

Big Y Park & Ride

Location Intersection of US 2 and US 97
Shelter: 2 small shelters
Stalls: 41 -3 ADA
Amenities: 1 Large Garbage Receptacle
 2 Small Garbage Receptacles

Link Transit Maintenance Responsibilities:

- All maintenance and upkeep of passenger shelters, access road, parking stalls, walkways, sidewalks, signs, landscaping, drainage facilities and fences.
- Reasonably Clean
- Garbage Receptacles

COPY

1 COOPERATIVE AGREEMENT

2 Operation and Maintenance of the US 2 Big Y Park and Ride Lot
3

4 THIS COOPERATIVE AGREEMENT (hereinafter Agreement) for the operation
5 and maintenance of the US 2 Big Y Park and Ride Lot is made and entered into by and between
6 the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION (hereinafter WSDOT)
7 and the LINK TRANSIT, a municipal corporation organized pursuant to chapter 36.57A RCW
8 (hereinafter TENANT).

9 RECITALS

10 WHEREAS, WSDOT is reconstructing a park and ride lot commonly known as the US 2
11 Big Y Park and Ride Lot located in the vicinity of the Peshastin East Interchange on US 2 at the
12 intersection of US 2 and US 97, in Chelan County, Washington, including sidewalks and other
13 appurtenances specifically requested and funded by TENANT, as provided in the *Washington*
14 *State Department of Transportation and LINK Transit, US 2/97 Peshastin East – Interchange*
15 *Agreement GCA 5231*, dated September 19, 2007, attached hereto as **Exhibit B**, and by this
16 reference incorporated herein, (hereinafter collectively **Park and Ride Lot**);

17 WHEREAS, the Park and Ride Lot is located on real property owned in fee by WSDOT
18 and which was acquired with WSDOT motor vehicle funds;

19 WHEREAS, TENANT provides public transportation within the Chelan County area,
20 and has adopted a comprehensive plan to provide mass transit for said area, which includes
21 providing transit services to some patrons of the Park and Ride Lot and may include providing
22 transit services at the Park and Ride Lot.

23 WHEREAS, TENANT agreed in GCA 5231 (**Exhibit B**) to enter into agreements with
24 WSDOT to allow the placement of bus shelter pads and bus shelters, and to operate and maintain
25 the Park and Ride Lot and pedestrian sidewalks; and

26 WHEREAS, WSDOT and TENANT are authorized to enter into this agreement pursuant
27 to RCW 47.28.140.

28 AGREEMENT

29 NOW, THEREFORE, in consideration of the terms, conditions, covenants and
30 performances contained herein, IT IS MUTUALLY AGREED THAT:

1 **1. PREMISES.**

2 A. The premises covered by this Agreement is shown hachured on **Exhibit A**,
3 Sheets 1 and 2 of 3 and shown in further detail on Sheet 3 of 3, attached hereto and by this
4 reference made a part hereof.

5 B. TENANT has examined the Premises and accepts it in its proposed reconstructed
6 condition as part of the consideration of this Agreement, said construction agreed upon in GCA
7 5231 (**Exhibit B**).

8 **2. TERM.** This Agreement shall be ten (10) years, commencing upon execution of this
9 Agreement by WSDOT.

10 **3. RENEWAL.**

11 A. This Agreement may be renewed for two (2) five (5) year periods (Renewal
12 Period); Provided that; (1) TENANT is not in default and has not been in default during the term
13 or any Renewal Period of this Agreement; (2) there is no other public need for the Premises; (3)
14 the Park and Ride Lot is, in WSDOT's determination, continuing to serve a functional highway
15 purpose; and (4) the terms and conditions of this Agreement conform to then existing state
16 policies or practices, laws, regulations and contracts, or provided TENANT is willing to amend
17 this Agreement to bring it into compliance with such policies, practices, laws, regulations, and
18 contracts.

19 B. The Agreement for the Renewal Period shall be on the same terms and conditions
20 as set forth herein, except as modified by any changes in policies, practices, laws, regulations or
21 contracts, as reflected in a written amendment signed by both parties.

22 C. TENANT shall give notice of its intent to renew this Agreement for the Renewal
23 Period at least ninety (90) days, but not more than six (6) months prior to the expiration of this
24 Agreement, or any renewal thereof.

25 **4. TERMINATION BY WSDOT.**

26 A. WSDOT may terminate this Agreement, in whole or in part, without penalty or
27 further liability as follows:

28 (1) upon thirty (30) days written notice to TENANT, if TENANT defaults,
29 and fails to cure such default within that thirty (30) day period, or such longer period, as may be

1 determined by WSDOT in its sole judgment, if TENANT is diligently working to cure the
2 default;

3 (2) upon sixty (60) days written notice, unless an emergency exists, then
4 immediately, if WSDOT determines that it is in the best interest of the State of Washington to
5 terminate this Agreement; and

6 (3) immediately, upon written notice, if a receiver is appointed to take
7 possession of TENANT's assets, TENANT makes a general assignment for the benefit of
8 creditors, or TENANT becomes insolvent or takes or suffers under the Bankruptcy Act.

9 B. Waiver or acceptance of any default of the terms of this Agreement by WSDOT
10 shall not operate as a release of TENANT's responsibility for any prior or subsequent default.

11 C. If TENANT defaults on any provision in this Agreement three (3) times within a
12 twelve (12)-month period, then the third default shall be deemed "non-curable" and this
13 Agreement may be terminated by WSDOT on thirty (30) days written notice.

14 **5. TERMINATION BY TENANT.**

15 A. The TENANT may terminate this Agreement, in whole or in part, without penalty
16 or further liability as follows:

17 1. Upon not less than sixty (60) days prior written notice.

