

**AGREEMENT BETWEEN THE CITY OF FIFE  
AND THE PORT OF TACOMA  
REGARDING 54<sup>th</sup> AVENUE EAST CORRIDOR STUDY**

This Agreement ("AGREEMENT") is entered into this 5<sup>th</sup> day of November, 2019 by and between the City of Fife, a municipal jurisdiction of the State of Washington (hereinafter the "City"), and the **PORT OF TACOMA**, a Washington public port district (the "Port"), (collectively "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 City of Fife has jurisdiction over 54<sup>th</sup> Avenue East, a segment of road that becomes Taylor Way as it intersects with SR 509 in north Fife. The interchange at SR 509 is part of the Puget Sound Gateway project. The 54<sup>th</sup> Avenue East/Taylor Way corridor currently experiences severe congestion with level of service "F" during afternoon peak traffic.
3. The City requested \$75,000 and the Port agrees to provide an investment of \$50,000 made payable 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. Road and freight rail infrastructure projects that create long-term jobs.

**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.**

The City's 54<sup>th</sup> Avenue East corridor study ("Project") consists of the following:

- The Project study would evaluate if an additional left turn lane or other design solutions at the intersection of SR 509 and 54<sup>th</sup> Avenue East could improve traffic congestion issues on 54<sup>th</sup> Avenue East. The corridor study will evaluate potential alternatives to identify a recommended solution, provide a preliminary conceptual design, and provide a cost estimate in order to improve traffic conditions at the intersection and decrease congestion.
- All as described in the City's Application, as attached hereto as **Attachment A**.

**2. PORT'S CONDITIONAL AGREEMENT TO CONTRIBUTE FUNDS.**

Subject to the terms herein, the Port agrees to contribute to the City's 54<sup>th</sup> Avenue East Corridor Study an amount not to exceed \$50,000. Conditions of the Port's funding are as follows:

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

The Port's annual Project contribution shall be allocated and is identified in the Port's 2019 budget.

The Port's distribution of funds is contingent on the City obtaining full committed funding by December 30, 2019 for the complete Project scope and the contents of this AGREEMENT remain unchanged.

Port payments up to the not to exceed amount will be made pursuant to this signed agreement, and within 45 days of the City's submittal of written proof to the Port that the City has paid a minimum of \$50,000 in expenditures.

**3. TIMEFRAME/PROJECT SCHEDULE.**

Study completed by December 30, 2020.

**4. CITY'S PROJECT FINANCIAL SUMMARY.**

Total Project Cost: \$100,000

Source of Funds (other than the Port): City of Fife = \$25,000 and City of Tacoma = \$25,000

**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 and all 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 upon completion by both Parties of their respective obligations hereunder, or on August 1, 2021 unless terminated earlier.

**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:

City: City of Fife  
5411 23<sup>rd</sup> St East  
Fife, WA 98424  
Attention: Russ Blount, Public Works Director  
Email: rblount@cityoffife.org

Port: Port of Tacoma  
PO Box 1837  
Tacoma, Washington 98401  
Attention: Evette Mason  
Email: emason@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 any 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 RCW 39.34, 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 pertaining to the work of this AGREEMENT and accounting therefore 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, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit finding has been resolved, even though 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 City 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 City and/or its agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the City'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 City 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 City'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 City from, and shall defend, indemnify, and hold the City 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 City or its agents, employees, and/or officers.

D. The Port shall defend, indemnify, and hold the City 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 City or its agents, employees, and/or officers.

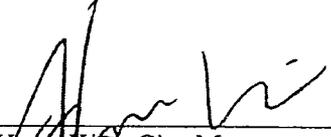
E. Each Party specifically assumes liability for actions brought by its own employees against the other Party and for that purpose each Party specifically waives, as respects the other parties only, any immunity under the Worker's Compensation Act, RCW Title 51.

F. The Parties recognizes 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.

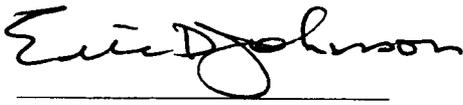
G. No liability shall attach to any of the Parties by reason of entering into this AGREEMENT except as expressly provided herein.

