

THE NORTHWEST SEAPORT ALLIANCE
MEMORANDUM

MANAGING MEMBERS
ACTION ITEM

Item No.	<u>5A</u>
Date of Meeting	<u>November 5, 2019</u>

DATE: October 25, 2019

TO: Managing Members

FROM: John Wolfe, CEO

Sponsor: Dustin Stoker, COO

Project Manager: Zack Thomas, Director, Operations Service Center

SUBJECT: Agency Agreements required for obligation and use of Federal Congestion Mitigation and Air Quality (CMAQ) Grant funds

A. ACTION REQUESTED

Request authorization for the NWSA CEO, or his delegate, to enter into three (3) agency agreements necessary to use Federal Congestion Mitigation and Air Quality (CMAQ) grant funds:

1. Local Agency Agreement with the Washington Department of Transportation (WSDOT), which serves as the administrator of CMAQ funds on behalf of the Federal Highway Administration (FHWA)
2. Interlocal Agreement (ILA) with Seattle Department of Transportation (SDOT) for the purchase, installation, maintenance and replacement of fourteen (14) Closed-Circuit Television (CCTV) cameras
3. ILA with SDOT detailing the approach to sharing CCTV images and data, and to ensure that use of the images provided by SDOT complies with the City of Seattle's privacy rules.

NWSA Operations will use the grant and matching funds to pay SDOT for the purchase of the equipment, cost of installation and the software integration required to enable data sharing.

B. SYNOPSIS

Goal 1.B of the NWSA's strategic business plan:

"Enhance the competitive position of the NWSA through improving efficiency and cost competitiveness of the supply chain"

Task II.A of the NWSA's 2019 Performance Goals and Expectation:

"Establish intelligent transportation systems (ITS) and strategic plans with WSDOT/SDOT/TDOT/King and Pierce Counties for electronic monitoring and infrastructure and systems outside the port complex. This will be integrated into the Port's Community Portal"

This project fully supports both Goal 1.B and Task II.A outlined above and is the first joint effort between NWSA Operations and the Seattle Department of Transportation. The CMAQ grant, and required NWSA match, will be used to pay for SDOT to extend its CCTV network with fourteen (14) new cameras, and the associated communications infrastructure on key freight corridors in the North Harbor (see Attachment A for map of camera locations). The project requires two ILAs with SDOT for deployment of the hardware and data sharing, and a Local Agency Agreement with WSDOT, which will administer the project on behalf of FHWA. The draft final agreements are attached to this memorandum (Attachments B, C, and D). When complete, the data will enable the trucking community to make better informed routing decisions and allow SDOT to enhance real-time traffic signalization and variable message signs to improve system management and freight velocity.

C. BACKGROUND

In 2017, the Puget Sound Regional Council (PSRC) awarded the NWSA \$519,000 in federal CMAQ grant funds (with a local match requirement of \$141,00) for use on hardware, software and infrastructure to reduce truck congestion and related diesel emissions at, and near, North Harbor facilities. Unfortunately, a parallel grant application for the South Harbor was not successful.

Staff's initial plan was to use the federal funds for Bluetooth readers at North Harbor container terminals to support the NWSA Clean Truck Program and to expand the geographic reach of our RFID readers to capture queuing data outside of the terminal. This data would also be shared with the trucking community through a dedicated mobile app and our community webpage to assist their routing decisions. Unfortunately, the pilot project showed that using Bluetooth technology outside the controlled environment of our terminals is not reliable. Staff had to find a different approach to use the grant funds in a way that would meet both NWSA goals and the grant intent.

In keeping with the performance plan goal outlined above, staff began discussions with SDOT staff to develop a joint project. The team briefly explored the potential for an extension of NWSA's existing RFID network on SDOT's right-of-way, but that approach proved too costly and would also have been inconsistent with Seattle's privacy rules. SDOT's extensive CCTV network is already an integral part of SDOT's Traffic Management Center suite of technologies which monitors traffic throughout the city, including the Duwamish Manufacturing and Industrial Center (MIC). The addition of 14 new cameras proved to be the most cost-effective and productive approach to provide more visibility to traffic conditions and truck queues on major NWSA terminal truck access routes in the Duwamish MIC.

The project will implement the CCTV hardware and infrastructure to measure truck congestion, monitor for security concerns, and integrate the data in a way that maintains the integrity of both public and proprietary private data feeds. SDOT will use its Traffic Management Operations Center and related communications infrastructure as the platform to cost-effectively and securely share information among the traveling public and different stakeholders of the supply chain. Seattle's privacy rules prohibit SDOT, and its partners, to use the cameras in any manner that could identify individual vehicles or drivers. They also prohibit data retention, except for a 10-day window enabling SDOT staff only to evaluate conditions to improve transportation system efficiency. Consistent with these rules, SDOT will add the new cameras to its existing [Travelers Map](#), and share the camera URLs with the NWSA Operations team. Both private and public sector user groups will be able to use the data to make more informed decisions.

