

**INTERLOCAL AGREEMENT
BETWEEN THE SPOKANE TRANSIT AUTHORITY AND THE CITY OF SPOKANE
FOR PROPERTY ACQUISITION, OWNERSHIP, PERMITTING AND OPERATION
OF BUS RAPID TRANSIT STATIONS AND RELATED FACILITIES
FOR THE CENTRAL CITY LINE PROJECT ("AGREEMENT")**

This Interlocal Agreement ("Agreement"), made and entered into this ___ day of August, 2019, by and between the Spokane Transit Authority ("STA") and the City of Spokane, (the "City"), each a municipal corporation of the State of Washington, hereinafter sets forth a common agreement concerning the Central City Line Project's ("Project") bus rapid transit ("BRT") stations ("Stations") component, a cooperative effort as authorized by Chapter 39.34 RCW.

RECITALS

WHEREAS, STA plans to install Stations as part of the Project, as required by the Federal Transit Administration ("FTA") under the federal definition of a Small Starts BRT project; and

WHEREAS, STA and the City have collaborated on Stations requirements, permitting and expectations for Station operations as part of BRT on the Central City Line Corridor ("Corridor"); and

WHEREAS, in 2019, STA is executing an FTA Small Starts Grant for full funding and implementation of the Project; and

WHEREAS, the Parties mutually agree to carry out Stations along the Central City Line Corridor, subject to specific tasks, responsibilities, designs, and long-term objectives for the Stations Project contained in this Agreement; and

NOW, THEREFORE, pursuant to RCW 39.34 RCW and in consideration of the terms, conditions, covenants, and performances contained herein, as well as the attached Exhibits which are incorporated and made a part hereof, the parties agree as follows:

ARTICLE I

RECITALS ADOPTED. The recitals set forth above are hereby adopted as the factual basis for this Agreement.

ARTICLE II

PURPOSE. The Parties mutually agree to interpret and implement this Agreement for the purpose of and consistent with the following long-term objectives of Stations to:

1. Help reduce transit travel time and increase on-time trip performance along the Central City Line corridor between the Browne's Addition neighborhood and Spokane Community College.

2. Attract, together with other transit enhancements, more riders to transit, thus reducing the number of vehicles using the corridor, in turn reducing traffic congestion and pavement wear-and-tear due to vehicular traffic.
3. Produce a system of Stations at selected and defined locations (see Exhibit A) between Browne's Addition and Spokane Community College through Downtown Spokane, the University District and Gonzaga University.
4. Purchase property rights of way ("ROW") for such Stations.
5. Obtain City permits for such Stations in order to operate such Stations in perpetuity.

ARTICLE III DEFINITIONS

Agreement means this document and all Exhibits attached and subsequent amendments hereto.

Continuing Control means the conditions of the FTA Small Starts Grant that require that the Stations be used specifically for Station purposes on the Corridor and maintained in a state of good repair.

Corridor means the surface street route between Browne's Addition and Spokane Community College through Downtown Spokane, the University District and Gonzaga University.

Project means the Central City Line Project, a six-mile bus route between Browne's Addition and Spokane Community College, with construction beginning in 2020 and completion expected by late spring 2022.

Station or Stations means the component of the Project regarding the acquisition by the Parties of rights of way, transfer of rights of way and maintenance responsibilities, permitting and operation of Stations to serve the Project.

ARTICLE IV TERMS

A. RESPONSIBILITY OF BOTH STA AND THE CITY

1. Grant to Use City Right-of-Way: Pursuant to RCW 36.57A.110, the City acknowledges and affirms STA's permanent, non-exclusive right and authority to use the City's rights-of-way for the Project. This Agreement is intended to satisfy FTA requirements for continuing control and has been reviewed and approved by the FTA.
2. Maintenance: STA shall be responsible for maintenance at each Station location, including the sidewalk if it is part of the transit fare zone (that is, part of the Station platform).