18 2. Upon not less than thirty (30) days prior written notice to WSDOT, if
19 WSDOT defaults, and fails to cure such default within that thirty (30) day period, or such longer
20 period, as may be determined by TENANT in its sole judgment, if WSDOT is diligently working
21 to cure the default.

22 3. Immediately, upon written notice, if in TENANT's judgment the Park and
23 Ride Lot is destroyed or damaged so as to substantially and adversely affect TENANT's
24 authorized use of the Park and Ride Lot.

25 **6. CONSIDERATION.** In exchange for the placement of pedestrian sidewalks, bus shelter
26 pads and bus shelters on WSDOT right of way as provided in GCA 5231 (**Exhibit B**), and the
27 continued maintenance of said sidewalks, as provided in GM - 1482, Agreement for the
28 Maintenance and Operation of US 2 Peshastin East Interchange Sidewalks, attached hereto as
29 **Exhibit C**, and by this reference incorporated herein, TENANT agrees to perform the
30 maintenance services on the Premises, as provided elsewhere herein

1 **7. USE OF PREMISES.**

2 A. No use other than operation and maintenance of a park and ride lot and Two (2)
3 bus shelter locations in conjunction with transit services shall be permitted without the prior
4 written approval of WSDOT. Operation of transit services are the transfer of motorists from
5 private vehicles to buses or to or from private carpool vehicles, bus to bus transfers, transfers to
6 TENANT van pools, and necessary security activities. Any other use authorized by WSDOT will
7 be pursuant to separate written agreement. This provision applies to other uses by the TENANT
8 and uses by third parties.

9 B. TENANT shall have access to the Premises at the location shown on **Exhibit A.**

10 C. In using the Premises, TENANT must comply with all policies and regulations
11 heretofore adopted or hereafter promulgated by WSDOT relative to the location, operation, and
12 maintenance of improvements located on the Premises.

13 D. In using the Premises, it is expressly agreed that TENANT must comply with all
14 applicable federal, state, and local laws, ordinances, and regulations, including environmental
15 requirements, that are in force or which may hereafter be in force and secure and maintain all
16 necessary permits and licenses.

17 E. TENANT agrees to maintain the following park and ride parking spaces on the
18 Premises, unless otherwise agreed to in writing by the parties: Total 30 as follows: 27 Standard;
19 3 Handicapped; and.

20 F. Signs, display lights, or advertising media/materials are not permitted on the
21 Premises except on transit buses, unless shown on a separate plan sheet and must receive prior
22 written WSDOT approval.

23 G. TENANT will not disturb markers installed by a WSDOT franchise/permit holder
24 or lessee and will contact and provide notice to any franchise/permit holder or lessee and all
25 owners of underground facilities prior to any excavation on the Premises. TENANT shall
26 contact WSDOT and call the Underground Utility Locating Service, or its successor organization
27 as part of its efforts to ascertain any and all owners of underground facilities and to locate the
28 underground facility. TENANT shall not damage legally installed underground facilities.
29 TENANT shall comply with all applicable provisions of Chapter 19.122 RCW relating to
30 underground facilities. Excavation on the Premises is considered to be new construction subject
31 to the terms and conditions set forth in **paragraph 12** herein.

32 **8. MAINTENANCE.**

1 A. TENANT agrees to maintain the Premises in accordance with WSDOT standards
2 set forth in the WSDOT Maintenance Manual, and any amendments thereto, which by this
3 reference are incorporated herein. Maintenance shall include, but not be limited to, all upkeep,
4 snow and ice removal, cleaning and repair of any passenger shelter, access road, parking stalls,
5 walkways; sidewalks, signs, landscaping, drainage facilities, and such other fixtures and
6 appurtenances that exist on the Premises or may be installed.

7 B. Fences shall be maintained by TENANT. If any fence is damaged as a result of
8 TENANT's activities, TENANT will promptly repair such damage at its cost to the WSDOT's
9 satisfaction.

10 C. WSDOT reserves the right to periodically observe and inspect the maintenance
11 work conducted by TENANT on the Premises. WSDOT shall provide written notice to TENANT
12 to include details of those elements or areas not in compliance with specifically referenced
13 WSDOT maintenance requirements. The notice will set a specified reasonable period of time in
14 which requested corrective action must be taken; Provided, that if an emergency exists,
15 corrective action must be taken immediately. If corrective measures are not completed within the
16 specified time period, WSDOT may either perform the maintenance as provided elsewhere
17 herein, or issue a notice of default as provided elsewhere herein.

18
19 **9. WSDOT RESERVATION OF RIGHT.**

20 A. Right of Entry.

21 (1) Nothing herein shall affect WSDOT's, its agent's and contractor's, and
22 the Federal Highway Administration's, right to enter upon and use the Premises at any time for
23 any purpose.

24 (2) Other than in an emergency, WSDOT, as a matter of courtesy, will attempt
25 to give TENANT a minimum of thirty (30) working days notice of any entry that will
26 unreasonably disrupt TENANT's operation or maintenance on the Premises. All reasonable
27 steps will be taken to minimize impacts to TENANT's operation and maintenance, however,
28 WSDOT assumes no liability of any kind for any such disruption.

29 B. Right to Grant, Maintain, and Operate Utility Franchises, Permits, Easements, and
30 Leases.

31 (1) Nothing in this Agreement shall affect WSDOT's right to grant franchises,
32 easements, permits, or enter into leases or other documents concerning the use of the Premises;

1 Provided, that such use does not unreasonably interfere with TENANT's operation or
2 maintenance of the Premises.

3 (2) Nothing in this Agreement shall affect the right for franchisees, permittees,
4 or lessees, to enter upon the Premises to maintain, repair and enhance existing facilities and
5 install, maintain and repair new facilities.

