

Linda Anderson
 Finance Dept
 676-6900
 X269.



COB's Document
 eRouter

2002-0335

RECEIVED

Tracking Number: KLMR-5CANFV

Type:

Department:

Title:

JUL 25 2002
 PETE KREMER
 COUNTY ENGINEER

Comments / Special Instructions:

There are TWO ORIGINALS - please sign both. When signatures are complete, one is retained by the City, one is retained by Whatcom County. PLEASE SEND A COPY to Kerry in Legal when signatures are complete.

Routing List:

You are an Administrator of the approval process

Document eRouter: In Process

Approvers	Title	Assigned	Notified	Received	Status Changed	Status
Kerry L Messer	Legal Administrative Assistant	07/22/2002	07/22/2002	-	-	-
Cynthia A Bentley	Executive Receptionist -	-	-	-	-	-
Marc L Hagen	Temporary Extra-Labor Office Assistant I/PT	-	-	-	-	-

7/22/02

Approval Cycle Settings

- Approval conditions: 100 % approval
- Routing method: Serial (one at a time)
- Approvers: Grp_eRouter
- Allow Approver comments: Yes
- Automatically Delegate to Assistant...: Yes
- Automatically Skip Approvers...: Yes
- Days until skipped/delegated: 30 Days
- Days until skipped/delegated: 30 Days

Notification
 Access

Approval Cycle by Workflo Systems Inc.

7/25/02 Rec'd Fin
 7/25/02 Returned for notation of Pete Kremer
 8/1/02 Rec'd Finance
 8/2/02 notes / ITSD / scan

2002-0335

WHATCOM COUNTY
CONTRACT NO.
200207026

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF BELLINGHAM AND
WHATCOM COUNTY REGARDING THE CREATION AND JOINT OPERATION
OF A PUBLIC FACILITIES DISTRICT FOR A REGIONAL CENTER**

THIS INTERLOCAL AGREEMENT is made and entered into this day by and between the CITY OF BELLINGHAM, ("CITY") and WHATCOM COUNTY, ("COUNTY"), political subdivisions of the State of Washington, pursuant to the Interlocal Cooperation Act, RCW 39.34.

RECITALS

WHEREAS, Chapter 35.57 RCW as amended by Chapter 363, Laws of 2002, authorizes the City and County to enter into an interlocal agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district ("District") to facilitate the construction and operation of a regional center; and

WHEREAS, the City of Bellingham and Whatcom County wish to consider constructing a regional center to be located in the City of Bellingham, and recognize the public benefit to be derived from the construction and joint operation of such a regional center; and

WHEREAS, the legislative bodies of the City and County have by ordinance created a Public Facilities District; and

WHEREAS, in conjunction with the operation of the Public Facilities District, it is desirable that the roles and responsibilities of the City and County be set forth in an interlocal agreement; and

WHEREAS, the City and County agree that effective operation of the District requires that one entity have responsibility for the oversight and management of the public facilities, and to that end the parties agree that the City shall contract with the Public Facilities District for the operation and management of the facilities as provided in RCW 35.57.020 (4);

NOW, THEREFORE, it is agreed by and between the parties as follows:

1. PURPOSE. The purpose of this agreement is to provide for the operation of a joint Public Facilities District to facilitate the commencement of construction of a new regional center as defined in RCW 35.57.020, or improvement or rehabilitation of an existing regional center, on or before January 1, 2004, in order to utilize the sales and use tax as provided in RCW 82.14.390.

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

2. **LOCATION.** The parties agree that regional center will be in the City of Bellingham. It is further intended that the project, to the extent feasible, be consistent with Whatcom County's Civic Center Master Plan and may include a parking component.

3. **APPOINTMENT OF DISTRICT BOARD.** The legislative authorities of the City of Bellingham and of Whatcom County will appoint seven (7) of the District Board of Directors ("Board") as provided in RCW 35.57.010 (3) (c). Board members will be jointly nominated by the Mayor and County Executive and approved by a majority vote of both legislative authorities. No board members may be members of their respective legislative authorities. Board members shall be appointed on or before July 31, 2002.

4. **CITY RESPONSIBILITIES.** It is agreed between the parties that the City will enter into an interlocal agreement with the Public Facilities District as provided in RCW 35.57.020(4). This agreement shall provide that the City will be responsible for the design, development, construction, improvement, or rehabilitation, and operation and maintenance of the regional center. The responsibilities of the City may include, but are not limited to, the following:

(a) Subject to reimbursement, the City may provide interim financing, and necessary and reasonable support services to the District, including but not limited to legal, accounting, and other staff services.

(b) Advertise, select, and enter into agreements with contractors for the design, development, and construction of the regional center.

(c) Oversee and make all decisions relative to the design, development, and construction of the regional center.

(d) Manage and administrate the contracts relative to the design, development, and construction of the regional center which development may include a public/private partnership.

(e) Establish an enterprise fund to account for the revenues and expenses of the Public Facilities District.

(f) Enter into an exclusive long-term agreement with the District to operate the regional center.

(g) Upon dissolution of the District, City will obtain title to the regional center inclusive of real property, buildings, fixtures, furnishings, appurtenances, and improvements.

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(h) Provide the 33 percent local match as required by RCW 82.14.390 (4) with respect to the sales and use tax levied and received by the PFD from both the City and the County.

The discharge of these responsibilities shall be exercised in consultation and collaboration with the County.

