to Pierce Transit for the Project
- 4.6 Manage and defend claims for Pierce Transit and maintain historical claims records.

- 4.7 Provide access for research team to detailed records of individual claims for collisions involving pedestrians, bicyclists, other vehicles, and fixed objects, and claims attributed to sudden stops.
- 4.8 Provide project management oversight to insurance Partners and research Partners participating in the project.
- 4.9 Provide financial records of amounts paid for collision-related claims to determine trends and the potential impacts of CAWS and AEB on claims reduction.
- 4.10 Provide forensic accounting and economic analysis expertise to estimate financial and institutional impacts of claims reductions potentially attributed to CAWS and AEB for approximately 1,500 vehicles operated by all 25 members of the transit insurance pool.
- 4.11 Coordinate reviews of the insurance and financial aspects of the deployment project with other insurance Partners.
- 4.12 Participate in knowledge-sharing activities of all partners by providing records, data, documentation and participating in conferences, meetings, video and/or webinar preparation as appropriate.
- 4.13 Participate in research activities and technical reviews as requested.

5. RECORDS

This Agreement and records relating to this Project may be public records subject to disclosure under the Washington State Public Records Act (PRA) and/or other laws requiring disclosure or discovery of records. Both parties are subject to the PRA and will be responsible for the retention and production of records they prepare, own, use, or retain pursuant to the PRA. The parties acknowledge that neither party is liable for any release of records pursuant to public disclosure or discovery laws. The applicability or exercise of any exemption to redact or withhold a record is in the disclosing party's sole and absolute discretion, and neither party shall be liable for a good faith production of records under RCW 42.56.060.

6. INDEMNIFICATION AND LEGAL RELATIONS

- 6.1 It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one Party or its contractors or subcontractors shall be deemed, or represent themselves to be, employees, agents, contractors or subcontractors of the other Party.

- 6.2 Each Party shall comply, and shall ensure that its contractors and subcontractors, if any, comply with all federal, state and local laws, regulations, and ordinances applicable to the work and services to be performed under this Agreement.
- 6.3 Each Party shall defend, indemnify and hold harmless the other Party, its elected officials, officers, officials, employees and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each Party's own sole or proportionate concurrent negligent acts or omissions or the performance of this Agreement. Each Party agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.
- 6.4 Each Party's rights and remedies in this Agreement are in addition to any other rights and remedies provided by law or in equity.
- 6.5 This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of Pierce County, Washington or the United States District Court of the Western District of Washington, located in Tacoma, Washington, shall have jurisdiction and venue, as provided by law, over any legal action arising under this Agreement.
- 6.6 Any controversy, dispute, or claim arising out of or related to this Agreement, or the breach thereof, shall be subject to the dispute resolution procedures in this subparagraph. Prior to the initiation of any action or proceeding to resolve disputes between Pierce Transit and WSTIP, the parties shall make a good faith effort to resolve any such disputes by negotiation between representatives with decision-making power, who shall not have substantive involvement in the matters involved in the dispute, unless the parties otherwise agree. Failing resolution, the parties shall attempt to resolve the dispute through a mediation conducted by a person(s) or organization experienced in mediation initiated within thirty (30) days from the date of the request unless extended by agreement of both parties. At all times during the course of any unresolved dispute between the parties, the parties shall continue to supervise, direct and perform their respective obligations under this Agreement in a diligent and professional manner and without delay. The good faith completion of negotiation efforts and mediation pursuant to this subparagraph shall be a prerequisite to the filing of any litigation

6.7 The provisions of this section shall survive any termination of this Agreement.

7. CHANGES AND MODIFICATIONS

This Agreement may be amended or modified only by prior written agreement signed by the Parties hereto.

8. EFFECTIVE DATE, TERM, AND TERMINATION OF AGREEMENT

8.1 This agreement will become effective on the first date when it has been executed by both Parties and will be effective until September 25, 2020 unless terminated pursuant to the terms found in this section.

8.2 Any of the Parties may terminate this Agreement, in whole or in part, for any reason provided, however, that insofar as practicable, the Party terminating the Agreement will give not less than ninety (90) calendar days prior notice to non-terminating Party. Such termination shall be by written notice delivered by certified mail, return receipt requested, of intent to terminate.

8.3 Any modifications to this Agreement must be in writing and agreed to by both Parties.

9. FORCE MAJEURE

Either Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, earthquake or acts of nature; strikes or labor actions; commandeering material, products, or facilities by the federal, state or local government; and/or national fuel shortage; when satisfactory evidence of such cause is presented to the other Party, and provided further that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing.

10. WAIVER OF DEFAULT

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

11. ASSIGNMENT

This Agreement shall be binding upon the Parties, their successors, and assigns; provided, however, that neither Party shall assign nor transfer in any manner any interest, obligation or benefit of this Agreement without the other's prior written consent.

12. NO THIRD PARTY BENEFICIARIES

Nothing in this Agreement, express or implied, is intended to confer on any person or entity other than the Parties hereto and their respective successors and assigns any rights or remedies under or by virtue of this Agreement.

13. MUTUAL NEGOTIATION AND CONSTRUCTION

This Agreement and each of the terms and provisions hereof shall be deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

14. ALL TERMS AND CONDITIONS

This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties related to the subject matter hereof and constitutes the entire agreement between the Parties. This Agreement may be amended only by written agreement of the Parties.

This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

15. CONTACT PERSONS

The Parties shall designate a contact person for purposes of sending inquiries and notices regarding the execution and fulfillment of this Agreement.

	WSTIP
Contact Name	Joanne Kerrigan
Title	Member Services Manager
Address	2629 12 th Ct. SW, Olympia, WA 98502
Telephone	360-786-1634
E-Mail	joanne@wstip.org

	Pierce Transit
Contact Name	Dana Henderson
Title	General Counsel
Address	3701 96 th St SW, Lakewood WA 98499
Telephone	253-777-4977
E-Mail	dhenderson@piercetransit.org

Each Party warrants and represents that its execution of this Agreement has been authorized by its governing body.

16. **Effective Date.** This Agreement shall take effect when it is signed by all the Parties hereto.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement on the 11th day of December, 2017.

**WASHINGTON STATE TRANSIT
INSURANCE POOL**

**PIERCE COUNTY PUBLIC
TRANSPORTATION BENEFIT
AREA CORPORATION**

DocuSigned by:
Allen F. Hatten
Allen F. Hatten, Executive Director

Sue Dreier
Sue Dreier, CEO

Date: 12/11/2017

Date: 12/13/17