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

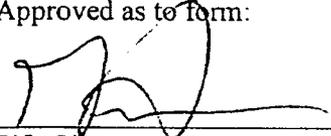
CITY OF FIFE:

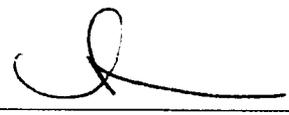
  
\_\_\_\_\_  
Hyun Kim, City Manager  
Date: 10/16/17

PORT OF TACOMA:

  
\_\_\_\_\_  
Eric Johnson, Executive Director  
Date: \_\_\_\_\_

Approved as to form:

  
\_\_\_\_\_  
Fife City Attorney

  
\_\_\_\_\_  
Port Legal Counsel



## Local Economic Development Funding Request Application 2019

The Port of Tacoma dedicates a portion of its revenues toward partnership projects that create economic development benefits - and enhances the community vitality of Pierce County. As a special purpose district governed by state law, investments by the Port of Tacoma must adhere to the legal requirements set forth in **Title 53 of the Revised Code of Washington** (particularly Chapter 53).

Investments shall be limited to county, city, and town government agencies or non-profits in Pierce County and typically will involve the Port as a minority investor. The Port's allocation to a project will be committed for up to two years and payable on a reimbursement basis. Investment focus and priorities include:

- a. Road and freight rail infrastructure projects that create long-term jobs
- b. Marine tourism infrastructure projects intended to attract tourists to Pierce County from outside locations.
- c. Planning activities or events promoting

international trade.

- d. Planning activities or events promoting tourism intended to attract tourists to Pierce County from outside locations.

Activities or events may not be religious in nature. A project may only receive funds for a maximum of three consecutive years. An investment by The Port of Tacoma in one year to an organization or project does not constitute an obligation for future investments.

If your project is found to be within the Port's statutory authority and policy guidelines, your application will be considered during the Port's annual review process.

Municipal entities must agree to enter into an Interlocal Agreement in accordance with § RCW 39.34. For more information about the Port of Tacoma, visit [www.portoftacoma.com](http://www.portoftacoma.com) or call 253.428.8662.

**APPLICATIONS ARE DUE March 29, 2019**

### Instructions

1. Please fill in this form and print it out. Use the tab key or click to move between fields. Click to mark boxes.
2. Answer each question in the space provided.
3. Attach the required documents.

4. Sign and date the application.
5. Send completed application to:  
Leslie Barstow, Manager, Community Relations, Port of Tacoma  
PO Box 1837  
Tacoma, WA 98401-1837,  
or e-mail to [community@portoftacoma.com](mailto:community@portoftacoma.com)

### Applicant Information

#### Organization

Name City of Fife			
Address 5411 23 <sup>rd</sup> Street East			
City Fife	County Pierce	State/Province WA	Zip/Postal Code 98424
Website <a href="http://www.cityoffife.org">www.cityoffife.org</a>		Organization Legal Status, ie 501(c)3 or 107(c) Municipal Corporation	

**Organization/Representative/Contact**

Name	Russ Blount	Phone	253-922-2489
Title	Deputy City Manager	E-mail Address	rblount@cityoffife.org

**Project Information**

**Title and Brief Description of Project**  
 Complete a study for the 54<sup>th</sup> Avenue East and Taylor Way East corridor, between the new "SR 509 Spur" Interchange with 54<sup>th</sup> Avenue East and the intersection of Taylor Way East with SR 509 near Fife's north City Limits.

The new interchange is funded as stage 1b of the "Puget Sound Gateway" and is scheduled to open in the mid 2020's. The interchange allows trucks traveling between the Port of Tacoma and I-5 to access the new freeway. Truck travel on Fife surface streets will be substantially reduced, but trucks will still be required to travel along the city street segments of Taylor Way East and 54<sup>th</sup> Avenue East between the northern city limits and the new interchange.

