

THURSTON COUNTY
AND
THURSTON REGIONAL PLANNING COUNCIL
INTERLOCAL AGREEMENT FOR IMPLEMENTATION OF THE RURAL COMMUNITY
SUPPORT PROGRAM

This Agreement is entered into in duplicate originals this 16 day of November 2020, between THURSTON REGIONAL PLANNING COUNCIL (hereinafter "TRPC") and THURSTON COUNTY, a municipal corporation of the State of Washington (hereinafter "County"), collectively referred to as "parties" and individually as "party" pursuant to RCW 39.34.080.

WHEREAS, TRPC, as the Metropolitan Planning Organization for the Thurston County Region, programs discretionary Federal Highway Administration grant program funds to eligible local agency transportation projects; and

WHEREAS, it is to the mutual advantage of the County and TRPC to cooperate as described herein to facilitate the construction of transportation projects in tribal and rural communities that are not certified to spend certain federal transportation dollars; and

WHEREAS, the County has the authorization to spend certain federal transportation dollars; and

WHEREAS, the transportation projects directly benefit all residents in these communities and to an extent, the Thurston County Region as a whole; and

WHEREAS, TRPC has the authority to award certain federal transportation dollars for transportation projects; and

WHEREAS, TRPC and the County desire to create a Rural Community Support Program (RCSP) that will support transportation improvements that will benefit Thurston County travelers; and

WHEREAS, RCW 39.34.080 authorizes a public agency to contract with another public agency to perform any governmental service, activity, or undertaking that each public agency is authorized by law to perform.

NOW, THEREFORE, by virtue of RCW 39.34.080 and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

I
GENERAL

- 1.0 It is the purpose of the Agreement to permit TRPC to program federal transportation grant funds to the County that were designated to tribal or rural communities for transportation projects selected by TRPC, and for the County to dedicate non-federal transportation dollars to those selected projects. This is known as the Rural Community Support Program ("RCSP"). This interlocal agreement specifies the roles and responsibilities of the County and TRPC.

II
DURATION

- 2.0 This Agreement is effective on the date written above and shall remain in effect for the remainder of the calendar year in which it is signed and throughout the following calendar year. Thereafter, this Agreement shall renew automatically from year to year effective January 1 to December 31 of each

calendar year, unless either party notifies the other in writing to terminate or make substantial changes to this Agreement by April 1 of the preceding calendar year or is terminated pursuant to Article VII, Termination. Prior to commencement, this Agreement shall be filed or posted in accordance with RCW 39.34.040.

III ADMINISTRATION OF RCSP FUNDS

- 3.0 TRPC will program funds that include overhead and administrative costs in exchange for the County providing RCSP funds for tribal and small communities. The funding amounts are as shown in Exhibit A, attached hereto and incorporated herein by reference. Exhibit A may be modified to reflect different funding amounts or funding amounts for future years by written agreement of the authorized officials of both TRPC and the County. The authorized official for the County is the Director of the Public Works Department and for TRPC it is the Executive Director.
- 3.1 Thurston County Public Works will serve as the RCSP fiscal agent. The County will attempt in good faith to establish mutually acceptable agreements between the County and each of the grant awardees to coordinate the administration of receiving, reviewing, and processing invoices from the communities. However, should an agreement not be entered between the County and any of the grant awardees, the County will have no obligation to administer RCSP funds to that awardee.
- 3.2 TRPC will limit RCSP award eligibility to the Town of Bucoda, Washington, the cities of Rainier, Washington and Tenino, Washington, the Confederated Tribes of the Chehalis Reservation, and the Nisqually Indian Tribe.
- 3.3 TRPC will schedule and facilitate application pre-submission meetings between each prospective awardee, TRPC staff, and Thurston County Public Works staff. The meetings may involve a project site visit. The purpose of these meetings is to review each applicant's project ideas, establish a mutual understanding of the project intent, eligibility, cost, and timeline.
- 3.4 TRPC will develop a Call for Projects Process that specifies funding priorities, match requirements, project eligibility types, project selection guidelines, application forms, and a schedule. This process will be approved by TRPC's policy makers.
- 3.5 TRPC will execute the Call for Projects Process to include notifying and providing assistance to all prospective awardees, reviewing grant proposals, and presenting proposals to policy makers for their review and selection.
- 3.6 TRPC will issue award letters and specify project timelines in coordination with each applicant and Thurston County Public Works.
- 3.7 Should any awardee not use their awarded RCSP funds within the specified timelines, or in the event that an interlocal agreement between the County and an awardee is terminated, the County may use any remaining RCSP funds previously allocated to that awardee for the County's road projects.

IV RELATIONSHIP OF THE PARTIES

- 4.0 The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party. This Agreement is for the benefit of the parties, and no third-party beneficiary relationship is intended. No separate legal entity is created

by this Agreement. No joint organization is created. No common budget is to be established. No personal or real property is to be jointly acquired or held.

V

HOLD HARMLESS AND INDEMNIFICATION

- 5.0 The COUNTY shall hold harmless, indemnify and defend TRPC, its officers, officials, employees and agents, solely for third party claims relating to bodily injury, sickness or death, or real or personal property damage or destruction and loss of use thereof, including costs and attorneys' fees in defense thereof, caused by or arising out of the COUNTY's negligence in the performance of its obligations under this Agreement.
- 5.1 TRPC shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, solely for third party claims relating to bodily injury, sickness, or death or real or personal property damage or destruction and loss of use thereof, including costs and attorneys' fees in defense thereof, caused or arising out of TRPC's negligence in the performance of its obligations under this Agreement.
- 5.2 The COUNTY's obligations and TRPC's obligations hereunder shall not extend to bodily injury, sickness or death caused by or arising out of the sole negligence of other party, its officers, officials, employees or agents.
- 5.3 In the event of the concurrent negligence of the parties, the COUNTY's and TRPC's obligations hereunder shall apply only to the percentage of fault attributable to each party, its officers, officials, employees or agents.
- 5.4 The provisions of this Hold Harmless and Indemnification section shall survive the expiration or termination of this Agreement.

VI

INSURANCE

- 6.0 All parties shall maintain Commercial General Liability or equivalent for bodily injury, personal injury and property damage, subject to limits of not less than \$1,000,000 per loss. The general aggregate limit shall apply separately to this Agreement and be no less than \$2,000,000. From time to time as this agreement is automatically extended, the insurance limits shall be reviewed and adjusted as mutually agreed by the COUNTY and TRPC. The Director of Public Works is authorized to approve these changes. Participation in a governmental self-insured risk pool shall fulfill the above stated coverage requirements. An Evidence of Coverage acknowledgement letter from the jurisdictions' risk pools will be provided to each party upon request.
- 6.1 All parties shall maintain Automobile Liability insurance subject to limits of not less than \$1,000,000 per accident. Participation in a governmental self-insured risk pool shall fulfill the above stated coverage requirements. An Evidence of Coverage acknowledgement letter from the jurisdictions' risk pools will be provided to each party upon request.
- 6.2 All parties shall maintain workers' compensation insurance as required by Title 51 RCW and shall provide evidence of Coverage to each party's Risk Manager or Risk Management Division upon request.
- 6.3 All parties shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies and endorsements expiring before completion of services shall be promptly replaced with written notice mailed to the other party upon request.

**VII
TERMINATION**

- 7.0 Any party may terminate this Agreement upon ninety (90) calendar days prior written notice to the other parties. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. Upon termination, the County may use any remaining RCSP funds held by the County which were allocated to the grant awardees for the County's road projects.

**VIII
LEGAL RELATIONS**

- 8.0 No liability shall attach to the parties by reason of entering into this Agreement except as expressly provided herein.

**IX
FORCE MAJEURE**

- 9.0 Neither party will be liable to the other nor deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure will include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, fire, epidemics, civil or public disturbances, or other similar occurrences. If any party is unable to perform under this Agreement due to a force majeure event, upon giving notice and reasonably full particulars to the other party, such obligation or condition will be suspended only for the time and to the extent commercially practicable to restore normal operations.

**X
ADMINISTRATION**

- 10.0 The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. Wherever written notice is required under this Agreement, such notice shall be provided to the representatives designated below. In the event such representatives are changed, the party making the change shall notify the other parties.

The County's representative shall be the Public Works Director (9605 Tilley Rd SW, Olympia WA 98512, 360-867-2300).

The TRPC's representative shall be the Executive Director.

**XI
CHANGES, MODIFICATIONS, AND AMENDMENTS**

- 11.0 This Agreement may be changed, modified, amended or waived only by written agreement executed by each party's authorized governing authority as provided in chapter 39.34 RCW.

**XII
GOVERNING LAW AND VENUE**

- 12.0 This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington both as to its interpretation and performance. Any action at law, suit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in a court of competent jurisdiction in Thurston County, Washington.

**XIII
WAIVER**

13.0 A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

**XIV
SEVERABILITY**

14.0 If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

**XV
ENTIRE AGREEMENT**

15.0 This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

BOARD OF COUNTY COMMISSIONERS
THURSTON COUNTY, WASHINGTON

THURSTON REGIONAL PLANNING
COUNCIL

Chair

Vice-Chair

Commissioner

Marc Daily, Executive Director

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

JON TUNHEIM
PROSECUTING ATTORNEY

By:

Deputy Prosecuting Attorney

Thurston County / Thurston Regional Planning Council

CONTRACT NO. 034-2020-040

EXHIBIT A

2020 Programmed Funds

- 1.0 Thurston County agrees to accept \$550,000, plus overhead and administrative costs for a total of \$755,340, into currently federally funded projects and to allocate \$550,000 to the Rural Community Support Program.
- 2.0 Thurston County agrees to program \$275,000 for disbursement for eligible project costs in 2022 and an additional \$275,000 by 2023.