

DRAFT

INTERLOCAL AGREEMENT BETWEEN PORT OF SEATTLE AND CITY OF SEATTLE FOR ITS IMPROVEMENTS

This Interlocal Agreement (“Agreement”) is made and entered into by and between the City of Seattle, a municipal corporation of the State of Washington, hereinafter called the “City” and the Port of Seattle, a municipal corporation of the State of Washington, hereinafter called the “Port”, for the purpose of sharing costs to fund the “Project”. As used in this Agreement, “Project” means the design and construction of intelligent transportation system (ITS) improvements in the Duwamish and SODO areas of Seattle, to benefit the movement of freight and goods and enhance the use of other Port related facilities, as further described in Section 1. The Port and the City are also referred to in this Agreement collectively as “the Parties”, and individually as a “Party”.

Furthermore, this agreement establishes terms for the design, construction, maintenance and operation of a Dynamic Message Sign on property owned by the Port at Terminal 5 through temporary and permanent easements to be acquired under separate agreements.

RECITALS

- A. The assurance of continuing freight movement throughout Puget Sound is an issue of critical strategic importance to the City and to the Port.
- B. The Port has agreed to a contribution of \$500,000 which the City will use towards the intelligent transportation system (ITS) improvements in the Duwamish and SODO areas.
- C. The Port is a member of the FAST partnership and part of the Project contribution represents a portion of the Port’s share of FAST projects originally estimated at \$7.2 million in cost, not to exceed 7%.
- D. The City ITS Program includes the Duwamish ITS Phase 3 funds from the Washington State Freight Mobility Strategic Investment Board (FMSIB) that are awarded to agencies to improve the movement of freight and goods.
- E. The deployment of ITS devices in the Duwamish and South Downtown (SODO) areas are part of the City’s overall ITS Strategic Plan.
- F. The deployment of ITS devices in Duwamish and SODO areas supports advance mitigation for the Alaskan Way Viaduct construction projects.
- F. Deployment of ITS devices is important towards transportation access to Port terminals and movement of freight as well as cruise ship terminals.
- G. The City has completed deployment of ITS devices as part of the Duwamish ITS Phase 2 project.
- H. The Duwamish ITS Phase 3 Project includes the deployment and installation of four dynamic message signs (DMS) that can be used to provide traffic information to trucks traveling to and from Port terminals.

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- I. The Duwamish ITS Phase 3 Project also includes deployment of CCTV cameras at strategic locations to provide on-line visual assessment of traffic conditions in truck and key arterial corridors.
- J. The City will also deploy a web based traffic flow map with links to existing and new CCTV cameras as part of the ITS Program that can benefit users of Port facilities.
- K. Enhanced traffic control and operation will be provided on streets of importance to freight in the Duwamish area. A basis for importance will be installation of advanced detection to reduce vehicle delays.
- L. The City completed a consultant selection, initiated designs for the Duwamish ITS Phase 3 Project and advance mitigation for the Alaskan Way Viaduct and Seawall Replacement Project.
- M. Construction for the Project and associated contracts is scheduled to start in 2009.
- N. The Port has budgeted and available \$500,000 for the Port's contribution to the cost of the Duwamish ITS Phase 3 Project.

NOW, THEREFORE, the parties agree as follows:

1. SCOPE OF WORK

Project Title: Duwamish Intelligent Transportation System (ITS) Phase 3 and ITS Program Projects.

Description: The Duwamish ITS Phase 3 Project is part of the City's overall ITS Program titled City Center/Duwamish ITS Phase 3 Project to deploy ITS devices in the Duwamish industrial area of the City. This and other projects included in the City's ITS Program will design and install devices including closed circuit television cameras (CCTV), vehicle detection devices, traffic controller cabinets, dynamic message signs ("DMS") and deploy a web-based traffic flow map of City streets.