6 (3) Any installation, maintenance and repair of the Premises by a franchisee,
7 permittee, or lessee will be accomplished in such a manner as to minimize any disruption to
8 TENANT's operation and maintenance on the Premises. Except in the event of an emergency,
9 the franchisee, permittee, or lessee will be required to notify TENANT of activities that will
10 involve the use of the Premises prior to such use. In addition, the franchisee, permittee, or lessee
11 will be required to restore paving and grading damaged by the installation, maintenance and/or
12 repair.

13 10. TAXES, ASSESSMENTS, AND UTILITIES.

14 A. TENANT agrees to pay all assessments that benefit the Premises and/or which
15 may hereafter become a lien on the interest of TENANT in accordance with RCW 79.44.010.
16 TENANT shall have the right to appeal disputed charges.

17 B. TENANT also agrees to pay all taxes that may hereafter be levied or imposed
18 upon TENANT or by reason of this Agreement. TENANT shall have the right to appeal disputed
19 charges.

20
21 C. WSDOT shall be responsible for the installation, maintenance, and payment of
22 electrical bills for the three (3) luminaries as shown on **Exhibit A**. TENANT agrees, except as
23 noted herein, to pay the cost for all utility bills incurred at the Park and Ride Lot, including, but
24 not limited to, sewer, water, surcharges, and rate adjustments that serve the Premises.

25
26 11. **IMPROVEMENTS.** TENANT may install 2 bus shelter pads and shelters on the
27 Premises at the locations shown on **Exhibit A** and previously agreed to by the parties pursuant to
28 GCA 5231 (**Exhibit B**). Prior to the installation of these improvements TENANT shall notify
29 WSDOT and the parties shall coordinate their activities to facilitate such installations. TENANT
30 shall not install any other new improvements on the Premises without the prior written approval
31 of WSDOT.

32
33 12. **CONSTRUCTION.** Other than that construction allowed and detailed in GCA 5231
34 (**Exhibit B**), no further construction of new or reconstruction of existing improvements is
35 permitted without the prior written approval of the WSDOT. TENANT covenants that any
36 regrading or improvements to be constructed on the Premises will not at any time during or after

1 construction either damage, threaten to damage, or otherwise adversely affect any part or element
 2 of the highway facility or the operation thereof. WSDOT shall be furnished with two (2) sets of
 3 complete plans, details, and specifications and revisions thereto for grading and all improvements
 4 proposed to be placed on the Premises, and no work shall be done without prior written approval
 5 of such plans by WSDOT. All construction work shall be done in conformity with the plans and
 6 specifications as approved. WSDOT may take any action necessary, including directing that
 7 work be temporarily stopped or that additional work be done, to ensure observation of the plans
 8 and specifications, protection of all parts and elements of the highway facility, and compliance
 9 with WSDOT's construction and safety standards. The improvements shall be designed and
 10 constructed in a manner that will permit access to the Premises for the purpose of inspection,
 11 maintenance, and construction when necessary.

12
13 **13. LIENS.**

14
15 A. Nothing in this Agreement shall be deemed to make TENANT the agent of
 16 WSDOT for purposes of construction, repair, alteration, or installation of structures,
 17 improvements, equipment, or facilities on the Premises. TENANT acknowledges that WSDOT
 18 may not, and shall not, be subject to claims or liens for labor or materials in connection with such
 19 activities by TENANT.

20
21 B. TENANT shall at all times indemnify and save WSDOT harmless from all claims
 22 for labor or materials in connection with construction, repair, alteration, or installation of
 23 structures, improvements, equipment, or facilities within the Premises, and from the cost of
 24 defending against such claims, including attorney fees.

25
26 C. In the event a lien is filed upon the Premises, TENANT shall either:

27
28 (1) Record a valid release of lien; or

29
30 (2) Deposit sufficient cash with WSDOT to cover the amount of the claim on
 31 the lien in question, and authorize payment to the extent of said deposit to any subsequent
 32 judgment holder that may arise as a matter of public record from litigation with regard to
 33 lienholder claim; or

34
35 (3) Procure and record a bond which releases the Premises from the claim of
 36 the lien and from any action brought to foreclose the lien.

37
38 Should TENANT fail to accomplish either (1), (2) or (3) above within sixty (60) days
 39 after the filing of such a lien, this Agreement shall be in default.

40
41 **14. PERSONAL PROPERTY.**

1 A. WSDOT shall not be liable in any manner for, or on account of, any loss or
 2 damage sustained to any property of whatsoever kind stored, kept, or maintained in or about the
 3 Premises, except for such claims or losses that may be caused by WSDOT or its authorized
 4 agents or employees.

5
 6 B. TENANT shall not be liable in any manner for, or on account of, any loss or
 7 damage sustained to any WSDOT, its franchisees, lessees and permittees, or other authorized
 8 users' personal property of whatsoever kind stored, kept, or maintained on or about the Premises,
 9 except for such claims or losses that may be caused by TENANT or its authorized agents or
 10 employees.

11
 12 C. Upon termination of this Agreement, WSDOT or its agent may remove all
 13 personal property of TENANT remaining on the Premises at TENANT's expense and dispose of
 14 it in any manner WSDOT deems appropriate. TENANT agrees to reimburse WSDOT for the
 15 costs of such removal and disposal within thirty (30) days of the date of WSDOT's invoice.