D. PROJECT DESCRIPTION AND DETAILS

Project Objectives

This project will install an additional fourteen (14) CCTV cameras and associated communications infrastructure along the main North Harbor truck access routes. These cameras will provide real-time information on truck queues and traffic conditions to SDOT's Traffic Management Center, NWSA's Operations Service Center and to the trucking community via the NWSA's Community Webpage. Once implemented, the project will enable NWSA and SDOT to:

- Measure traffic congestion and address security concerns on surface streets supporting the North Harbor
- Communicate real-time traffic conditions to supply chain stakeholders and the greater truck community
- Reduce drayage truck traffic by enabling drivers to make better routing decisions

Scope of Work

SDOT's scope of work will include:

- Procuring 14 CCTV cameras (through a federally compliant program), providing significant cost savings)
- Installing the CCTV hardware and necessary communications infrastructure in its right-of-way
- Purchasing the software licenses necessary to manage the data
- Linking CCTV data feeds to their Traffic Management System
- Share the CCTV data feeds with WSDOT, the public at large, and NWSA's Operations Service Center

SDOT will invoice the NWSA for the tasks listed above and cover any excess infrastructure costs from its own budget. Upon implementation, NWSA will transfer ownership of the hardware to SDOT and receive in return the ongoing data feeds. All data feeds will be integrated into the NWSA's Community Webpage. SDOT and WSDOT share each agency's camera feeds to the traveling public, so these new feeds will also be shared by WSDOT.

Both SDOT and WSDOT are very interested in the potential of this approach to support their own traveler information systems and traffic management efforts. The fact that FHWA had previously chosen to provide grant funding for a NWSA pilot project indicates that it fits well with national efforts to improve the efficiency of the freight system. NWSA will link the data feeds to the Operations Service Center Port Community Webpage as part of our continuing effort to improve real time, accurate information to our stakeholders.

Schedule

Finalize and sign ILAs and LAA	December 15, 2019
CMAQ Funds Obligation	December 31, 2019
SDOT Communications Infrastructure Plan	February 28, 2020
Install Communications Infrastructure	May 31, 2020
Install CCTV Hardware	July 31, 2020
SDOT FRATIS Solution Integration	September 30, 2020
NWSA FRATIS Solution Integration	October 30, 2020
Contract Completion/Grant Closeout	May 31, 2023

E. FINANCIAL IMPLICATIONS

In 2019, the NWSA incurred an expense of \$82,939 for third party grant planning and administration resources (the NWSA does not have this type of resource on staff).

In 2020, the NWSA is expected to expense \$660,000 associated with this project and recognize grant income of \$519,000.

Source of Funds

The Capital Improvement Plan (CIP) allocates \$660,000 in 2020 for this project, \$519,000 of which will be reimbursed by revenue from the CMAQ grant income.

F. ENVIRONMENTAL/COMMUNITY BENEFITS

Today's intermodal freight system is not well coordinated from an information technology perspective, leading to inefficiencies that affect the NWSA's ability to handle both existing and projected cargo growth. Ineffective links among modes degrade the reliability and performance of carriers, shippers, and terminal operators. Moreover, the lack of effective mobility data sharing among stakeholders causes inefficiencies resulting in unnecessary delays in the movement of containerized freight. Improving data and communication using CCTV has multiple, positive impacts for both community and customers, such as enhanced economic competitiveness, improved air quality and reduced carbon emissions and enhanced road safety, and other community benefits:

Economic competitiveness:

Other ports on the West Coast are in the process of implementing similar systems to improve the efficiency of drayage operations. Larger trucking firms operating in the harbor typically charge an additional fee for queuing related delays. Implementing this system will help reduce congestion, costs, and improve the NWSA's competitive position, thus protecting port jobs.

Air quality & carbon reduction:

Reduced idling and congestion will reduce fuel consumption and its associated diesel particulate and greenhouse gas emissions from both trucks serving NWSA terminals and the public at large. Better information will also reduce truck operating hours by enabling truck drivers to work at less congested terminals.

Safety:

On-street truck queues can pose a safety hazard and impede emergency response. Reducing these queues will reduce safety risks.

Community:

According to the Puget Sound Clean Air Agency's 2014-2020 Strategic Plan, diesel particulate matter is the primary air toxic in our region. People living among major transportation corridors near marine terminals, many of whom suffer economic and social disadvantages, face a higher potential cancer risk from diesel particulates. Reducing traffic congestion and truck idling time near these highly impacted communities will reduce their exposure to toxic diesel fine particles.

Many drayage drivers are small business owners who are paid by the trip, or turn, rather than the hour. Reducing the time spent waiting by enabling them to choose a less congested terminal should increase the number of turns, and income.

G. ATTACHMENTS TO THIS REQUEST

- PowerPoint presentation
- Appendix A: CCTV location map
- Appendix B: Local Agency Agreement with WSDOT
- Appendix C: Interlocal Agreement between NWSA and SDOT for CCTV Hardware
- Appendix D: Interlocal Agreement between NWSA and SDOT for Video Data Sharing
- Link to Seattle [Travelers Map](#)

H. PREVIOUS ACTIONS OR BRIEFINGS

- Staff Briefing – Use of Federal CMAQ Grant Funds (August 2, 2019)



NWSA FRATIS CCTV Locations

Port of Tacoma Consulting Services

2019-10-24

FIGURE

1

transpogroup **tr**
WHAT TRANSPORTATION CAN BE.



Local Agency Agreement

Address PO Box 2985
Tacoma, WA 98401-2985

CFDA No. 20.205
(Catalog or Federal Domestic Assistance)

Project No.

Agreement No.

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) 2 CFR Part 180 – certifying that the local agency is not excluded from receiving Federal funds by a Federal suspension or debarment, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name NWSA FRATIS

Length N/A

Termini N/A

Description of Work

This project will deploy CCTV cameras and communications systems within the City of Seattle and on NWSA property to provide the agencies with improved operational awareness of truck congestion on, at, and near NWSA container terminals.

