

TEMPLATE

**AGREEMENT BETWEEN
PIERCE COUNTY
and
PORT OF TACOMA
REGARDING
CARBON CORRIDOR VISITOR SIGNAGE AND MARKETING PLAN**

THIS AGREEMENT (“AGREEMENT”) is entered into this ____ day of _____, 2023, by and between **PIERCE COUNTY**, a County of the State of Washington (hereinafter the “County”), and the **PORT OF TACOMA**, a Washington public port district (the “Port”), (each a “Party,” collectively the “Parties”) in consideration of the mutual covenants contained herein. The Parties hereby recite and agree as follows:

RECITALS

1. The Port is charged by state statute with a mission of furthering economic development. To that end, the Port has adopted a Local Economic Development Policy by which the Port administers its monetary support of economic projects sponsored by local public agencies in Pierce County.
2. The County proposes the creation of a Carbon Corridor Visitor Signage and Marketing Plan (the “Project”).
3. The County has requested \$15,000 and the Port agrees to provide an investment of \$15,000 toward the Project costs, conditioned upon proof of Project expenditures, and as expressly specified herein.
4. The Port finds the requested contribution meets the Port’s Local Economic Development Policy criteria as follows:
 - A. This project meets criteria outlined in section D, “Planning activities or events promoting tourism intended to attract tourists to Pierce County from outside locations”.
 - B. This project will promote tourism to Pierce County from outside locations by creating a cohesive signage and marketing plan for visitors to Mt. Rainier who use the Carbon River Entrance – the closest entrance to Seattle-Tacoma International Airport. This project will help ensure that visitors are properly prepared, directed, and supported while visiting the area.

CONSIDERATION

NOW, THEREFORE, pursuant to Chapter 39.34 RCW, and in consideration of the mutual benefits and covenants described herein, the Parties agree as follows:

1. SCOPE OF WORK

A. The Pierce County Carbon Corridor Visitor Signage and Marketing Plan consists of the following:

i. Revised welcome message center in Wilkeson and additional signage on non-public properties.

ii. Set up of a website with important pre-visit information.

B. All as described in the County's Application, as attached hereto as **Attachment A.**

2. PORT'S CONDITIONAL AGREEMENT TO CONTRIBUTE FUNDS

A. Subject to the terms herein, the Port agrees to provide reimbursements of an amount not to exceed \$15,000 reimbursable up to 24 months from the Port signing for expenses incurred by the County for the Project. The County shall be responsible for timely payment of all invoices submitted by third parties providing goods or services for the Project. The County shall submit to the Port, or its designee, paid project invoices within ninety (90) days after the referenced goods or services have been provided. The Port or its designee shall review any such invoices and as appropriate make payment to the County within thirty (30) days of receipt of the invoice. The Port shall not be obligated to reimburse the County for invoiced goods or services where invoices are not submitted in a timely fashion. The County shall be solely responsible for compensation of the County's employees, including those employees' salaries, fringe benefits, or any other compensation, including for time spent by those employees related to the Project. The Port shall not be responsible to provide reimbursement for any compensation to the County's employees.

B. Conditions of the Port's funding are as follows:

i. If the Project costs are higher than projected, the County will assume any excess Project costs.

ii. The Port's annual Project contribution shall be allocated and is identified in the Port's annual budget.

C. The Port's distribution of funds is further contingent on the County obtaining full committed funding 24 months from the Port signing for the complete Project scope and the contents of this AGREEMENT remain unchanged.

D. Port payments up to the not-to-exceed amount will be made pursuant to this signed AGREEMENT, and within 45 days of the County's submittal of written proof to the Port that County has paid its minimum contribution of \$15,000 in expenditures.

3. TIMEFRAME/PROJECT SCHEDULE

This AGREEMENT shall last no more than twenty-four months from the date of the Port's signatory.

4. COUNTY' S PROJECT FINANCIAL SUMMARY

- A.** Total Project Cost: \$60,000
- B.** Source of Funds (other than the Port):
 - Pierce County Trails Association: \$20,000
 - Pierce County Roads and Parks: \$15,000
 - WSDOT Road and Signs: \$10,000

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

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

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

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

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

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

11. TERMINATION. This AGREEMENT shall terminate after all reimbursements are paid or two years following completion of the Project, whichever occurs first, unless terminated earlier by written agreement. However, absent express authorization by the Port, in no case will the Port's allocations as provided under this AGREEMENT be committed for more than two years after approval of this AGREEMENT by the Port.

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

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

County: Attention: Roxanne Miles
Email: Roxanne.miles@piercecounitywa.gov

Port: P.O. Box 1837
Tacoma, Washington 98406
Attention: Matthew Mauer
Email: mmauer@portoftacoma.com

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

15. LEGAL RELATIONS

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

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

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

D. Recording. A copy of this AGREEMENT shall be recorded in the Office of the Pierce County Auditor in accordance with chapter 39.34 RCW or shall be posted to each

Parties' web site.

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

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

18. INDEMNIFICATION AND HOLD HARMLESS

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

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

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

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

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

E. Each Party specifically assumes liability for actions brought by its own employees against the other Party and for that purpose each Party specifically waives, as respects to the other party only, any immunity under the Worker's Compensation Act, RCW Title 51.

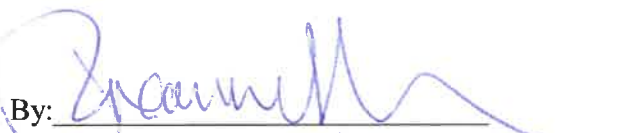
F. The Parties recognize that this waiver was the subject of mutual negotiation. In the event any Party incurs attorney's fees, costs, or other legal expenses to enforce the provisions of this AGREEMENT against the other Party, all such fees, costs and expenses shall be recoverable by the prevailing Party.


G. No liability shall attach to either Party by reason of entering into this AGREEMENT except as expressly provided herein.

H. The provisions of this Article 18 shall survive any termination or expiration of this AGREEMENT.

County:


PORT OF TACOMA:

By: 
Its: Director of Parks
Date: 6/21/23

By: 
Eric Johnson
Its: Executive Director
Date: Jun 20, 2023

Approved as to form:

By: _____
Its: Attorney

By: 
Heather L. Burgess
Its: Legal Counsel