16
 17 **15. VACATION OF PREMISES.** Upon termination of this Agreement, TENANT shall
 18 cease its operations on the Premises and, if so directed by WSDOT, restore the Premises to its
 19 condition prior to TENANT's occupancy. This restoration shall include the removal of personal
 20 property. This work shall be done at TENANT's expense and to the reasonable satisfaction of
 21 WSDOT. In the event TENANT fails to vacate and, if so directed by WSDOT, restore the
 22 Premises prior to the date of termination, TENANT shall be liable for any and all costs to
 23 WSDOT arising from such failure and agrees to reimburse WSDOT for all such costs within
 24 thirty (30) days of the date of WSDOT's invoice for such costs.

25
 26 **16. NON-APPLICABILITY OF RELOCATION ASSISTANCE.** TENANT
 27 acknowledges that the signing of this Agreement does not entitle TENANT to assistance under
 28 the Uniform Relocation and Real Property Acquisition Policy (Ch. 8.26 RCW).

29
 30 **17 ENVIRONMENTAL REQUIREMENTS.**

31
 32 A. WSDOT and TENANT each represent, warrant and agree that it will conduct its
 33 activities on and off the Premises in compliance with all applicable environmental laws. As used
 34 in this Agreement, "Environmental Laws" means all federal, state and local environmental laws,
 35 rules, regulations, ordinances, judicial or administrative decrees, orders, decisions, authorizations
 36 or permits, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C.
 37 § 6901, et. seq., the Clean Air Act, 42 U.S.C. § 7401, et seq., the Federal Water Pollution Control
 38 Act, 33 U.S.C. § 1251, et seq., the Emergency Planning and Community Right to Know Act, 42
 39 U.S.C. § 11001, et seq., the Comprehensive Environmental Response, Compensation and
 40 Liability Act, 42 U.S.C. § 9601, et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601, et
 41 seq., the Oil Pollution Control Act, 33 U.S.C. § 2701, et seq., and Washington or any other
 42 comparable local, state, or federal statute or ordinance pertaining to the environment or natural

1 resources and all regulations pertaining thereto, including all amendments and/or revisions to
2 said laws and regulations.

3
4 B. Toxic or hazardous substances are not allowed on the Premises without the
5 express written permission of WSDOT and under such terms and conditions as may be specified
6 by WSDOT. For the purposes of this Agreement, "Hazardous Substances," shall include all
7 those substances identified as hazardous under the Comprehensive Environmental Response,
8 Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., and the Washington Model Toxics
9 Control Act, RCW 70.105D et seq., including all amendments and/or revisions to said laws and
10 regulations, and shall include gasoline and other petroleum products. TENANT is hereby
11 authorized to bring on to the Premises gasoline and petroleum products necessary to carryout the
12 maintenance and operation requirements set forth in this Agreement. In the event such
13 permission is granted, the disposal of such materials must be done in a legal manner by
14 TENANT.

15
16 C. TENANT agrees to cooperate in any environmental investigations conducted by
17 WSDOT staff or independent third parties where there is evidence of contamination on the
18 Premises, or where WSDOT is directed to conduct such audit by an agency or agencies having
19 jurisdiction. TENANT will reimburse WSDOT for the cost of such investigations, where the
20 need for said investigation is determined to be caused by TENANT's operations. TENANT will
21 provide WSDOT with notice of any inspections of the Premises, notices of violations, and orders
22 to clean up contamination. TENANT will permit WSDOT to participate in all settlement or
23 abatement discussions. In the event that TENANT fails to take remedial measures as duly
24 directed by a state, federal, or local regulatory agency within ninety (90) days of such notice,
25 WSDOT may elect to perform such work, and TENANT covenants and agrees to reimburse
26 WSDOT for all direct and indirect costs associated with WSDOT's work where said
27 contamination is determined to have resulted from the TENANT's use of the Premises.
28 TENANT further agrees that the use of the Premises shall be such that no hazardous or
29 objectionable smoke, fumes, vapor, odors, or discharge of any kind shall rise above the grade of
30 the right of way.

31
32 D. For the purposes of this Agreement, "Costs" shall include, but not be limited to,
33 all response costs, disposal fees, investigatory costs, monitoring costs, civil or criminal penalties,
34 and attorney fees and other litigation costs incurred in complying with state or federal
35 environmental laws, which shall include, but not be limited to the Comprehensive Environmental
36 Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq.; the Clean Water Act, 33
37 U.S.C. § 1251; the Clean Air Act, 42 U.S.C. § 7401; the Resource Conservation and Recovery
38 Act, 42 U.S.C. § 6901; and the Washington Model Toxics Control Act, RCW 70.105D et seq.,
39 including all amendments and/or revisions to said laws and regulations.

40
41 E. TENANT agrees to defend, indemnify and hold WSDOT harmless from and
42 against any and all claims, causes of action, demands and liability including, but not limited to,

1 any costs, liabilities, damages, expenses, assessments, penalties, fines, losses, judgments and
2 attorneys' fees associated with the removal or remediation of any Hazardous Substances that
3 have been released, or otherwise come to be located on the Premises, including those that may
4 have migrated from the Premises through water or soil to other properties which are caused by or
5 result from TENANT'S activities on the Premises. TENANT further agrees to retain, defend,
6 indemnify and hold WSDOT harmless from any and all liability arising from the offsite disposal,
7 handling, treatment, storage, or transportation of any such Hazardous Substances removed from
8 said Premises.