B. RESPONSIBILITY OF STA TO THE CITY

1. Rights of Way Provided. STA, as part of the Project, will acquire permanent ROW, along the Corridor pursuant to STA, State of Washington and Federal Transit Administration (“FTA”) acquisition regulations, rules and procedures utilizing federal and state grants for the purpose of constructing, operating, and maintaining Stations. STA shall record and transfer said ROW to the City using the City's deed template. STA shall also acquire and retain ownership of temporary construction easements for the duration of the construction, which will expire upon construction completion, which easements may be recorded at the landowner's request.
2. Ownership Transferred. Upon acquisition of ROW, STA shall deed the ROW to the City using the City's template for such transactions.
3. Station Maintenance and Operation Payment Obligation of STA. STA will be responsible for the maintenance and operation of the Stations as set forth in A.2 above.

C. RESPONSIBILITY OF THE CITY TO STA

1. City Action Upon Transfer of ROW Ownership. The transfer of the ROW deeds by STA, and completion by STA of City requirements for such are expressly conditioned upon the City’s acknowledgement that the ROW acquired for the Project will be used in perpetuity for the Stations unless mutually terminated by STA and City.

D. FINANCIAL PROVISIONS

As set forth in Article IV, Subsection B.1 above, STA agrees to acquire the ROW necessary for the Stations at STA expense using funding as specified above. The City has no financial obligation whatsoever for the acquisition of ROW under this Agreement or otherwise.

E. PROJECT ADMINISTRATION

1. STA has designated Project Manager Don Skillingsstad for the Project. The City has appointed Senior Civil Engineer Mike Nilsson, Senior Engineer of the Department of Public Works as the liaison for the City for these rights-of-way transactions. These individuals shall communicate regularly to discuss the status of tasks and services related to the successful performance of this Agreement.
2. Changes to Project Manager/liason designation(s) shall be communicated between both parties no later than two (2) weeks prior to the change occurring.

F. MANAGEMENT, INVENTORY AND ANNUAL CERTIFICATION

STA shall be responsible for maintaining the record of negotiations as well as the recording of deeds for the Project's Stations component prior to transfer of ownership to the City. The fiscal record keeping shall consist of procuring the necessary ROW, and as necessary,

transferring ownership of the ROW identified in the Project plans and special provisions. The City acknowledges that STA is acquiring ROW with federal grant funds. Transfer of ownership of any ROW shall be in accordance with any FTA requirements.

G. INDEMNIFICATION

1. STA agrees to indemnify, defend, save and hold harmless the City, its officials, employees, and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by STA pursuant to this Agreement.
 - a. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against STA, the City retains the right to participate in said suit if any principle of public law is involved.
 - b. This indemnity and hold harmless shall include any claim made against the City by an employee of STA or subcontractor or agent of STA, even if STA is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of the City. STA specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that STA provide the broadest scope of indemnity permitted by RCW 4.24.115.
2. The City agrees to indemnify, defend, save, and hold harmless STA, its officials, employees, and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees, and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the performance of services by City pursuant to this Agreement.
 - a. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against the City, STA retains the right to participate in said suit if any principle of public law is involved.
 - b. This indemnity and hold harmless shall include any claim made against STA by an employee of the City or subcontractor or agent of the City, even if the City is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of STA. The City specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that the City provide the broadest scope of indemnity permitted by RCW 4.24.115.

G. NON-DISCRIMINATION

The Parties hereto agree that they shall not participate in any discriminatory action against any employee who is paid by funds indicated in this Agreement or against any applicant for such employment because of race, religion, color, sex, marital status, creed, national origin, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap or as otherwise provided by applicable law. This provision shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training.

H. AGREEMENT MODIFICATIONS

It is mutually agreed and understood that no alteration or variation to the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein, shall not be binding.

I. NOTICES

Any written notice that is provided for or given concerning this Agreement may be served on the Party to whom it is intended in person or by sending it by regular mail addressed to such Party as follows:

Spokane Transit Authority	City of Spokane
Karl Otterstrom Director of Planning and Development Spokane Transit Authority 1230 W Boone Ave Spokane, WA 99201 Ph: 509-325-6089	Mike Nilsson, Senior Engineer Development Services Center City of Spokane 808 W. Spokane Falls Blvd. Spokane, WA 99201 Ph: 509-625-6323
With a copy to: Robert West Contract Compliance Specialist Spokane Transit Authority 1230 W. Boone Ave Spokane, WA 99201 Ph: 509-325-6062	

Either Party may change their address by giving written notice of such change to the other Party. Mailed notice shall be deemed received three (3) days after the date of mailing, postage prepaid.