The Taylor Way/54<sup>th</sup> Avenue East corridor currently experiences severe congestion, with level of service "F" during the PM peak for:

1. The NW left turn movement at Taylor Way East and SR 509, and
2. EB movements from 4<sup>th</sup> Street East
3. WB movements from 4<sup>th</sup> Street East

The long queues for movement "1" above influence the intersection level of service for movements "2" and "3." Existing queues often extend beyond 4<sup>th</sup> Street East, over 1,200 feet away. WSDOT's analysis shows similar queue length even after the freeway and interchange are built.

The City of Tacoma is pursuing a project to improve Taylor Way from the Fife City Limits to the north, but the project does not add left turn capacity for movement "1" above. Tacoma correctly notes that the Tacoma/Fife City Limits are so close to the intersection that any widening to the southeast leg would need to extend into Fife. The study would evaluate if an additional left turn lane or other design solutions might be more cost-effective. A corridor study will evaluate potential alternatives to identify a recommended solution, provide a preliminary conceptual design, and provide a cost estimate, in order that the solution can be defined and funded.

Geographic Area Covered by Project	Number of People Served by Project	Dates of Project From: 2019 To: 2024
54 <sup>th</sup> Avenue East and Taylor Way East, between the new "SR 509 Spur" Interchange with 54 <sup>th</sup> Avenue East and the intersection of Taylor Way East with SR 509.	20,000 daily users, literally millions benefit from freight moved through the corridor, annually	

Amount Requested from Port of Tacoma	Total Project Cost	Is this a one-time event or an ongoing effort?
\$75,000	\$100,000 (study only)	This is the first step in a multi-step one-time series. Future steps will include Funding Acquisition, Design, Right-of-way Acquisition, and Construction

Port of Tacoma Local Economic Development Funding Request Application

**Funding Sources for this Project**

Firm Financial Commitments to Date	
Source	Amount
City of Fife	\$25,000
Other Sources Where Applications Were Submitted	
Source	Amount

**Purpose:** *What will this project accomplish?*

The project will evaluate intersection operation and northwestbound vehicle queues between SR 509 and the SR 509 spur interchange to explore alternative solutions to address the long left turn queues at the SR 509/Taylor Way intersection that impact adjacent intersections within the City of Fife. The study will document existing and future conditions, and establish the existing and future issues related to the corridor. The study will investigate alternative approaches to reducing vehicle queuing impacts and will identify a preferred solution, preliminary design and cost estimate.

The report will also reflect public outreach in order that the Cities of Fife and Tacoma; the Port of Tacoma; the Washington State Department of Transportation; the Puyallup Tribe of Indians; Drainage District 23; and local citizens, business owners, and road users' needs and opinions are considered in the final recommendations.

With all parties' input considered, a recommended solution will be well positioned to obtain the more substantial funding necessary to move forward through design, right-of-way acquisition, and construction.

**Our funds:** *Specifically, how would you use our contribution? When would you want the contribution?*

We would use the contribution to fund an outside consultant to provide traffic modelling, public outreach, engineering analysis, and report writing, on a refundable basis. We would pay the consultant, and then request reimbursement from the Port during mid to late 2019.

**In-kind:** *If the Port does not contribute any money, are there in-kind services that the Port could provide?*

The Port should actively participate in the project, even if it provides funding. If it cannot provide funding, it could take on the project as the lead agency. The recommended improvements may extend into both Tacoma and Fife; the Port is friendly with both jurisdictions and will be a valuable stakeholder in the process.

Port of Tacoma Local Economic Development Funding Request Application

**Referral:** *Who suggested that you contact the Port for funding on this project?*

Evette Mason

**Need:** *Why is this project important to our community? Why should this project be important to the Port?*

The Taylor Way East/54th Avenue East corridor is classified as a Principal Arterial and a T-1 freight corridor. It is a critical access to the Port of Tacoma, connects with the I-5 corridor at the 54th Avenue E interchange and the future SR 509 Spur interchange. A large percentage of the vehicles affected by the left turn queues and delays are freight and other vehicles destined for the Port.