9
10 F. WSDOT agrees to indemnify, defend and hold TENANT harmless from and
11 against any and all claims, causes of action, demands and liability including, but not limited to,
12 any costs, liabilities, damages, expenses, assessments, penalties, fines, losses, judgments and
13 attorneys' fees associated with the existence of, and/or removal or remediation of any Hazardous
14 Substances that have been released, or otherwise come to be located on the Premises, including
15 those that may have migrated from the Premises through water or soil to the other properties,
16 which are caused by or result from the WSDOT's activities on the Premises. WSDOT further
17 agrees to retain indemnify, defend, and hold TENANT harmless from any and all liability arising
18 from the off site disposal, handling, treatment, storage or transportation of any such Hazardous
19 Substances removed from the Premises.

20
21 G. The provisions of this section shall survive the termination or expiration of this
22 Agreement.

23
24 **18. INSURANCE.**

25
26 A. TENANT's insurance policy of self insurance must provide liability coverage for
27 the Premises, including public liability coverage for bodily injury, property damage, and personal
28 injury of not less than TWO MILLION (\$2,000,000.00) combined single limit per occurrence,
29 with a general aggregate amount of not less than FOUR MILLION (\$4,000,000.00) per policy
30 period and naming WSDOT as an additional insured. TENANT certifies that it is self-insured,
31 and agrees to provide acceptable evidence of its self-insured status to WSDOT. TENANT agrees
32 that WSDOT may require increases in said coverage amounts by written notice to TENANT, as
33 WSDOT deems reasonably necessary.

34
35 B. In the event TENANT, after commencement of this Agreement, elects to
36 terminate its self-insured status and secure commercial liability coverage, TENANT will
37 promptly notify WSDOT, and provide a certificate of insurance from an insurer licensed to
38 conduct business in the State of Washington.

39
40 C. Coverage, if obtained by TENANT in compliance with this section, shall not be
41 deemed as having relieved TENANT of any liability.
42

1 **19. INDEMNIFICATION.**

2
3 A. To the extent allowed by law, TENANT its successors and assigns, will protect,
4 save, and hold harmless WSDOT, its authorized agents and employees, from all claims, actions,
5 costs, damages, or expenses of any nature whatsoever by reason of the acts or omissions of
6 TENANT, its agents, contractors, or employees, arising out of, or in connection with, its acts or
7 activities or the acts or activities of its, agents, contractors, or employees, related to this
8 Agreement. TENANT further agrees to defend WSDOT, its agents or employees, in any
9 litigation, including payment of any costs or attorneys' fees, for any claims or action commenced,
10 arising out of, or in connection with, the acts or activities related to this Agreement. The
11 obligations in this paragraph shall not include such claims, costs, damages, or expenses to the
12 extent caused by the acts of WSDOT or its authorized agents or employees; PROVIDED, that if
13 the claims or damages are caused by or result from the concurrent acts of (a) WSDOT, its agents,
14 contractors, or employees and (b) TENANT, its agents, contractors, or employees, or involves
15 those actions covered by Ch. 4.24.115 RCW, this indemnity provision shall be valid and
16 enforceable only to the extent of the acts of TENANT's agents or employees.

17
18 B. To the extent allowed by law, WSDOT, its successors and assigns, will protect,
19 save, and hold harmless TENANT, its authorized agents and employees, from all claims, actions,
20 costs, damages, or expenses of any nature whatsoever by reason of the acts or omissions of
21 WSDOT, its agents, contractors, or employees, arising out of or in connection with its acts or
22 activities or the acts or activities of its agents, contractors, or employees, related to this
23 Agreement. WSDOT further agrees to defend TENANT, its agents or employees, in any
24 litigation, including payment of any costs or attorneys' fees, for any claims or action commenced,
25 arising out of, or in connection with, the acts or activities related to this Agreement. The
26 obligations in this paragraph shall not include such claims, costs, damages, or expense to the
27 extent caused by the acts of TENANT or its authorized agents or employees; PROVIDED, that if
28 the claims or damages are caused by or result from the concurrent acts of (a) TENANT, its
29 agents, contractors, or employees by or result from the concurrent acts of; (b) WSDOT, its
30 agents, contractors, or employees, or involves those actions covered by Ch. 4.24.115 RCW, this
31 indemnity provision shall be valid and enforceable only to the extent of the acts of WSDOT or
32 the WSDOT's agents or employees.

33
34 C. TENANT specifically assumes potential liability for actions brought by
35 TENANT's own employees against WSDOT and, solely for the purpose of this indemnification
36 and defense, TENANT specifically waives any immunity under the state industrial insurance law,
37 Title 51 RCW and has been mutually negotiated by the parties.

38
39 D. WSDOT specifically assumes potential liability for actions brought by WSDOT's
40 own employees against TENANT and, solely for the purpose of this indemnification and defense,
41 WSDOT specifically waives any immunity under the state industrial insurance law, Title 51
42 RCW and has been mutually negotiated by the parties.