K. DURATION AND TERMINATION

1. This Agreement shall be in perpetuity unless mutually terminated by the Parties or in the event that one of the Parties materially breaches this Agreement.
2. Funding for this Project is provided, in part, from federal and state sources. The terms and conditions of this Agreement are subject to the adherence to Federal and Washington State funding and right-of-way acquisition requirements and continued availability of funding identified for this Project.

L. DISPUTE RESOLUTION PROCESS

1. In the event of any dispute concerning this Agreement, the Project Managers shall confer to resolve the dispute. These individuals shall use their best efforts and exercise good faith to resolve disputes and issues arising out of, or related to this Agreement. In the event the Project Managers are unable to resolve the dispute, the City's Public Works Director and STA's Director of Planning and Development shall confer and exercise good faith to resolve the dispute.
2. In the event the Public Works Director, and STA's Director of Planning and Development are unable to resolve the dispute, STA's Chief Executive Officer and the Mayor shall engage in good faith negotiations to resolve the dispute.
3. Any controversy or claim arising out of or relating to this Agreement or the alleged breach of such Agreement that cannot be resolved by the Chief Executive Officer of STA and the Mayor may be submitted to mediation. If still not resolved, the parties may seek any judicial remedies available in law and equity.
4. The parties agree that they shall have no right to seek relief in a court of law until each of these procedural steps is exhausted and if a statute of limitations or statute of repose may lapse during these procedural steps such statute(s) are deemed tolled until the completion of the above referenced administrative dispute resolution process. In the event relief is sought in a court of law, the parties agree to Spokane County Superior Court as the venue for any legal action, subject to federal jurisdictional and venue requirements.

M. INDEPENDENT CONTRACTOR

STA and the City are and shall at all times be deemed to be independent contractors in the provision of the services set forth in this Agreement. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between either party or between any of their employees. Each party shall retain all authority for provision of services, standards of performance, discipline and control of its personnel, and other matters incident to its performance of services pursuant to this Agreement. Nothing in this Agreement shall make any employee of STA an employee of the City or any employee of the City an employee of STA for any purpose, including but not limited to, for withholding of taxes, payment of benefits, workers' compensation pursuant to Title 51 RCW, or any

other rights or privileges accorded their respective employees by virtue of their employment.

N. NO THIRD PARTY BENEFICIARY

STA does not intend by this Agreement to assume any contractual obligations to anyone other than the City. The City does not intend by this Agreement to assume any contractual obligations to anyone other than STA. STA and City do not intend there be any third-party beneficiary to this Agreement.

O. WAIVER

No waiver by either party of any term or condition of this Agreement incorporated in this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision.

P. INTERLOCAL COOPERATION ACT COMPLIANCE

This is an Agreement entered into pursuant to Chapter 39.34 RCW. Its purpose is as set forth in Article II. Its duration and termination are as specified in Article IV, Section L (Duration). Financial provisions are as described in Article IV, Section D. Transfer of property acquired pursuant to this Agreement is as described in Article IV B and C.

Q. INTEREST OF THE FEDERAL TRANSIT ADMINISTRATION

STA shall acquire properties for the Project in accordance with its Real Estate Acquisition Procedures, which procedures are compliant with the following federal requirements:

- 49 CFR Part 24 as amended January 4, 2005: Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs: Final Rule and Notice (Uniform Act) (attached as Exhibit B).
- FTA Circular 5010.1E, Grant Management Requirements Chapter IV, pertaining to Real Estate Project Management (attached as Exhibit C).
- Applicable statutes regulating environmental aspects of acquisition, such as site inspection, survey of prior owners and uses, etc., include 42 USC Subsections 9601-9675.

R. ENTIRE AGREEMENT

This Agreement contains all of the agreements of the parties with respect to the subject matter covered or mentioned therein, and no prior Agreements shall be effective to the contrary.

S. DOCUMENT EXECUTION AND FILING

The City and STA agree that this Agreement has been approved and executed by the necessary officials of the parties. Upon execution, a copy of this Agreement shall be retained by the City Clerk and the original shall be retained by STA's Clerk of the Authority. The City Clerk and Clerk of the Authority shall each cause a copy of this Agreement to be posted on their official website pursuant to RCW 39.34.040. Upon execution of the originals and posting of a copy on the STA's website, each such duplicate original shall constitute an agreement binding upon all parties.