The DMS associated with Port funds are planned to be installed at the following locations:

- On E Marginal Way S at S Idaho St for southbound traffic using the First Ave S Bridge
- On 1st Ave S, north of S Bennett St for southbound traffic using the First Ave S Bridge
- On the High-Level West Seattle Bridge (existing sign bridge structure) for eastbound traffic
- At Terminal 5 for eastbound traffic at the barrier overpass and underpass to the Spokane Street Swing Bridge

CCTV cameras associated with Port funds are planned at the following locations:

- SW Spokane St/11th Ave SW (Terminal 18)
- E Marginal Way S/ S Hanford St
- E Marginal Way S/S Idaho St
- Airport Way S/ S Lander St
- Corson Ave S/S Bailey St
- E Marginal Way S/ S Michigan St

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The City traffic flow map will depict priority City streets/corridors and have links to SDOT CCTV cameras as well as posting of traffic alerts. The real time traffic flow information can be used to plan routes or detours for freight operators and other users or Port terminals or facilities.

Schedule: The design and construction of the project will be accomplished through four separate contracts. Design work started in August 2007 and the City completed design for Contract 1, which includes devices in Duwamish, 3Q2008. Contract 1 was readvertised and awarded by the City in January 2009. Subsequent contracts deploying additional devices will be advertised in 1Q2009 and 2Q2009 (Contracts 2, 3 and 4) with construction starting in 2Q2009 and 3Q2009. Construction completion and deployment of a majority of improvements is scheduled to be completed by 4Q2009 to 1Q2010 with full operation of devices in 2Q2010 .

Deployment of the City Traffic Flow Map is scheduled in 1Q2009 on a limited basis with public deployment scheduled late 2Q2009.

Project Consultants Using standard City procedures for federally funded projects, the City selected HNTB as the Project Consultant on Contract 1 for the ITS Program and Transpo and DKS as consultants for Contracts 2, 3 and 4. Harris and Associates will be used for Construction Management and Administration of all contracts.

2. TERMS AND CONDITIONS

Lead Agency: The City shall be the lead agency for the Project in regards to SEPA and NEPA compliance and obtaining all necessary permits and/or agreements. As lead agency the City shall be responsible for accomplishing all aspects of the Project Scope.

Technical Reviews: Under terms of this Agreement, the Port shall participate in technical reviews of the Project at 30%, 60% and 90% design milestones for Contract 1 and shall provide consolidated comments back to the City within two weeks of receipt of drawings and/or specifications. The Port further agrees to participate in meetings scheduled by the City to resolve comments received during the review process.

Additionally, the Port shall participate in technical reviews of Contracts 2, 3 and 4 for the ITS Program and shall provide consolidated comments back to the City within two weeks of receipt of drawings and/or specifications.

Agency Coordination: The City anticipates that interagency agreements will be required with the Washington State Department of Transportation (WSDOT), Burlington Northern Santa Fe Railroad (BNSF) and/or King County for right of way to install poles, foundations and communications for DMS. The Port agrees to support the City in pursuit of interagency agreements and/or permits necessary for the installation and maintenance of DMS devices.

Public Involvement: The City shall be responsible of a public involvement and/or community outreach process for the Project. The City shall develop a Community Outreach Plan for the Project with the Port and other stakeholders in the Project. The Port shall be given at least two weeks notice of any scheduled public meetings.

Consultants: The City has retained engineering consultants for work funded by the Agreement and for project management as necessary. If any real estate appraisals should be required for this Project, appraisals shall be performed by appraisers under contract with the City.

Contact Persons: The parties to this Agreement shall designate person(s) to act as liaison for the Project. The contact persons shall meet on a scheduled basis at a frequency appropriate to the phase and status of the Project.

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Schedule/Scope: The scope and schedule for the Project shall be mutually agreed upon by the City and Port. All scope and schedule changes shall be coordinated by the City using a formal documentation process that includes a Change Control Board (CCB) in the Capital Projects and Roadway Structures Division (CPRS) in the Seattle Department of Transportation (SDOT). The City shall not order or approve any substantial design changes to the Project without concurrence from the Port in advance of CCB consideration.