1
2 E. The indemnification provisions in this paragraph shall survive the expiration or
3 termination of this Agreement.
4

5 **20. PERFORMANCE BY WSDOT.**
6

7 A. If TENANT defaults in the performance or observation of any covenant or
8 agreement contained in this Agreement, WSDOT, without notice if deemed by WSDOT that an
9 emergency exists, or if no emergency, with thirty (30) days notice, may direct TENANT to stop
10 work and may itself perform or cause to be performed such covenant or agreement. Such
11 emergency shall include, but not be limited to, endangerment of the life or safety of users of the
12 Park and Ride Lot and the adjacent highway facility, or the endangerment of the Park and Ride
13 Lot or the adjacent highway facility.
14

15 B. TENANT shall reimburse WSDOT the entire cost and expense of such
16 performance by WSDOT within thirty (30) days of the date of WSDOT's invoice.
17

18 C. Any act or thing done by WSDOT under the provisions of this paragraph shall not
19 be construed as a waiver of any agreement or condition herein contained or the performance
20 thereof.
21

22 **21. NONDISCRIMINATION.** TENANT, for itself, its successors and assigns, as part of the
23 consideration hereof, do hereby agree to comply with all applicable civil rights and
24 antidiscrimination requirements, including but not limited to Chapter 49.60 RCW.
25

26 **22. INDEPENDENT CAPACITY.** TENANT shall be deemed an independent contractor
27 for all purposes and the employees of TENANT or any of its contractors, subcontractors, and
28 employees thereof shall not in any manner be deemed employees of WSDOT.
29

30 **23. ASSIGNMENT.** Neither this Agreement nor any rights created by it may be assigned,
31 sublet, or transferred.
32

33 **24. BINDING CONTRACT.** This Agreement shall not become binding upon WSDOT
34 unless and until executed by both WSDOT signatories.
35

36 **25. ATTORNEYS' FEES.** In the event of any controversy, claim, or dispute arising out of
37 this Agreement, each party shall be solely responsible for the payment of its own attorney's fees
38 and costs.
39

40 **26. MODIFICATIONS.** This instrument contains all the agreements and conditions made
41 between the parties hereto and may not be modified orally or in any manner other than by an
42 agreement in writing signed by all parties thereto. No failure on the part of either party to

1 enforce any covenant or provision herein contained, nor any waiver of any right thereunder,
2 unless in writing, shall discharge or invalidate such covenant or provision or affect the right of
3 the either party to enforce the same in the event of any subsequent breach or default.
4

5 **27. INTERPRETATION.** This Agreement shall be governed by and interpreted in
6 accordance with the laws of the state of Washington. The title to paragraphs or sections of this
7 Agreement are for convenience only and shall have no effect on the construction or interpretation
8 of any part hereof.
9

10 **28. TOTALITY OF AGREEMENT.** It is understood that no guarantees, representations,
11 promises, or statements expressed or implied have been made by either party except to the extent
12 that the same are expressed in the Agreement.
13

14 **29. SEVERABILITY.** If any covenant or provision or part thereof, of the Agreement be
15 adjudged void, such adjudication shall not affect the validity, obligation or performance of any
16 other covenant or provision or part thereof, which in itself is valid, if such remainder conforms to
17 the terms and requirements of applicable law and the intent of this Agreement.
18

19 **30. DISPUTE RESOLUTION.**

20
21 A. The following individuals are the Designated Representatives for the purpose of
22 resolving disputes that arise under this Agreement:

23 WSDOT: **Paul Mahre**
24 WSDOT – North Central Region
25 St/Local Program Manager
26 1551 N. Wenatchee Ave.
27 Wenatchee, WA 98807
28

29 TENANT: Lyle Bland
30 LINK Transit
31 2700 Euclid Avenue
32 Wenatchee, WA 98801
33

34 B. The WSDOT Designated Representative and the TENANT Designated
35 Representative shall confer to resolve disputes that arise under this Agreement as requested by
36 either party. The Designated Representatives shall use their best efforts and exercise good faith
37 to resolve such disputes.

1 C. In the event the Designated Representatives are unable to resolve the dispute, the
2 appropriate WSDOT Regional Administrator and the General Manager for TENANT shall confer
3 and exercise good faith to resolve the dispute.

4 D. In the event the WSDOT Regional Administrator and the General Manager for
5 TENANT are unable to resolve the dispute, the parties may, if mutually agreed in writing, submit
6 the matter to non-binding mediation. The parties shall then seek to mutually agree upon the
7 mediation process, who shall serve as the mediator, and the time frame the parties are willing to
8 discuss the disputed issue(s).

9 E. Each party shall bring to the mediation session, unless excused from doing so by
10 the mediator, a representative from its side with full settlement authority. In addition, each party
11 shall bring counsel and such other persons as needed to contribute to a resolution of the dispute.
12 The mediation process is to be considered settlement negotiations for the purpose of all state and
13 federal rules protecting disclosures made during such conference from later discovery or use in
14 evidence; Provided that any settlement executed by the parties shall not be considered
15 confidential and may be disclosed. Each party shall pay its own costs for mediation and share
16 equally in the cost of the mediator. The venue for the mediation shall be in Olympia,
17 Washington, unless the parties mutually agree in writing to a different location.

18 F. If the parties cannot mutually agree as to the appropriateness of mediation, the
19 mediation process, who shall serve as mediator, or the mediation is not successful, then either
20 party may institute a legal action in the County of Thurston, State of Washington, unless other
21 venue is mutually agreed to in writing. The parties agree that they shall have no right to seek
22 relief in a court of law until and unless each of the above procedural steps has been exhausted.

23 **31. VENUE.** In the event any party deems it necessary to institute legal action or
24 proceedings to ensure any right or obligation under this Agreement, the parties hereto agree that
25 such action or proceedings shall be brought in a court of competent jurisdiction situated in
26 Thurston County, Washington.

27 **32. AGREEMENT MANAGEMENT.**

28
29 A. The Program Manager for each of the parties shall be responsible for
30 administration of this Agreement and shall be the contact person for all communications and
31 billings regarding the administration of this Agreement, which expressly excludes notices of
32 default and reporting and correcting defects covered under warranty.