Project Agreement End Date 01/01/2024

Proposed Advertisement Date NA

Claiming Indirect Cost Rate

☒ Yes ☐ No

Type of Work		Estimate of Funding		
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE	a. Agency			
%	b. Other			
Federal Aid	c. Other			
Participation	d. State			
Ratio for PE	e. Total PE Cost Estimate (a+b+c+d)	0.00	0.00	0.00
Right of Way	f. Agency			
%	g. Other			
Federal Aid	h. Other			
Participation	i. State			
Ratio for RW	j. Total R/W Cost Estimate (f+g+h+i)	0.00	0.00	0.00
Construction	k. Contract			
%	l. Other			
	m. Other			
Federal Aid	n. Other			
Participation	o. Agency	659,662.00	89,054.00	570,608.00
Ratio for CN	p. State			
	q. Total CN Cost Estimate (k+l+m+n+o+p)	659,662.00	89,054.00	570,608.00
	r. Total Project Cost Estimate (e+j+q)	659,662.00	89,054.00	570,608.00

Agency Official

By

Title

Washington State Department of Transportation

By

Director, Local Programs

Date Executed

Construction Method of Financing (Check Method Selected)

State Ad and Award

Method A - Advance Payment - Agency Share of total construction cost (based on contract award)

Method B - Withhold from gas tax the Agency's share of total construction cost (line 5, column 2) in the amount of

\$ _____ at \$ _____ per month for _____ months.

Local Force or Local Ad and Award

✓ Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on

, Resolution/Ordinance No. _____

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall 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 the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

Once written authorization is given, the Agency agrees to show continuous progress through monthly billings. Failure to show continuous progress may result the Agency's project becoming inactive, as described in 23 CFR 630, and subject to de-obligation of federal aid funds and/or agreement closure.

If right of way acquisition, or actual construction of the road for which preliminary engineering is undertaken is not started by the close of the tenth fiscal year following the fiscal year in which preliminary engineering phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

If actual construction of the road for which right of way has been purchased is not started by the close of the tenth fiscal year following the fiscal year in which the right of way phase was authorized, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project. The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your projects Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 60 days after the Project Agreement End Date or they become ineligible for federal reimbursement.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and
- (c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary is notified by the Federal Highway Administration that the project is inactive.
- (5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions

**INTERLOCAL AGREEMENT
BETWEEN
THE NORTHWEST SEAPORT ALLIANCE
AND
THE CITY OF SEATTLE**

Procurement and Installation of CCTV Cameras and Construction Administration

This Cooperative Agreement (Agreement) is entered into by the City of Seattle, a municipal corporation (CITY) and the Northwest Seaport Alliance (NWSA), a port development authority, collectively referred to as either the “PARTIES” or individually referred to as the “PARTY”

1) RECITALS

- a) The NWSA is the recipient of a Federal Congestion Mitigation and Air Quality (CMAQ) grant to improve information on truck movements in the Duwamish Manufacturing Industrial Center.
- b) The PARTIES have determined that an effective means to gather the information sought by the funding agency is through the use of Closed Circuit Television (CCTV) cameras; and the PARTIES have determined that installing the CCTV cameras on City of Seattle owned infrastructure is optimal for providing the desired CCTV views.
- c) As the CCTV images will provide information of value to both the PARTIES; and the PARTIES agree that installing, maintaining and operating CCTV located on CITY infrastructure is most effectively accomplished by CITY; and the PARTIES desire to establish roles and responsibility for procurement, installation, and ultimate ownership of CCTV to the extent set forth in the Agreement.
- d) The PARTIES agree to enter into a CCTV video image sharing agreement.
- e) The CITY is certified by the Washington State Department of Transportation to inspect, manage, document and otherwise administer Federally Funded construction contracts.
- f) The NWSA is not certified to administer the contracts (certification by WSDOT) for the construction of said facilities, and would benefit from the use of CITY personnel and expertise in the inspection, management, documentation and administration of the NWSA’s Federally funded project, as CITY is certified by WSDOT.
- g) NOW, THEREFORE, pursuant to Chapter 39.34 RCW and in consideration of the terms, conditions, covenants, and performances contained herein, or attached as Exhibits and incorporated and made a part hereof, IT IS MUTALLY AGREED AS FOLLOWS:

2) NOTICE

Any notice required to this Agreement shall be in writing. The Designated Representatives for each PARTY are as follows:

For the NWSA: Zack Thomas
Director, Operations Service Center
Northwest Seaport Alliance
1 Sitcum Plaza
Tacoma, WA 98421
ZThomas@nwseaportalliance.com

For the CITY: Dusty Rasmussen
Signal Design and Field Operations Manager
Seattle Department of Transportation
PO Box 34996
Seattle, WA 98124-4996
Dusty.Rasmussen@seattle.gov

3) STATEMENT OF WORK

- a) Mutual agreements. Both Parties will be full and active participants during the installation phase and support any potential changes to installation locations that may arise due to unforeseen circumstances.
- b) NWSA shall:
 - i) conduct all work in compliance with the requirements of Federal Highway Administration (FHWA) funded projects, including but not limited to, Buy America Act requirements, and Davis-Bacon act requirements.
 - ii) provide all required Work Orders for execution by CITY forces, including conceptual and physical design of the project, and the specification of all construction and materials to be incorporated into the project to the extent required to complete the Work Orders.
 - iii) provide any required construction engineering support, including providing revised or new work order instructions if required.
 - iv) ensure compliance with the CMAQ grant requirements, and WSDOT requirements, including supplying all required certifications, documentation and approvals, with support from CITY as noted in this Agreement.
 - v) be solely responsible for preparing and submitting Federal Aid progress billings to WSDOT, based on input from CITY.
- c) CITY shall:
 - i) procure and install with their own forces, CCTV cameras and associated CCTV equipment and hardware, and communications equipment for cameras on CITY property, including all required integration and testing. Attachment B provides the proposed locations for CCTV installation.