Dynamic Message Sign (DMS) at Terminal 5: The Port acknowledges that the installation of a DMS at Terminal 5 will benefit the movement of freight/trucks departing the facility. The DMS will be located on property owned by the Port of Seattle that is currently managed by Eagle Marine Services, Ltd. This Agreement further authorizes the City, its Consultants and Contractors access to the Terminal 5 property, subject to advance coordination with the Port's Director for Labor Relations, Safety and Security, for engineering design and construction of the DMS. Subsequent agreements for temporary construction easements, temporary possession and use and permanent construction easements with no compensation will be executed in order to use federal funds for construction.

Progress Reports: The City shall prepare progress reports on the Project on a quarterly basis. Progress reports shall be forwarded to the Port within 30 days after each quarter. Reports shall update the Project status related to schedule and expenditures and identify any issues that can impact the scope and schedule of the Project and the related action plans to resolve the issues.

Ownership and Maintenance: The City will own all Project improvements and will be responsible for the reasonable maintenance of the improvements. As part of this agreement, the Port will grant the City any easements to Port property that are necessary to facilitate the installation and maintenance of any improvement to be installed under the scope of the Project. The grant of these easements to the City will be in effect as long as the Project exists on Port property. If the Project is removed, the easements will revert to the Port. The granting of any easements from the Port to the City is contingent upon the approval of the Port Commission.

3. COST REIMBURSEMENT AND FUNDING

The Port agrees to contribute up to a maximum amount of Five Hundred Thousand Dollars (\$500,000) toward funding for construction and deployment of ITS improvements as part of the City's ITS Program under the following conditions:

- a) All environmental review and documentation has been successfully completed and documented.
- b) The ITS Program elements are consistent with the Port's needs and provide a direct benefit to users of Port facilities. The Port and City will continue to work together to ensure that any ITS elements funded by the Agreement meet the goals of both Parties.
- c) The City will provide the Port with 60% and 90% plans to review and will address comments pertaining to elements funded by this Agreement prior to advertising for bids.
- d) The City will continue to coordinate improvements with the Port during construction and provided quarterly status reports on progress.

The contribution of these funds is contingent upon the approval of the Port Commission. The Port agrees to reimburse the City \$500,000 (inclusive of any applicable taxes) toward construction and/or deployment of ITS improvements as outlined below:

Contract 1 \$100,000 upon Completion of the following devices:

- a) CCTV at SW Spokane St and 11th Ave SW (Terminal 18)
- b) CCTV at E Marginal Way S and S Hanford St
- c) CCTV at E Marginal Way S and S Idaho St

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- d) CCTV at Airport Way S and S Lander St
- e) CCTV at Corson Ave S and S Bailey S
- f) CCTV at E Marginal Way S and S Michigan St

Contract 2 \$50,000 upon Completion of the following devices:

- a) Vehicle detection devices on 1st Ave S

Contract 3 \$50,000 upon completion and operation of the following devices:

- a) Vehicle detection devices on 4th Ave S

Contract 4 \$250,000 upon Completion of the following devices:

- a) DMS for southbound traffic on 1st Ave S @ S Brandon St for First Ave S Bridge
- b) DMS for southbound traffic on E Marginal Way S @ S Idaho St for First Ave S Bridge
- c) DMS for eastbound traffic on the High-Level West Seattle Bridge existing sign bridge structure
- d) DMS at T-5 on-ramp to the Low-Level West Seattle Swing Bridge for eastbound traffic

Traffic Flow Map \$50,000 upon Completion of the following milestones:

- a) Deployment for limited review
- b) Full deployment to public on SDOT website

As used in this Agreement, "Completion" means the improvement has been constructed, installed or implemented and has been placed in use. The City shall certify the Completion of each device as outlined above through submittal of a joint letter from the SDOT Project Manager and Signal Operations Manager. The Port will have four weeks in which to accept Completion of each device. During this period, the Port reserves the right to request an inspection and confirm operation of the device with the City. Any device not accepted by the Port when initially submitted for acceptance will be resubmitted by the City within 90 days with documentation of corrective measures to ensure it is operational for Port/public use.

