

Interlocal Agreement

Sequim Multi-use Transportation Center

This Agreement is entered into by and between the City of Sequim (City) and Clallam Transit System (CTS) herein jointly referred to as the "the Parties" to facilitate development of the Sequim Multi-use Transportation Center (herein referred to as the "Project"). This Agreement is for Phase II of the project and shall cover the final design, right-of-way acquisition, and construction portions of the project development. The parties make and enter into this Agreement effective the 19th day of December, 2001, for the purposes and under the terms contained herein.

Recitals

Whereas, the parties recognize the need to provide a transportation center to improve the coordination of multiple modes or methods of transportation thereby providing for improved access to public transportation, economic development, improved traffic safety and efficiency; and

Whereas, Phase I of the project, which included site selection, historical building inventory, preliminary engineering, cost estimates, and environmental assessment is complete, and

Whereas, the City has received a grant of \$.5 million from the Transportation Improvement Board (TIB) to assist in the development of the Project; and

Whereas, CTS has received an earmark for two grants totaling \$1.5 million from the United States Department of Transportation's Federal Transportation Administration (USDOT-FTA) to assist in the development of the Project.

Whereas, the parties have committed to the making of the local match necessary for the grants; and

Whereas, both grants were awarded based on multi-agency cooperation; and

Whereas, the Parties are willing and qualified to jointly manage the development of this Project; and

Whereas, the Parties are authorized and empowered to enter into this Agreement pursuant to Chapter 39.34 RCW.

Agreements

Now, therefore, in consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

1. **RESPONSIBILITY AND AUTHORITY OF THE CITY:** The City is the lead agency for the TIB funding of the Project. The City shall have the authority to act on behalf of CTS provided that the final decisions regarding planning, site location, engineering, cost estimates, environmental compliance, right-of-way acquisition, design, and construction are made by consensus of the parties. The Parties agree to the use and spirit of a collaborative and cooperative decision making process throughout the project period. CTS does not waive any rights it may have as a landowner, an occupier or an operator of transportation systems affected by the project in the course of permitting or construction of the Project. The City agrees to consider the needs and desires of CTS in making decisions with regard to the delegated responsibilities.
2. **RESPONSIBILITY AND AUTHORITY OF CTS:** CTS is the lead agency for the USDOT-FTA funding of the Project. CTS shall have the authority to act on behalf of the City provided that the final decisions regarding planning, site location, engineering, cost estimates, environmental compliance, right-of-way acquisition, design, and construction are made by consensus of the parties. The Parties agree to the use and spirit of a collaborative and cooperative decision making process throughout the project period. The City does not waive any rights it may have as a landowner, an occupier or an operator of transportation systems affected by the project in the course of permitting or construction thereof. CTS agrees to consider the needs and desires of the City in making decisions with regard to the delegated responsibilities.
3. **PROJECT MANAGEMENT:** The Parties agree to manage the various phases of the Project to accommodate the procedures consistent with appropriate sections of the "Local Agency Guidelines" developed by the Washington State Department of Transportation for the administration of highway improvement projects, and the procedures consistent with the appropriate sections of the "Project and Construction Management Guidelines 1996 Update" developed by the USDOT-FTA. If there is a conflict between the two aforementioned documents the Parties will consult with the two granting agencies to resolve the conflict.
4. **PROJECT DESIGN:** The design of the Project shall be consistent with current TIB and USDOT-FTA design standards and the Parties' Comprehensive Plans. The Parties shall mutually approve the project at the completion of the pre-engineering, preliminary design, value engineering, and final design stages.
5. **COST-SHARING CONTRIBUTIONS:** The parties agree that CTS will be responsible for 80 percent of the project costs up to the total amount of federal earmark available for the project. The City will be responsible for 20 percent of the project costs.

If additional funds are needed both parties agree to attempt to obtain more grant funding from available sources. In no case is either party obligated to provide funds beyond the terms of this agreement.

6. FORM OF LOCAL MATCH:

- 6.1 The parties have not agreed to the source of the local match for the grants described in this agreement. Either party may make a necessary local match in a form that is acceptable to the granting authority, which forms are assumed to include in-kind labor or services, previous construction, or right-of-way property donation. If possible, portions of the different grants themselves will be used as matching funds.

6.2 The parties agree that contributions to the local match shall be memorialized between them by amendment to this agreement.

6.3 The parties also agree, whether or not either makes a local match, that each will facilitate the making, by any party, of a local match sufficient to satisfy the funding and contractual responsibilities of any grant received for the project, and will execute any documents necessary to make such local match contribution available to satisfy the grant conditions.

7. **METHOD OF PAYMENT:** CTS agrees to manage the project using its accounting system and collect the financial data in a format to meet the needs for reporting to both the TIB and the USDOT-FTA. CTS will bill the City for the City's portion of the project costs. CTS agrees to bill the City at least quarterly and provide available information as needed.

8. **REVIEW COMMITTEE:** A committee has been appointed to review the progress of the Project; advise and make recommendations on design, functions and scope of the Project; and to hold public meetings to solicit public input and increase public awareness and understanding of the project. The committee is made up of two representatives from the Sequim community at-large, two elected officials from the City, and two elected officials from CTS.

The Project Managers are the City's City Manager, or his/her designee and CTS's General Manager, or his/her designee, and they serve as co-managers and as ex-officio members of the committee.

9. **PROJECT OWNERSHIP AND MAINTENANCE:** At the time final design is completed and prior to authorization for construction bidding, the parties shall negotiate an operating agreement that will detail the responsibilities of the parties in operating the facility, maintaining the facility, leasing the facility, collecting and accounting for funds, ownership of the facility, and architectural control of the facility.

In the event that the parties are unable to reach agreement upon and execute such operating agreement, then the matter shall be settled through arbitration with each party selecting one arbitrator and the two arbitrators selecting a third arbitrator. The arbitration shall be binding. If the third arbitrator cannot be agreed upon by the two parties' arbitrators, the Superior Court Judge shall select the third arbitrator.

CTS understands that the City is contributing a building to the project and understands that the City has utilized the building for City Council and other City and community meetings and wishes to continue using the building for the same uses in the future. In the event that CTS assumes ownership of the building pursuant to the terms of this agreement, CTS agrees to negotiate and enter into a lease of the building to the City so that City may continue to use the building for its functions. Such lease shall be for a term of ninety-nine (99) years, shall be renewable upon good faith negotiations of the parties, and shall be for a nominal lease fee; provided that the City shall be responsible for payment of all costs associated with its use of the building under such lease.

10. **INDEMNIFICATION:**

A. The City agrees to defend, indemnify and hold harmless CTS and its appointed and elected officers and employees from and against any and all liability, loss, cost,

damage, and expenses, including costs and attorney's fees in defense thereof, because of actions, claims or lawsuits for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained or alleged to have been sustained by any person or persons, and on account of damage to property, including loss of use thereof, asserted or arising or alleged to have arisen directly or indirectly out of or in consequence of the City or its employees' performance of this Agreement or the negligence or willful acts of the City or its employees.

B. CTS agrees to defend, indemnify and hold harmless the City and its appointed and elected officers and employees from and against any and all liability, loss, cost, damage, and expenses, including costs and attorney fees in defense thereof, because of actions, claims or lawsuits for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained or alleged to have been sustained by any person or persons, and on account of damage to property, including loss of use thereof, asserted or arising or alleged to have arisen directly or indirectly out of or in consequence of CTS or its employees' performance of this Agreement or the negligence or willful acts of CTS or its employees.

11. **RISK OF LOSS ON TERMINATION OF PROJECT:** In the event that the project is terminated at any time prior to completion and, as a consequence of the termination, either party to this agreement is required to repay grant monies received and expended to either the TIB or the USDOT-FTA, the parties agree to share the responsibility for repayment as follows:

A. If the termination is a result of the unilateral action of one of the parties to this agreement, then the party causing such termination shall be responsible for repayment of all funds that must be reimbursed, regardless of whether such funds were initially received by the non-terminating agency.

B. In all other instances of termination, the parties shall make repayment *pro rata*, based upon the amount of grant funds received and expended by each party prior to termination.

12. **DURATION OF AGREEMENT:** This Agreement, unless otherwise amended, shall remain in effect until the completion of the Project, which shall be final acceptance of construction, plus the settlement of all claims by the City and CTS.

13. **AMENDMENTS OR MODIFICATIONS:** No amendment to this Agreement shall be effective unless approved and executed by the Parties in writing.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate by the subjoined signatures of their duly authorized officials.

CLALLAM TRANSIT SYSTEM

CITY OF SEQUIM

By: _____

General Manager

By: _____

City Manager