- ii) procure the required number of software licenses to support CCTV camera image viewing.
- iii) develop Work Orders to issue to CITY forces, using documentation provided by NWSA, and issue Work Orders to the CITY's existing fiber optics communications Contractor for any required telecommunications work.
- iv) conduct all procurements and work in compliance with the requirements of Federal Highway Administration (FHWA) funded projects, including but not limited to, Buy America Act requirements, and Davis-Bacon act requirements. All required certifications of compliance will be supplied to the NWSA.
- v) Acting under their Certification Acceptance Agreement with the Washington State Department of Transportation (WSDOT), shall provide all services necessary to comply with the requirements of the FHWA and WSDOT for administration of the construction of the NWSA's Federally Funded construction project identified herein, hereinafter identified as the "project". More specifically, the following shall apply:
 - (1) **Project Documentation:** Unless specifically noted otherwise, the CITY shall maintain original copies of all project documentation in the CITY's project files. Duplicate copies shall be transmitted to the NWSA's project manager as indicated below. After the project has been completed, and has received Project Management Review if required by WSDOT, all project documentation files maintained by the CITY shall be transferred to the NWSA.
 - (2) **Management Coordination:** The CITY and NWSA shall identify the key management personnel with responsibility for the project.
 - (3) **Work Order and Procurement Review:** The CITY shall perform a detailed review of the Work Orders and any required procurements for the project to ensure compliance with the requirements of FHWA and WSDOT. Any discrepancies shall be provided in writing to NWSA for resolution.
 - (4) **Construction Authorization:** The CITY will transmit a request for Construction Authorization to WSDOT NW Region Local Programs along with the required number of copies of the project Work Orders. A copy of this request will be transmitted to the NWSA.
 - (5) **Minority/Disadvantaged Business Enterprises Compliance:** The CITY shall provide documentation of compliance with any Minority or Disadvantaged Business Enterprise requirements established by WSDOT for the project.
 - (6) **Materials Control and Contract Documentation:** The CITY shall be responsible for preparing and maintaining all necessary reports, documents, records and estimates in accordance with the requirements of WSDOT as set forth in the WSDOT Construction Manual as modified by the LAG Manual, and shall perform all required quality control inspection and administrative tasks necessary to comply with WSDOT and FHWA requirements.
 - (7) **Project Completion:** Upon a finding by the CITY that the work is physically complete, the CITY shall notify WSDOT Local Programs and arrange for final

inspection by the Regional Engineer. The NWSA shall be notified of the date of the final inspection and be invited to attend.

- (8) **Project Management Review:** If selected by WSDOT for Project Management Review, the CITY shall provide representation and the project records for the WSDOT Area Engineer's review. Any deficiencies in the project records identified by the review shall be corrected by the CITY.

4) PAYMENT

- a) The NWSA, in consideration of the faithful performance of the work performed by the CITY in accordance with this Agreement, shall reimburse the CITY for all costs related to the work, including equipment, staff time, Contractor charges, and licensing, up to a maximum amount of \$585,000 (Five Hundred Eighty-Five Thousand Dollars).
- b) The CITY shall provide a detailed invoice to the NWSA for costs associated with procurement, installation, integration, and software licensing. The invoice shall be provided to the NWSA monthly until completion of the work.
- c) The NWSA shall make payment to the CITY to cover all costs associated with procurement of any necessary components and Units within 30 calendar days from receipt of the invoice. A payment by the NWSA will not constitute agreement as to the appropriateness of any item nor shall a payment by the NWSA relieve the CITY of any other conditions made a part of this Agreement.
- d) In the event unforeseen conditions result in increased costs to the maximum amount of payment authorized by this Agreement and associated with procurement by the CITY of the components or Units, the CITY shall notify the NWSA and the PARTIES agree to negotiate in good faith to increase the maximum amount allowed, or reduce the number of CCTV installed.

5) PROPERTY DISPOSAL

- a) Upon completion of this Agreement the CITY shall receive ownership of the CCTV, communications network infrastructure, and all associated items installed as part of the work, at the completion of installation, to own, operate and maintain the CCTV in perpetuity.
- b) In consideration of receipt of these items, CITY shall bear the costs for operations and maintenance of these units, including any potential future replacement, following the CITY's standard procedures for operations and maintenance of CCTV and communications networks.
- c) The transfer shall comply with the requirements of 2 CFR 200.313 and RCW 43.09.210 and RCW 39.33.010

6) DURATION OF AGREEMENT

This agreement shall terminate upon receipt of final payment by the CITY from the NWSA. However, the CITY understands and agrees that its obligation to operate and maintain the CCTV installed under this agreement will survive this agreement.

7) DISPUTE RESOLUTION

- a) In the event that issues arise that are not addressed in this Agreement, the PARTIES agree to work collaboratively to resolve disputes promptly and at the lowest organizational level.
- b) The contact for each PARTY shall jointly cooperate to informally resolve any disputes as quickly and efficiently as possible. If the issue cannot be resolved at this level, the NWSA's Chief Operations Officer, Service Delivery Operations and the CITY's Traffic Management Director will designate a representative to informally resolve any disputes as quickly and efficiently as possible.
- c) In the event a dispute cannot be resolved between the PARTIES by the manner described in Section 6.2, the dispute shall be resolved in the following manner: Each PARTY shall appoint a member to a dispute board. The members so appointed shall jointly appoint a third member to the dispute board who is not employed by or affiliated in any way with the two PARTIES. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with this process shall be a prerequisite to the filing of any litigation concerning the dispute. The PARTIES shall equally share in the cost of the third dispute board member; however, each PARTY shall be responsible for its own costs and fees. The PARTIES must exhaust this process before either PARTY may file an action in superior court.

8) INDEMNIFICATION

- a) To the maximum extent authorized by law, the CITY and NWSA shall indemnify and hold harmless one another and their employees and/or officers from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages (both to persons and/or property), or costs, of whatsoever kind or nature, brought against the one PARTY arising out of, in connection with, or incident to the other PARTY'S own negligent performance of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of (a) the CITY and (b) the NWSA, their employees and/or officers, or involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the CITY or NWSA, their employees and/or officers; and provided further, that nothing herein shall require the CITY or NWSA to hold harmless or defend the other or its employees and/or officers from any claims arising from that PARTY's sole negligence or that of its employees and/or officers. The terms of this Section shall survive the termination of this Agreement.
- b) The NWSA and the CITY agree that their 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, the PARTIES, by mutual negotiation, hereby waive, with

respect to the other PARTY only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.

c) The provisions of this Section shall survive the termination of this Agreement.

9) AMENDMENT

This Agreement may be amended by the mutual consent of the PARTIES; provided no amendment(s) or modification(s) shall be binding unless put in writing and signed by persons authorized to bind each of the PARTIES.

10) AUDIT AND RECORDS

a) After execution of this Agreement and for a period of not less than six years from the date of final payment to the CITY for its obligations performed under this Agreement, both PARTIES shall maintain the records and accounts and shall make them available for inspection and audit by the other PARTY and/or Federal Government, and copies of all records, accounts, documents or other data pertaining to the obligations contained in this Agreement 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 six-year retention period.

b) Each PARTY shall have full access to and right to examine said records of the other PARTY during normal business hours and as often as it deems necessary, and each PARTY shall pay for all costs of copies requested from the other PARTY.

11) COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall constitute one and the same instrument.

12) NO THIRD PARTY BENEFICIARIES

This Agreement is entered into solely for the mutual benefit of the PARTIES. This Agreement is not entered into with the intent that it shall benefit any other person or entity and no other such person or entity shall be entitled to be treated as a third party beneficiary of this Agreement.

13) NO WAIVER

Neither payment nor performance by a PARTY shall be construed as a waiver of the other PARTY's rights or remedies against the PARTY. Failure to require full and timely performance of any provision at any time shall not waive or reduce the right to insist upon complete and timely performance of such provision thereafter.

14) ENTIRE AGREEMENT

This Agreement shall constitute all terms, conditions, and provisions agreed upon the PARTIES hereto. No modification or amendment of this Agreement shall be valid or effective unless evidenced in writing and signed by both PARTIES.

15) INTERPRETATION

This Agreement is and shall be deemed jointly drafted and written by each of the PARTIES to it, and it shall not be construed or interpreted against any of the PARTIES originating or preparing it.

16) SEVERABILITY

If any provisions of this Agreement are held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and Objectives originally contemplated.

17) MATERIAL REPRESENTATIONS

All promises, representations, statements, or warranties in this Agreement shall be deemed material and shall be deemed to have been relied upon by the PARTIES and shall survive the execution of this Agreement.

18) LAWS AND VENUE

This Agreement shall be interpreted in accordance With the laws of the NWSA of Washington in effect on the date of execution of this Agreement. In the event that either PARTY deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the PARTIES agree that any such action or proceedings shall be brought in the superior court situated in King County, Washington. Further, the PARTIES agree that each shall be responsible for its own attorneys' fees and costs.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the latest Written date below:

CITY OF SEATTLE

NORTHWEST SEAPORT ALLIANCE

By: _____

By: _____

Date: _____

Date: _____

List of Exhibits

Exhibit A: Cost Estimate

Exhibit B: Proposed Camera Locations

Exhibit A – Cost Estimate

Item	Unit	Quantity	Unit Cost	Total Cost	
Mobilization (15%)	LS	1	\$ 32,339	\$ 32,339	SDOT
Minor Changes	LS	1	\$ 25,000	\$ 25,000	SDOT
Permits	LS	0	\$ -	\$ -	SDOT
Uniformed Police Officer	HR	480	\$ 75	\$ 36,000	SDOT
Traffic Control Rental	DAY	60	\$ 88	\$ 5,250	SDOT
Journeyman Electricians (2)	HR	480	\$ 87	\$ 41,861	SDOT
Bucket Truck	DAY	60	\$ 800	\$ 48,000	SDOT
Seattle DoIT Contractor	LS	1	\$ 130,000	\$ 130,000	SDOT
WTI Viper H.264 HD30	EA	15	\$ 5,000	\$ 75,000	SDOT
Corning SPH-01P	EA	2	\$ 70	\$ 140	SDOT
Cisco IE-3300-8T2S-E	EA	2	\$ 2,960	\$ 5,920	SDOT
Cisco PWR-IE50W-AC	EA	2	\$ 470	\$ 940	SDOT
Cisco SD-IE-4GB	EA	2	\$ 360	\$ 720	SDOT
Cisco GLC-FE-100LX-RGD=	EA	4	\$ 440	\$ 1,760	SDOT
Contingency (25%) on above	LS	1	\$ 100,732	\$ 100,732.36	SDOT
Cameleon Licenses	LS	1	\$ 6,000	\$ 6,000	SDOT
SDOT Field Verification/CA/Integration	LS	1	\$ 75,000	\$ 75,000.00	SDOT
NWSA Construction Engineering/Management (25%)	LS	1	\$ 75,000	\$ 75,000.00	NWSA
			Total	\$ 659,662	

Exhibit B – Proposed Camera Locations

CCTV Location Description	No. of Cameras to be Installed	Camera Mounting Location	Preferred Camera Orientation
West Seattle Bridge (Midspan)	1	Existing overhead sign bridge (north side)	North
West Seattle Bridge & SW Spokane St/Delridge Way SW Off-Ramp	1	Existing cantilever sign structure (north side)	North
E Marginal Way S & S Hanford St	1	Existing signal strain pole (SW corner)	East
SW Spokane St Overpass @ Klickitat Ave SW	1	Existing signal mast arm (north side)	East
SW Spokane St & 11th Ave SW	1	Existing signal strain pole (NW corner)	South
W Marginal Way SW & SW Spokane St	1	Existing signal strain pole (NW corner)	Northwest
W Marginal Way SW, south of SW Idaho St	1	Existing signal strain pole, on luminaire arm (east side)	South
1st Ave S, north of S Horton St	2	Existing DMS structure (west side)	North, South
1st Ave S, south of S Spokane St	1	Existing DMS structure (east side)	North
1st Ave S & S Lander St	1	Existing signal strain pole, on luminaire arm (NW corner)	North
4th Ave S & S Lander St	1	Existing signal strain pole, on luminaire arm (NW corner)	South

**INTERLOCAL AGREEMENT
BETWEEN
THE NORTHWEST SEAPORT ALLIANCE
AND
THE CITY OF SEATTLE**

CCTV Cameras Video Image Sharing

This Cooperative Agreement (Agreement) is entered into by the City of Seattle, a municipal corporation (CITY) and the Northwest Seaport Alliance (NWSA), a port development authority, collectively referred to as either the “PARTIES” or individually referred to as the “PARTY”

1) RECITALS

- a) The CITY also owns, maintains and operates CCTV cameras and associated systems, and uses the real-time streaming video images (video images) for the purpose of traffic monitoring, incident and emergency response and monitoring, and public information;
- b) Video images gathered via the CITY CCTV cameras in the vicinity of and approaching NWSA facilities in the Duwamish Manufacturing Industrial Center are an effective means for the NWSA to monitor truck movements and respond to any issues;
- c) NOW, THEREFORE, pursuant to Chapter 39.34 RCW and in consideration of the terms, conditions, covenants, and performances contained herein, or attached as Exhibits and incorporated and made a part hereof, IT IS MUTALLY AGREED AS FOLLOWS:

2) NOTICE

Any notice required to this Agreement shall be in writing. The Designated Representatives for each PARTY are as follows:

For the NWSA: Zack Thomas
Director, Operations Serviced Center
Northwest Seaport Alliance
1 Sitcum Plaza
Tacoma, WA 98421
ZThomas@nwseaportalliance.com

For the CITY: Jason Cambridge
Transportation Operations Center/Intelligent Transportation Systems
Program Manager
Seattle Department of Transportation
PO Box 34996
Seattle, WA 98124-4996
Jason.Cambridge@seattle.gov

3) STATEMENT OF WORK

a) NWSA shall:

- i) Select CCTV camera locations where real-time video images from CITY CCTV cameras will be effective for the purpose of monitoring truck movements related to their facility operations.
- ii) Provide all equipment, hardware, software and labor required for implementation, operations and maintenance to ingest the video images to be supplied by the CITY and to display them in a manner that meets NWSA's own operational needs.
- iii) This work shall be provided at no cost to the CITY.

b) CITY shall:

- i) Supply NWSA with the web address via URL (Uniform Resource Locator) of each NWSA-identified desired CCTV camera video image. If additional CITY-owned and managed CCTV cameras of interest to the NWSA are added in the future, NWSA may request, and CITY shall provide, these URLs as well.
- ii) This work shall be provided at no cost to the NWSA.

4) TERMS OF USE OF VIDEO IMAGES

- i) No guarantee by CITY of continuous availability or quality of video images. NWSA understands and agrees that the video images supplied by CITY may not be continuously available, and may suffer from image quality degradation. CITY agrees to provide a good faith effort to maintain the video images. NWSA also acknowledges and understands that CCTV cameras may be permanently removed or relocated by CITY in the future. CITY will not notify NWSA of outages, removals or relocations. However, NWSA may contact the CITY to report outages and request information on time to restore video images.
- ii) Video image orientation. CITY shall orient the CCTV cameras to provide video images to support CITY's operations needs. Preset orientations shall be implemented by CITY. Such presets will be identified based first on the CITY's needs (primary preset), and second on the NWSA needs (secondary preset). If the CITY does not have a primary need for the video image to support their operations, the NWSA needs shall be the basis to create the primary preset orientation. NWSA may contact the CITY to request temporary reorientation of the CCTV cameras at any time. CITY shall comply with such requests in a timely manner, if other CITY needs do not prevent such reorientation, and if the request complies with CITY standards and policies for camera orientation.
- iii) Privacy. NWSA and CITY agree that individual's rights to privacy shall be protected. The CITY must comply with CITY Ordinance 125679 (Title: AN ORDINANCE relating to surveillance technology implementation; amending Ordinance 125376 and Chapter 14.18 of the Seattle Municipal Code), and related policies and standards adopted by CITY for implementation of the Ordinance. NWSA shall comply with the

same requirements as CITY in use of the video images. Specifically, these requirements include, but are not limited to:

- (1) NWSA shall not record any video images supplied by CITY via this Agreement.
- (2) NWSA shall not implement or apply any additional video image processing software or systems, including combining the CITY-provided video images with any other data or video, to the CITY-provided video images.

Breach of these privacy terms and conditions shall be cause for CITY to immediately remove all access by NWSA to the video images.

- iv) Third-party use of video images. NWSA may post the video images to an NWSA-sponsored web site for public use. No other third-party use shall be allowed without mutual agreement.

5) DURATION OF AGREEMENT

This agreement shall not terminate, except upon mutual agreement.