4. AMENDMENT

Either Party may request changes to the provisions contained in this Agreement. Such changes to this Agreement shall be agreed upon and incorporated by written amendment to this Agreement executed with the same formalities as the Agreement.

5. NOTIFICATION

Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the following addresses unless otherwise indicated by the Parties to this Agreement:

To the CITY: Seattle Department of Transportation
Signal Operations Manager
Seattle Municipal Tower
Seattle, WA 98104

To the PORT: Project Manager
Port of Seattle
2711 Alaskan Way
Seattle, WA 98121

6. RECORDS RETENTION AND AUDIT

During the progress of the work and for a period not less than three (3) years from the date of final payment to the City, the records and accounts pertaining to the Project and accounting thereof are to be kept available for inspection and audit by the Port and copies of all records, accounts, documents, or other data pertaining to the Project will be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the three year retention period. This provision is not intended to alter or amend records retention requirements established by applicable state and federal laws.

7. DISPUTES

The designated representatives herein under section 5.0, NOTIFICATION, shall use their best efforts to resolve disputes between the Parties. If the designated representatives are unable to resolve a dispute, then the responsible Project directors for each Party shall review the matter and attempt to resolve it. If the Project directors are unable to resolve the dispute, the matter shall be reviewed by the department director or chief executive officer of each Party or his or her designee. The Parties agree to exhaust each of these procedural steps before seeking to resolve disputes in a court of law or any other forum.

8. EFFECTIVENESS AND DURATION

This Agreement is effective upon the date of execution and will remain in effect until Completion, unless otherwise stated herein or unless amended or terminated.

9. TERMINATION

Either Party may terminate this Agreement at any time upon thirty (30) days written notice. If either Party decides to terminate this Agreement, the Port shall reimburse the City for all costs payable under this Agreement and all non-cancelable obligations that the City incurred prior to termination. For the purposes of this Agreement, "non-cancelable obligations" are defined as those costs that the City is obligated to pay as of the day that either Party provides notice that it is terminating this Agreement, including the Port's percentage of the total cost of any phase of the Project that the City has commenced prior to the Port's notice of termination, whether or not such phase has reached Completion.

11. INDEMNIFICATION AND HOLD HARMLESS

11.1 The Port and the City will each protect, defend, indemnify, and save harmless the other Party, its officers, officials, employees, and agents from any and all costs, claims, judgment, and/or awards of damages, including but not limited to reasonable attorney's fees, to the extent arising out of, or in any way resulting from, each of the Party's own negligent acts or omissions. Neither Party will be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of each Party's own negligence.

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11.2 Each of the Parties agrees that its obligations under this section extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the Parties, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provision of Title 51 RCW to the extent necessary to provide indemnification as required under this Agreement.

11.3 The indemnification, hold harmless, and/or waiver obligation described in this section shall survive the termination of this Agreement.

12. VENUE

12.1 This Agreement shall be deemed to be made in the County of King, State of Washington, and the legal rights and obligations of the CITY and PORT shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the County of King, State of Washington.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement which shall be effective upon the date of recording.

PORT OF SEATTLE

CITY SEATTLE

Tay Yoshitani, Chief Executive Officer

Grace Crunican, Director

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Port of Seattle Legal Department

Seattle City Attorney



Date: _____

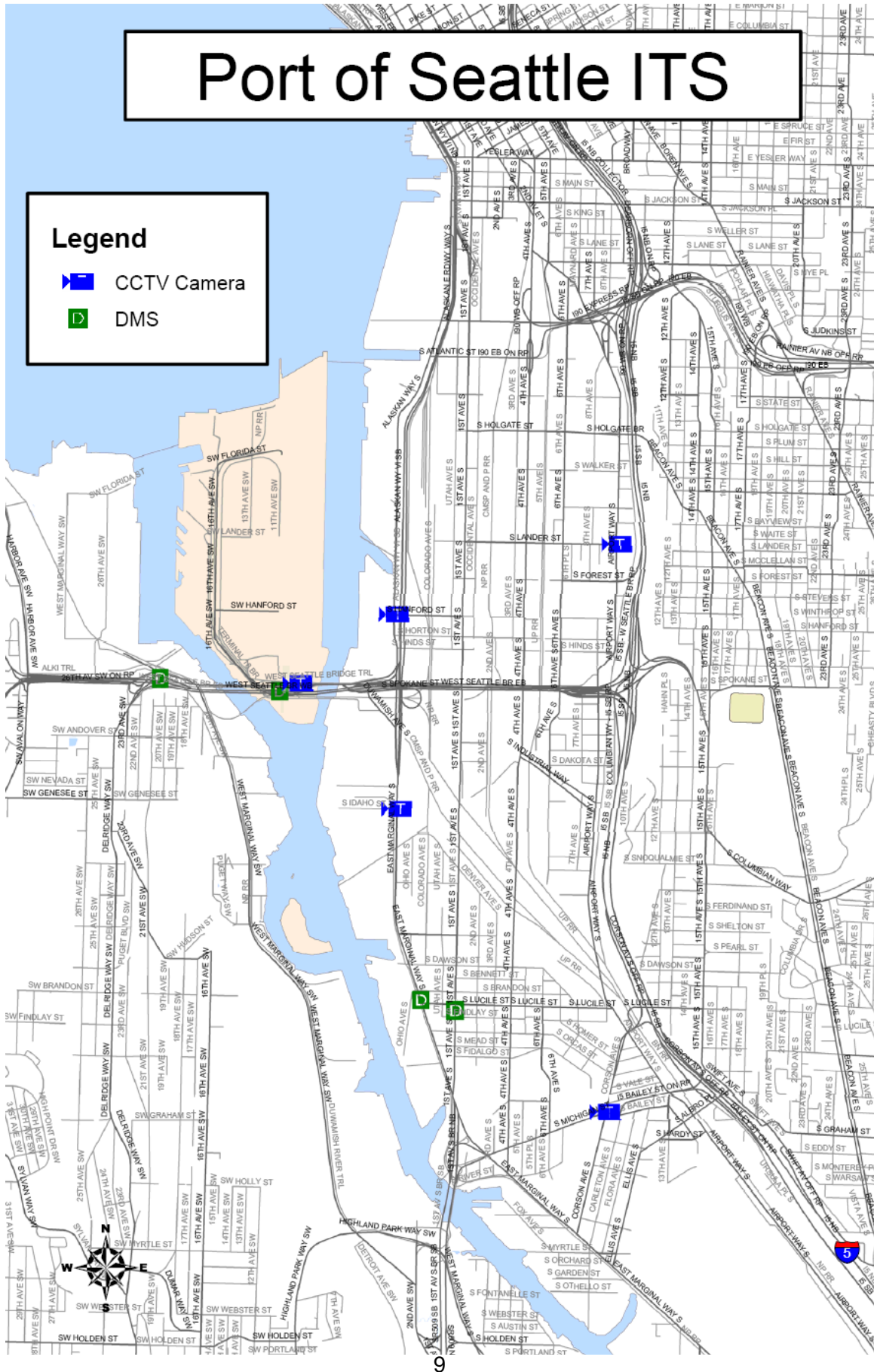
Date: _____

DRAFT

Port of Seattle ITS

Legend

-  CCTV Camera
-  DMS





SEARCH: _____

Travelers Information Map PARKING CONNECTIONS

Find out before you go
This map is designed to serve the Seattle area by providing access to live traffic information. (Best viewed in 1024 x 768 screen resolution)

SDOT Traffic Alerts

Additional Resources

- Metro Transit
- Sound Transit
- Community Transit
- Seattle Streetcar
- Seattle Monorail
- Washington State Ferries

Microsoft Virtual Earth™