**Approach:** *How do you plan to implement this project?*

The city of Fife will advertise for and select a transportation engineering consultant who can analyze the WSDOT and City of Tacoma proposals, model operations of the intersections, and develop recommendations for improvements to the corridor. The consultant will prepare graphic exhibits and supporting documentation that will be shared with other agencies and the public. A public outreach process will be conducted, including individual outreach to adjoining businesses along the corridor and a public meeting for residents and business owners with access through Fife streets intersecting with the corridor. Draft recommendations will be shared, and further comment sought.

The process will likely not meet all standards for Federal environmental review, as no field work for contamination or wetlands is included, but the outreach process will be done to federal standards, such that it can serve as part of a federal environmental package if needed.

**Support:** *What kind of local support is there for the project?*

This project is a mitigation/supplement to the Gateway Project, which has been a City of Fife legislative and congressional priority for well over a decade. Literally dozens of City Council members have voted for the prioritization of the completion of SR 167 through Fife. This project will help the City deal with its success and integrate the freeway interchange with the local street network. The project is also supported by neighboring business and home owners, concerned with access to 54<sup>th</sup> Avenue East and Taylor Way east. Some such property owners are members of the Puyallup Tribe of Indians. While the Tribe has not made any binding commitments, this project is consistent with the City of Fife's understanding of the Tribe's plans for the area.

Port of Tacoma Local Economic Development Funding Request Application

**Coordination:** *Who else in your community is working on this issue? How do you coordinate with them?*

The City of Tacoma and the Washington State Department of Transportation are working on projects immediately north and south of this street segment. The City of Fife has met repeatedly with Tacoma and WSDOT representatives to discuss the segment. These meetings have averaged over one per month for the past year. The City of Fife and the Puyallup Tribe of Indians have many areas of mutual concern and coordination, as the City of Fife lies entirely within the boundaries of the Puyallup Reservation. Fife staff meet with Tribal staff approximately once per month, and Fife Council Members meet with Tribal Council members with nearly the same frequency. Fife staff meets less frequently with Port staff, on an agency-to-agency basis, but meets more than once in group settings such as RAMP and the Tideflats Planning Group to coordinate issues such as this street segment.

Fife will continue such frequent contact as the project progresses. Additionally, a public outreach process is a central feature of the project and is described in the "Approach" above.

Port of Tacoma Local Economic Development Funding Request Application

**Future Support:** *How will this project be financed in the future?*

The City of Fife will contribute local funds for the project. Fife has dedicated all net revenues from photo enforcement of traffic violations to a Public Safety Fund for projects such as this. Additionally, Fife will seek funds from other partners such as the Port of Tacoma, WSDOT, the Transportation Improvement Board, the Puget Sound Regional Council, and the Freight Mobility Strategic Investment Board. Based on Fife's past success in funding such projects as the improvements to the Port of Tacoma Road Interchange with I-5 and the addition of a second left turn lane from westbound SR 99 to southbound 54<sup>th</sup> Avenue East, Fife is very confident that funding can be obtained for reasonable improvements to this corridor.

**Deliverables:** *What will the Port receive for their financial +/- in-kind partnership? What happens to our funds if the event does not occur?*

The result will be a recommended set of improvements to the 54<sup>th</sup> Avenue East/Taylor Way corridor between the new freeway interchange and the intersection at SR 509 that are agreed by all the parties as suitable for the safe and efficient flow of traffic along the corridor and for safe access to adjoining properties and those properties that access the corridor through local Fife streets that intersect with the corridor. This set of improvements and the analysis and public outreach that led to their definition will be documented with drawings and an engineering report suitable for funding applications and as part of a federal environmental process.

**Evaluation:** *How will the success of the project be measured?*

The recommended improvements are funded, permitted, and built, and traffic flows safely and efficiently through the corridor and to and from adjacent and nearby businesses and homes.

Does this organization have a formal policy of compliance with equal employment opportunity and affirmative action laws and regulations?	Yes No
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Please attach each of the following to the completed application:

- Project budget (if relevant)
- List of current board members/officers

**Signature**

Signature: 	Date: 3/29/2019
Print Name Here: Russ Blount, Deputy City Manager	

APPLICATIONS ARE DUE NO LATER THAN **March 29, 2019**