5. COUNTY RESPONSIBILITIES. The parties agree that the County shall be responsible for working with the City in good faith toward the appointment, and reappointment as required, of the District Board members as provided by ordinance and this interlocal agreement. The County shall also consult and collaborate with the City regarding implementation of the Public Facilities District. It is intended by the parties that the County have no other responsibilities to be performed under this agreement except as may be necessary to facilitate the payment, to the benefit of the District, of the County portion of the sales and use tax authorized pursuant to RCW 82.14.390.

6. DISTRICT RESPONSIBILITIES. It is intended that the Public Facilities District will enter into an interlocal agreement with the City as provided in Section 4. The parties intend that the District will assist in financing the regional center project including land acquisition, development, design, construction, remodel, maintenance and operation by imposing a state sales and use tax credit of 0.033 percent within the District, as well as imposing the charges, fees, and taxes authorized by RCW 35.57.040. It is further intended that the District, in consideration for Bellingham's agreement to use these funds for the design, development, and operation of the regional center in the City of Bellingham, shall pay its revenues collected and received that are generated from the state sales and use tax and admission and parking fees to Bellingham for deposit into an enterprise fund to service any potential debt that may be issued by the City for the design and construction of the regional center, as well as for the payment of management and operating expenses of the District and its facilities.

7. EFFECTIVE DATE AND TERM. The agreement shall be effective immediately upon final passage of ordinances creating the District by the City and County and signature by the parties. The agreement shall continue in full force and effect until such time as any bonds that may be issued by the City for financing of the regional center are fully paid and redeemed and the District is lawfully and fully dissolved.

8. ADMINISTRATION. For purposes of communicating between the City, and the County, and administering their cooperative undertakings under this agreement the City representative shall be Mayor's Deputy Administrator with a copy to the City Legal Department, and the County representative will be County Executive's Deputy Administrator with a copy to the Prosecuting Attorney.

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9. AMENDMENTS. This agreement may be amended at any time by the mutual written agreement of the City and the County.

10. DISPUTE RESOLUTION. The parties agree to negotiate in good faith towards the resolution of any disputes arising under this agreement. The designated representatives shall first meet to see if the matter can be informally resolved. The parties agree that if the matter cannot be informally resolved that mediation shall be a condition precedent to any litigation. The parties agree to share equally in the cost of mediation. In the event that mediation is unsuccessful and litigation ensues, the prevailing party shall be entitled to be reimbursed its reasonable attorney fees and costs and expenses. The venue for any dispute related to this agreement shall be Whatcom County, Washington.

11. FILING. A copy of this agreement shall be filed with the Whatcom County Auditor as provided in RCW 39.34.040; provided, however, that failure to file shall not affect the validity of this Agreement.

12. INDEMNITY AND HOLD HARMLESS. The City shall defend, indemnify, and hold the County and its respective elected officials, officers, employees, and agents harmless from all claims arising directly or indirectly from the planning, permitting, construction, operation, and maintenance of the regional center, except for claims arising from the sole negligence of the County. In the case of concurrent negligence of the City and County each party shall hold the other party harmless from their proportionate share of the resulting damages.

13. GENERAL PROVISIONS

13.1 The waiver by one party of the performance of any covenant or condition under this Agreement shall not invalidate this Agreement, shall not be considered a continuing waiver nor shall it be considered a waiver of any other covenant or condition under this Agreement.

13.2 Any provision of this Agreement which is declared invalid or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

13.3 Each party has received independent legal advice from its attorneys with respect to negotiating this Agreement, the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions contained herein shall be construed as to their fair meaning and not for or against any party based upon any attribution to such party as the source of the language in question.

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13.4 This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein and supersedes all prior agreements, representations, and understandings of the parties.

IN WITNESS WHEREOF, the parties have signed this agreement on the dates executed below.

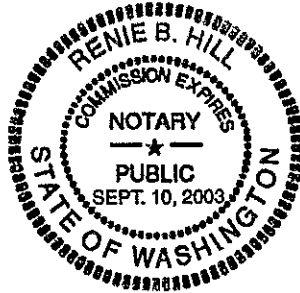
EXECUTED THIS 22nd day of July, 2002.

CITY OF BELLINGHAM

Mark Asmundson
Mayor

STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

On this 22nd day of July, 2002, before me personally appeared Mark Asmundson, Mayor, to me known to be the person individually or jointly described in and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Renie B Hill
NOTARY PUBLIC in and for the State
of Washington, residing at Bellingham
May commission expires: 10 Sept 2003

Attest:

Theresa Hohn
Finance Director

Approved as to form:

Dea G. Prandy
Office of the City Attorney

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210 Lottie Street
Bellingham, Washington 98225
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EXECUTED this 31st day of July, 2002.

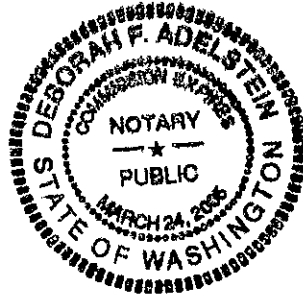
WHATCOM COUNTY



Pete Kremen
County Executive

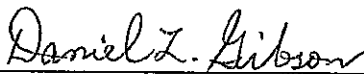
STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.

ON this 31 day of July, 2002, before me personally appeared Pete Kremen, to me known to be the person individually or jointly described in and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



NOTARY PUBLIC in and for the State
of Washington, residing at Bellingham
My commission expires: 3/24/05

Approved as to form:



Daniel L. Gibson
Sr. Civil Deputy Prosecuting Attorney

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