6) DISPUTE RESOLUTION

- a) In the event that issues arise that are not addressed in this Agreement, the PARTIES agree to work collaboratively to resolve disputes promptly and at the lowest organizational level.
- b) The contact for each PARTY shall jointly cooperate to informally resolve any disputes as quickly and efficiently as possible. If the issue cannot be resolved at this level, the NWSA's Operations Service Center Director and the CITY'S Traffic Operations Division Director will designate a representative to informally resolve any disputes as quickly and efficiently as possible.
- c) In the event a dispute cannot be resolved between the PARTIES by the manner described in Section 6.2, the dispute shall be resolved in the following manner: Each PARTY shall appoint a member to a dispute board. The members so appointed shall jointly appoint a third member to the dispute board who is not employed by or affiliated in any way with the two PARTIES. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with this process shall be a prerequisite to the filing of any litigation concerning the dispute. The PARTIES shall equally share in the cost of the third dispute board member; however, each PARTY shall be responsible for its own costs and fees. The PARTIES must exhaust this process before either PARTY may file an action in superior court.

7) INDEMNIFICATION

- a) To the maximum extent authorized by law, the CITY and NWSA shall indemnify and hold harmless one another and their employees and/or officers from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages (both to persons and/or property), or costs, of whatsoever kind or nature, brought against the one PARTY arising out of, in connection with, or incident to the other PARTY'S own negligent performance of this Agreement; provided, however,

that if such claims are caused by or result from the concurrent negligence of (a) the CITY and (b) the NWSA, their employees and/or officers, or involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the CITY or NWSA, their employees and/or officers; and provided further, that nothing herein shall require the CITY or NWSA to hold harmless or defend the other or its employees and/or officers from any claims arising from that PARTY's sole negligence or that of its employees and/or officers. The terms of this Section shall survive the termination of this Agreement.

b) The NWSA and the CITY agree that their 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, the PARTIES, by mutual negotiation, hereby waive, with respect to the other PARTY only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.

c) The provisions of this Section shall survive the termination of this Agreement.

8) AMENDMENT

This Agreement may be amended by the mutual consent of the PARTIES; provided no amendment(s) or modification(s) shall be binding unless put in writing and signed by persons authorized to bind each of the PARTIES.

9) COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall constitute one and the same instrument.

10) NO THIRD PARTY BENEFICIARIES

This Agreement is entered into solely for the mutual benefit of the PARTIES. This Agreement is not entered into with the intent that it shall benefit any other person or entity and no other such person or entity shall be entitled to be treated as a third party beneficiary of this Agreement.

11) NO WAIVER

Neither payment nor performance by a PARTY shall be construed as a waiver of the other PARTY's rights or remedies against the PARTY. Failure to require full and timely performance of any provision at any time shall not waive or reduce the right to insist upon complete and timely performance of such provision thereafter.

12) ENTIRE AGREEMENT

This Agreement shall constitute all terms, conditions, and provisions agreed upon the PARTIES hereto. No modification or amendment of this Agreement shall be valid or effective unless evidenced in writing and signed by both PARTIES.

13) INTERPRETATION

This Agreement is and shall be deemed jointly drafted and written by each of the PARTIES to it, and it shall not be construed or interpreted against any of the PARTIES originating or preparing it.

14) SEVERABILITY

If any provisions of this Agreement are held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and Objectives originally contemplated.

15) MATERIAL REPRESENTATIONS

All promises, representations, statements, or warranties in this Agreement shall be deemed material and shall be deemed to have been relied upon by the PARTIES and shall survive the execution of this Agreement.

16) LAWS AND VENUE

This Agreement shall be interpreted in accordance With the laws of the NWSA of Washington in effect on the date of execution of this Agreement. In the event that either PARTY deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the PARTIES agree that any such action or proceedings shall be brought in the superior court situated in King County, Washington. Further, the PARTIES agree that each shall be responsible for its own attorneys' fees and costs.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Agreement as of the latest Written date below:

CITY OF SEATTLE

NORTHWEST SEAPORT ALLIANCE

By: _____

By: _____

Date: _____

Date: _____



Item No.: 5A Supp
Date of Meeting: November 5, 2019

Agency Agreements Required for use of a Federal CMAQ Grant

Presenter: Zack Thomas
Director, Operations Service Center

Action Requested

Request authorization for the NWSA CEO, or his delegate, to enter into three (3) agency agreements necessary to use Federal Congestion Mitigation and Air Quality (CMAQ) grant funds:

1. Local Agency Agreement with WSDOT to administer CMAQ grant funds on behalf of the Federal Highway Administration (FHWA)
2. Interlocal Agreement (ILA) with Seattle Department of Transportation (SDOT) for the purchase, installation, maintenance and replacement of fourteen (14) Closed-Circuit Television (CCTV) cameras
3. ILA with SDOT detailing the approach to sharing CCTV images and data, and to ensure that use of the images provided by SDOT complies with the City of Seattle's privacy rules

Strategic Business Plan

Goal 1.B of the NWSA's strategic business plan:

“Enhance the competitive position of the NWSA through improving efficiency and cost competitiveness of the supply chain”

Task II.A of the 2019 CEO goals and expectations:

“Establish intelligent transportation systems (ITS) and strategic plans with WSDOT/SDOT/TDOT/King and Pierce Counties for electronic monitoring and infrastructure and systems outside the port complex. This will be integrated into the Port's Community Portal”

Benefits

The project will support the business plan goal by providing real-time information to the trucking community, the Operations Service Center, and SDOT's Traffic Management Center, enabling:

- The trucking community to make more informed routing decisions
- SDOT to make real time adjustments to traffic signals and Variable Message Signs in the North Harbor
- The NWSA Operations Service Center to improve North Harbor operations

Scope of Work

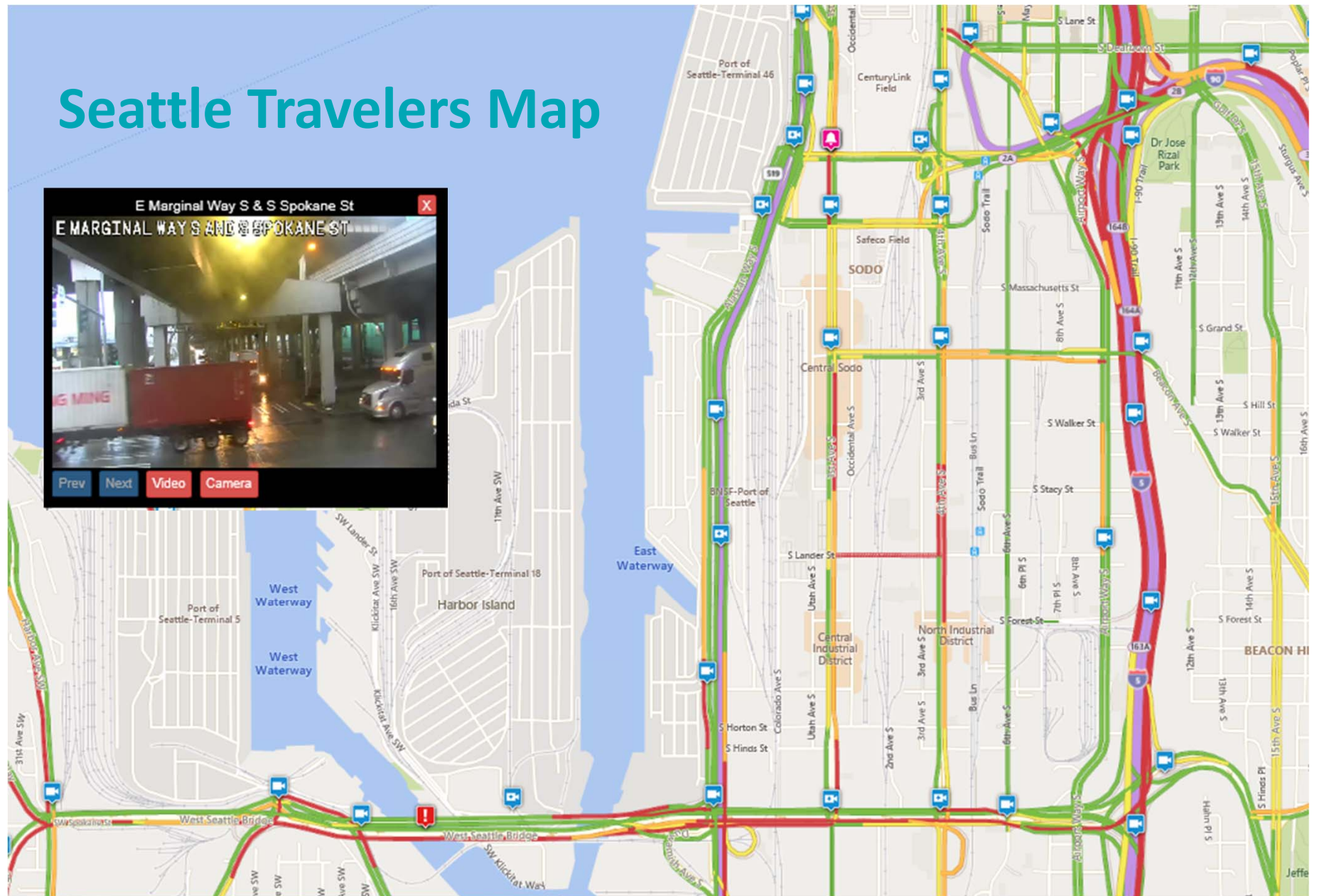
SDOT, our partner, will be responsible for carrying out the work:

- Procuring the CCTV cameras (through a federally compliant program, providing significant cost savings)
- Installing the CCTV hardware and necessary communications infrastructure in its right-of-way
- Purchasing the software licenses necessary to manage the data
- Linking CCTV data feeds to their Traffic Management System
- Share the CCTV data feeds with WSDOT, the public at large, and NWSA's Operations Service Center

CCTV Camera Locations



Seattle Travelers Map



Project Schedule

Task	Schedule
Finalize and sign LAA and ILAs	December 15, 2019
CMAQ Funds Obligation	December 31, 2019
SDOT Communications Infrastructure Plan	February 28, 2020
SDOT Communications Infrastructure Installation	May 31, 2020
CCTV Hardware & Link Communications Installation	July 31, 2020
Integration into SDOT's Traffic Management Center	August 31, 2020
Integration into NWSA's Operations Service Center	September 31, 2020
SDOT Contract Completion	May 31, 2023

Action Requested

Request authorization for the NWSA CEO, or his delegate, to enter into three (3) agency agreements necessary to use Federal Congestion Mitigation and Air Quality (CMAQ) grant funds:

1. Local Agency Agreement with WSDOT to administer CMAQ grant funds on behalf of the Federal Highway Administration (FHWA)
2. Interlocal Agreement (ILA) with Seattle Department of Transportation (SDOT) for the purchase, installation, maintenance and replacement of fourteen (14) Closed-Circuit Television (CCTV) cameras
3. ILA with SDOT detailing the approach to sharing CCTV images and data, and to ensure that use of the images provided by SDOT complies with the City of Seattle's privacy rules