T. RATIFICATION

Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.

U. SEVERABILITY

If any section or part of this Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

V. COUNTERPART SIGNATURES

This Agreement may be executed in one or more counterparts, each of which shall constitute an original agreement, but all of which together shall constitute one and the same instrument

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year set forth below their signatures.

SPOKANE TRANSIT AUTHORITY

CITY OF SPOKANE

E. Susan Meyer

David A. Condon

By: E. Susan Meyer

By: David A. Condon

Title: Chief Executive Officer

Title: Mayer

Date: 8.22.19

Date: 9/30/19

Attest:

Attest [Approved as to Form]:

Dana Infalt

Lauri Farnsworth

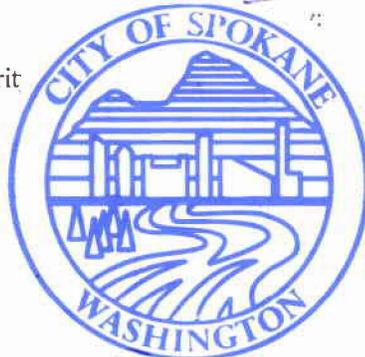
By: Dana Infalt

Acty city clerk

Title: Clerk of the Authority

Acty city clerk

Approved as to form:
[Signature]
August 22, 2019
Assistant City Attorney



ATTACHMENTS:

Exhibit A: Depiction of Station locations

Exhibit B: 49 CFR Part 24 as amended January 4, 2005: Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs: Final Rule and Notice (Uniform Act); located at:

<https://www.govinfo.gov/content/pkg/FR-2005-01-04/pdf/05-6.pdf>

Exhibit C: FTA Circular 5010.1E, Grant Management Requirements Chapter IV, pertaining to Real Estate Project Management; located at:

<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/fta-circulars/58051/5010-1e-circular-award-management-requirements-7-16-18.pdf>

EXHIBIT A
STATION LOCATIONS

Station #:	Direction:	On-Street:	Intersection:	Cross-Street:
1	SB	South Cannon Street	NS	West 4th Avenue
LAY	NB	South Spruce Street	NS	West 3rd Avenue
2A	NB	South Spruce Street	NS	West 2nd Avenue
2B	EB	West 2nd Avenue	FS	South Spruce Street
3	EB	West Pacific Avenue	NS	South Hemlock Street
5	EB	West Pacific Avenue	FS	South Oak Street
6	EB	West 1st Avenue	NS	South Adams Street
7	WB	West Sprague Avenue	FS	South Adams Street
8	EB	West 1st Avenue	NM	South Monroe Street
9	WB	West Sprague Avenue	FM	South Monroe Street
10	WB	West Sprague Avenue	FS	North Wall Street
11	NB	North Wall Street	FS	West Sprague Avenue
12	EB	West Main Avenue	NS	North Howard Street
13	WB	West Riverside Avenue	FS	North Stevens Street
14	EB	West Main Avenue	NS	North Bernard Street
15	WB	West Riverside Avenue	NS	North Bernard Street
16	EB	West Main Avenue	NS	North Division Street
17	WB	West Riverside Avenue	FS	North Division Street
18	NB	North Pine Street	FS	East Main Avenue
19A	WB	East Spokane Falls Boulevard	AT	University District Bridge
19B	EB	East Spokane Falls Boulevard	AT	University District Bridge
20	NB	North Cincinnati Street	FS	East Springfield Avenue
21A	NB	North Cincinnati Street	FS	East Desmet Avenue
21B	SB	North Cincinnati Street	NS	East Desmet Avenue
22	WB	East Mission Avenue	NS	North Hamilton Street
23	EB	East Mission Avenue	NM	North Perry Street
24	WB	East Mission Avenue	NS	North Perry Street
25A	WB	East Mission Avenue	FS	North Napa Street
25B	EB	East Mission Avenue	FS	North Napa Street
26A	WB	East Mission Avenue	NS	North Cook Street
26B	EB	East Mission Avenue	FS	North Cook Street
27A	WB	East Mission Avenue	NS	North Regal Street
27B	EB	East Mission Avenue	FS	North Regal Street
28	EB	Spokane Community College Transit Center	FS	Sycamore Street