

FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT

THIS FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT (“Agreement”) is hereby entered into this date by and between the CITY OF WENATCHEE (the “City”), and LINK TRANSIT (“Link”), sometimes collectively referred to as the “Parties.”

WHEREAS, the City and Link are public agencies authorized to enter into this Agreement pursuant to Chapter 39.34 RCW; and

WHEREAS, the City is engaged in performing preliminary design and National Environmental Policy Act (NEPA) environmental review for the Confluence Parkway bypass project (the “Project”); and,

WHEREAS, the City has invested considerable resources to further the Project and is requesting funding assistance with certain elements of the Project, including funding NEPA/SEPA environmental review and designs (the “Work”, as further defined below); and,

WHEREAS, the City and Link have worked together to date on the feasibility and development of the Project and the pursuit of State and Federal funding for the Apple Capital Loop network of projects; and

WHEREAS, the City has formally initiated NEPA compliance review in partnership with the Federal Highways Administration (FHWA) and Washington State Department of Transportation (WSDOT); and,

WHEREAS, the Confluence Parkway bypass (i.e. Project) is proposed to provide significant operational benefits to the Link transit system as traffic volumes and congestion grow on North Wenatchee Avenue (SR285); and,

WHEREAS, the Confluence Parkway Project involves redesign of the Maple Street, Miller Street, and Wenatchee Avenue intersection(s), which include key transit stops for the Valley North Center; and,

WHEREAS, the City and Link desire to continue to work together to refine the design of the Project elements, and to facilitate completion of the Work as set forth in this Agreement; and,

WHEREAS, the City and Link entered into an Interlocal Agreement dated November 21, 2019 to memorialize Link's financial contribution to the City's work on design, development, and NEPA compliance related to the Confluence Parkway Project; and,

WHEREAS, the City and Link desire to amend and restate their agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the City and Link agree as follows:

1. **Purpose.** The purpose of this Agreement is to formalize the partnership between Link and the City to cooperate in the design, development, and NEPA compliance aspects of the Project, and memorialize Link's total authorized contribution in the amount of \$462,500 to assist in the scope of work (defined below) in light of the mutual transportation and transit benefits offered by the Project.

2. **Scope of Work.** The scope of the work ("Work") for purposes of this Agreement is set forth in that certain Supplemental Agreement No. 3 between City of Wenatchee and KPG for NEPA Consulting Services – Confluence Parkway, dated November 10, 2020, which is incorporated herein by this reference as if set forth in full. The Work includes: (1) completing NEPA environmental compliance, and (2) furthering preliminary design to refine cost estimates and achieve 10-30% design for the entire Project (including ensuring transit facilities and operations are well defined and understood). The City's budget for the Work is approximately \$2,920,000, which incorporates and includes the \$462,500 total contribution from Link as provided for in this Interlocal Agreement. KPG Engineering is the consultant performing the Work. The budget for contribution or reimbursement related to the Work is broken down as follows:
 - \$400,000 State of Washington (2018-2019)
 - \$1,740,000 City of Wenatchee (2018-2022)
 - \$200,000 Link Transit (2020)
 - \$90,000 City of Wenatchee – Storm water (2020-2021)
 - \$262,500 Link Transit (2020-2021)
 - \$175,000 Chelan Douglas Regional Port Authority (2021)
 - \$50,000 Chelan County PUD No. 1 (2021)
 -

3. Link's Obligations. Link shall:

- 3.1. Continue assisting with technical analysis for the design and transit operations including in the Project.
- 3.2. Provide for reimbursement to the City, up to a total of \$462,500 applied to project design and environmental compliance work associated with NEPA for Confluence Parkway. To date, Link has paid or reimbursed the City \$176,731.50 toward Work on the project. Therefore, Link's remaining reimbursement obligations for the Work is \$285,768.50, to be paid as set forth in this Agreement.