33
34 B. The Program Manager for TENANT is:
35 Lyle Bland
36 LINK Transit

2700 Euclid Avenue
Wenatchee, WA 98801

C. The Program Manager for WSDOT is:
Paul Mahre
St/Local Program Manager
1551 N. Wenatchee Ave.
Wenatchee, WA 98807

D. Either party may, from time to time, by notice in writing served upon the other party as required elsewhere herein, designate an additional and/or a different mailing address or an additional and/or different person to whom such notice, request, report or other communication are thereafter to be addressed.

33. NOTICES.

A. Wherever in this Agreement written notices are to be given or made, they will be served, personally delivered or sent by certified mail or overnight mail addressed to the appropriate party(ies) at the addresses provided herein, unless a different address is designated in writing or delivered to the other party.

B. Notices of default of this Agreement shall be given to the Program Manager and the individuals listed below:

(1) TENANT: General Manager.
LINK Transit
2700 Euclid Avenue
Wenatchee, WA 98801

(2) WSDOT: Regional Administrator.
WSDOT – North Central Region
1551 N. Wenatchee Ave.
Wenatchee, WA 98807

1 Assistant Director, Property Management Program
2 P.O. Box 47338
3 Olympia, WA 98504-7338
4 OR
5 243 Israel Road S.E.
6 Building #3
7 Tumwater, WA 98501
8

9 C. Either party may, from time to time, by notice in writing served upon the other
10 party as required elsewhere herein, designate an additional and/or a different mailing address or
11 an additional and/or different person to whom notices of default are to thereafter to be addressed.

1

<p>LINK TRANSIT</p> <p>Date: <u>6/17/2008</u></p> <p>By: <u><i>Richard O'Neil</i></u></p>	<p>WASHINGTON STATE DEPARTMENT OF TRANSPORTATION</p> <p>Date: <u><i>July 3, 2008</i></u></p> <p>By: <u><i>G. Gallinger</i></u></p> <p>Gerald L. Gallinger, Director, Real Estate Services</p> <p>Date: <u><i>7/10/08</i></u></p> <p>By: <u><i>Paul Mahre</i></u></p> <p>Paul Mahre, Program Manager</p>
<p>APPROVED AS TO FORM</p> <p>By: <u><i>[Signature]</i></u></p>	<p>APPROVED AS TO FORM</p> <p>By: <u><i>Patricia K. Nightingale</i></u></p> <p>Assistant Attorney General</p>

2

1 STATE OF WASHINGTON)

2 SS:

3 COUNTY OF Chelan)

4

5 On this 17th day of June 2008, before me personally appeared,
 6 Richard DeRock to me known to be the authorized representative and
 7 General Manager of the corporation that executed the foregoing
 8 instrument, and acknowledged said instrument to be the free and voluntary act and deed of said
 9 corporation, for the uses and purposes therein mentioned, and on oath stated that he
 10 was authorized to execute said instrument.

11

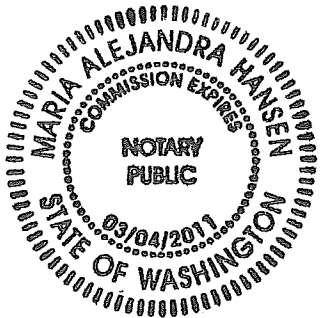
12 GIVEN under my hand and official seal the day and year last above written.

13

14

15

16



Maria Alejandra Hansen

17

18

19

20

Notary Public in and for the state of Washington,
 residing at Wenatchee
 My commission expires March 4, 2011.

1

2 STATE OF WASHINGTON)

3 ss:

4 COUNTY OF THURSTON)

5

6 I, the undersigned, a Notary Public in and for the state of Washington, do hereby certify that
 7 on this 3rd day of July, 2008, before me personally appeared Gerald L.
 8 Gallinger, Director, Real Estate Services, for the state of Washington Department of
 9 Transportation, and that he executed the within and foregoing instrument and acknowledged the
 10 said instrument to be the free and voluntary act and deed of said state of Washington, for the uses
 11 and purposes therein set forth, and on oath states that he is authorized to execute said instrument.

12

13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day
 14 and year first above written.

15

16

17

18

19



Cynthia J. Tremblay

20

21

22

Notary Public in and for the state of Washington,
 residing at Olympic
 My commission expires 8-13-10.

1 STATE OF WASHINGTON)

2 ss:

3 COUNTY OF Chelan)

4

5 I, the undersigned, a Notary Public in and for the state of Washington, do hereby certify that
6 on this 10 day of JULY, 2008 before me personally appeared
7 Paul T Mahre Program Manager, for the state of Washington Department of
8 Transportation, North Central Region, and that he executed the within and foregoing instrument
9 and acknowledged the said instrument to be the free and voluntary act and deed of said state of
10 Washington, for the uses and purposes therein set forth, and on oath states that he is authorized to
11 execute said instrument.

12

13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day
14 and year first above written.

15

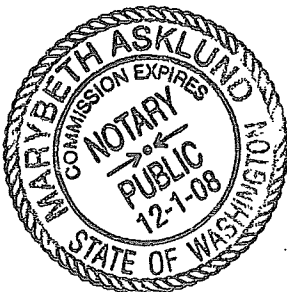
16

17

18

Marybeth Asklund
Marybeth ASKLUND

19



20

21

22

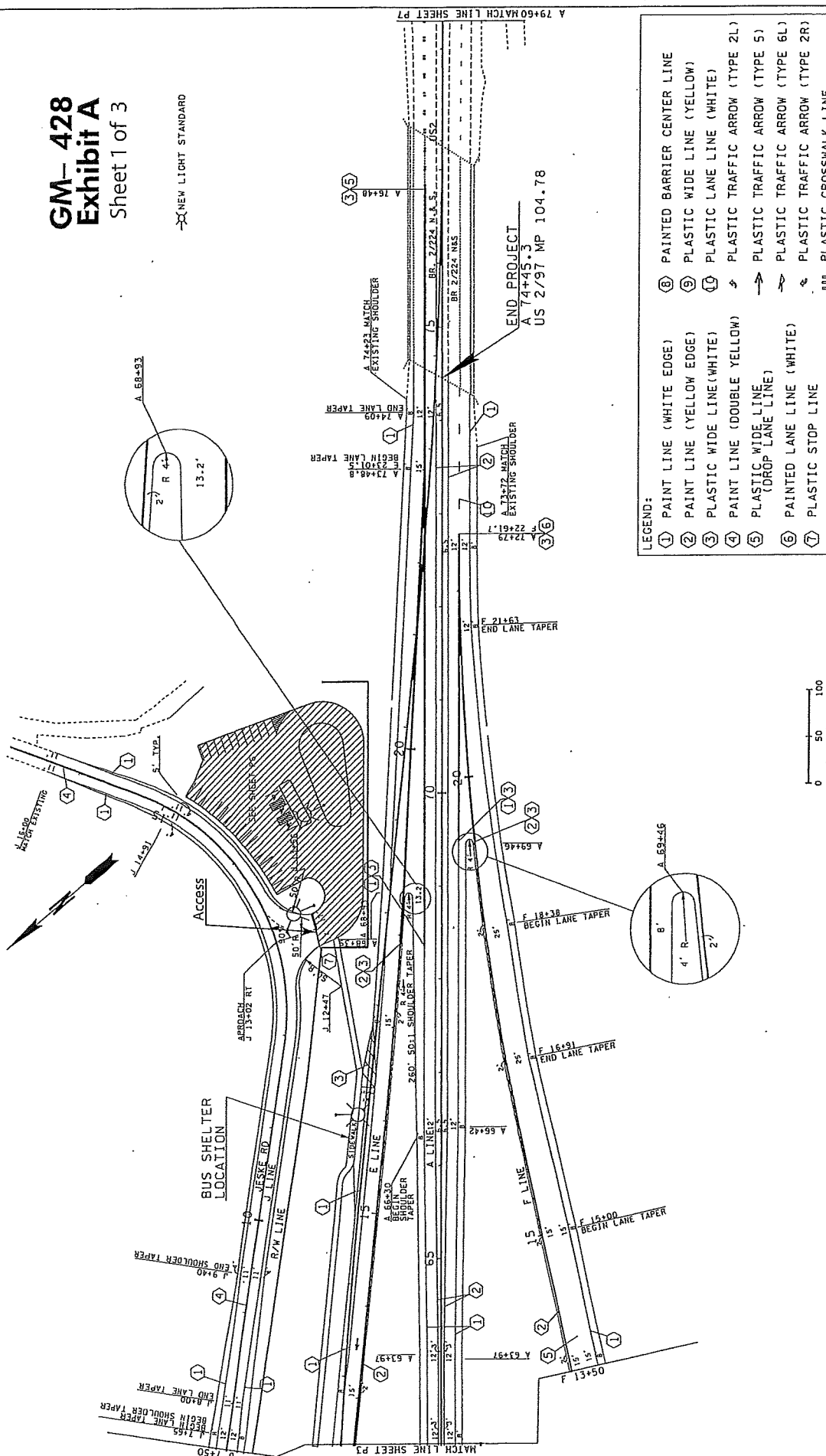
Notary Public in and for the state of Washington,
residing at East Wenatchee
My commission expires 12-01-08.

23

24

GM- 428 Exhibit A Sheet 1 of 3

NEW LIGHT STANDARD



- LEGEND:**
- ① PAINT LINE (WHITE EDGE)
 - ② PAINT LINE (YELLOW EDGE)
 - ③ PLASTIC WIDE LINE (WHITE)
 - ④ PAINT LINE (DOUBLE YELLOW)
 - ⑤ PLASTIC WIDE LINE (DROP LANE LINE)
 - ⑥ PAINTED LANE LINE (WHITE)
 - ⑦ PLASTIC STOP LINE
 - ⑧ PAINTED BARRIER CENTER LINE
 - ⑨ PLASTIC WIDE LINE (YELLOW)
 - ⑩ PLASTIC LANE LINE (WHITE)
 - ↔ PLASTIC TRAFFIC ARROW (TYPE 2L)
 - PLASTIC TRAFFIC ARROW (TYPE 5)
 - ↘ PLASTIC TRAFFIC ARROW (TYPE 6L)
 - ↙ PLASTIC TRAFFIC ARROW (TYPE 2R)
 - 000 PLASTIC CROSSWALK LINE

0 50 100
SCALE IN FEET



PROJECT STATE: WA
 COUNTY: 10 WASH
 JOB NUMBER: 08R001
 CONTRACT NO.:
 LOCATION NO.: XL2072

FILE NAME	DESIGNER	DATE	PLOTTED BY	DESIGNED BY	ENTERED BY	CHECKED BY	PROJ. ENGR.	REGIONAL ADM.
*****DESIGN*****	E. HOWE	10/15/00	E. HOWE	W. E. JUDGE	D. LEWIS	M. FLEMING	M. FLEMING	D. SENN

REVISION	DATE	BY

US 297
PESHASTIN EAST INTERCHANGE
 Department of Transportation
 PAYING & PAYEMENT MARKING PLAN

PLOTTA
 P4
 SHEET
 OF
 SHEETS

A 79+60 MATCH LINE SHEET P7

A 63+00
 E 12+50
 MATCH LINE SHEET P3