4. City's Obligations. The City shall:

- 4.1. Administer the consultant contract to complete the Work, including:
 - a.) Conduct and hold coordination meetings;
 - b.) Schedule and coordinate discipline studies for NEPA and predesign engineering work according to the scope of work and budget;
 - c.) Perform NEPA consultation in according to FHWA and WSDOT rules and regulations.
 - d.) Make payments for services rendered.
 - e.) Issue invoices to Link for reimbursement of costs related to the Work for which Link has agreed to contribute as identified in Section 3, herein.

5. Duration and Termination. This Agreement shall become effective upon the filing of the executed Agreement with the Chelan County Auditor pursuant to RCW 39.34.040, or, in the alternate, the publication on each Parties' websites. This Agreement will terminate upon the completion of the Scope of Work, and the final payment for the Work is received by the City from Link. The Parties anticipate that the Work contemplated by this Agreement will be completed on or before March 31, 2021.

6. Cost. The City will submit invoices or requests for reimbursement to Link for services rendered according to the scope of work not to exceed the amount specified in this Agreement. The City will provide a summary report of the Work completed with each invoice. Prior to the City initiating Work and seeking reimbursement from Link, the City will review the scope of services with Link Transit associated with the Work to be performed.

7. Records. The City shall keep and maintain accurate and complete cost records pertaining to the Work and the Agreement. Link shall have full access and the right

to examine any such records during the term of this Agreement. All records, books, documents and other materials maintained, prepared, or issued by Link in the implementation of this Agreement shall be the property of Link, which shall have the responsibility of the retention and release of those materials.

- 8. Mutual Indemnity.** Link shall indemnify, defend and hold harmless the City, it's officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of Link, its officers, agents, and employees, in connection with the Work described in this Agreement, or arising out of Link's non-observance or non-performance of any law, ordinance, or regulation applicable to the Work.

The City shall indemnify, defend and hold harmless Link, it's officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the City, its officers, agents, and employees, in connection with the Work described in this Agreement, or arising out of the City's non-observance or non-performance of any law, ordinance, or regulation applicable to the Work.

- 9. Severability.** In the event that any provision of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provision shall be enforced and validated to the extent permitted by law. All other provisions of this Agreement are severable, and the unenforceability or invalidity of any single provision hereof shall not affect the remaining provisions.

- 10. Attorney's Fees.** In the event it is necessary for either party to utilize the services of an attorney to enforce any of the terms of this agreement, each party shall be responsible for their attorneys' fees and costs.

- 11. Construction.** This agreement contains the entire agreement between the Parties with respect to the subject matter hereof and superseded all prior agreements or understandings among the Parties with respect thereto. This Agreement may be amended only by an agreement in writing signed by the Parties.

- 12. Mutual Negotiation and Construction.** This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

13. Governing Law; Venue. This Agreement is governed by the laws of the state of Washington, without regard to its conflict of law provisions. The jurisdiction of any action hereunder shall be in the Superior Court, Chelan County, Washington.

14. Miscellaneous.

- No separate legal or administrative entity is intended to be created by this Agreement.
- No property, real or personal, is intended to be acquired or disposed of pursuant to this Agreement.
- The administrator of this Agreement shall be the Economic Development Director of the City of Wenatchee.

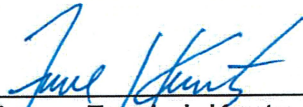
15. Counterpart Signatures. This Agreement may be signed in counterparts, each of which shall be an original, but all of which shall constitute one and the same Agreement.

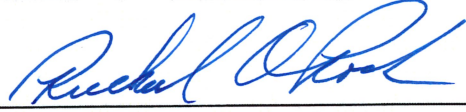
APPROVED BY
THE CITY OF WENATCHEE

APPROVED BY
LINK TRANSIT

this 23 day of December, 2020.

this 30 day of December, 2020.

By: 
Name: Frank J. Kuntz
Title: Mayor

By: 
Name: Richard DeRock
Title: General Manager

Attest:

Attest:

