

**INTERCITY TRANSIT  
AND  
THURSTON REGIONAL PLANNING COUNCIL**

**INTERLOCAL AGREEMENT FOR PLANNING & DATA SERVICES**

This Agreement is entered into pursuant to the Interlocal Cooperation Act (RCW 39.34) between Thurston Regional Planning Council, ("TRPC,") and Intercity Transit ("IT"), collectively referred to as "parties" and individually as "party."

Recitals:

WHEREAS, the general and special purpose jurisdictions and public institutions of Thurston County have joined together to form a Regional Planning Council known as TRPC;

WHEREAS, TRPC is also the federally recognized Metropolitan Planning Organization (MPO) for the area and as such maintains an approved Indirect Cost Plan;

WHEREAS, TRPC may provide, on a contractual basis, planning and technical assistance for member and nonmember agencies as set forth in the TRPC Agreement and Operating Procedures;

WHEREAS, IT desires to enter into an agreement with TRPC to perform certain planning and data services as hereinafter agreed to by both parties.

WHEREAS, the Intercity Transit Authority authorized the General Manager to enter into an Interlocal Agreement (ILA) with TRPC on March 4, 2020, to support certain planning and data services technical assistance, in accordance with Intercity Transit policies and procedures;

NOW, THEREFORE, in consideration of covenants, conditions, performances and promises contained herein, the parties agree as follows:

I. PURPOSE. The general objective(s) of this Agreement shall be for TRPC to provide planning and data services to IT.

II. DUTIES OF TRPC AND IT.

TRPC shall provide the necessary planning, personnel, and services to accomplish tasks at the request of IT. Examples of the types of services TRPC may provide to IT are contained in Exhibit A attached hereto and incorporated herein by reference. TRPC shall prepare a scope of work and budget and provide it to the authorized official for IT review and approval prior to the commencement of work on each project. IT assumes responsibility for seeking any separate required approval from the Intercity Transit Authority (ITA) for any project pursuant to a scope of work under this Interlocal Agreement, consistent with IT policies. The authorized official for IT is the General Manager or designee; and, for TRPC it is the Executive Director. To accomplish the general objective(s) of this Agreement, TRPC shall provide all services and materials specified by a fully executed scope(s) of work for each project. All services and materials shall be provided in

accordance with the scope(s) of work in a competent and professional manner and as applicable in accordance with any federal funding requirements. Each approved and executed scope of work shall be incorporated into and become a part of this Agreement.

TRPC shall establish and maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. To facilitate the administration of this Agreement, separate project accounts shall be established and maintained within TRPC's existing accounting system. TRPC shall track employee time and expenses for all projects agreed to within this Agreement and provide IT with a monthly invoice, which will include an accounting of expenses and status of work elements and in accordance with the current approved Indirect Cost Plan.

Records and accounts pertaining to the work and accounting shall be kept for six years from the final date of payment and be kept available for inspection by either party or by the state or federal government. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six-year retention period.

TRPC at such times and in such forms as IT may require, shall furnish to IT such statements, records, reports, data, and information as IT may request pertaining to matters covered by this Agreement. All of the reports, information, data, records, and other related materials, prepared or assembled by TRPC under this Agreement may be subject to public disclosure pursuant to chapter 42.56 RCW.

TRPC shall at any time during normal business hours and as often as IT or authorized state or federal government representatives may deem necessary, make available for examination all of its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit IT or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. Upon request, IT shall receive a copy of all audit reports made by the agency or firm as to TRPC'S activities. IT may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of TRPC'S activities that relate, directly or indirectly, to this Agreement.

### III. DURATION OF THE AGREEMENT.

This Agreement shall become effective upon the last date of execution and shall remain in effect for ten (10) years unless terminated sooner as provided for herein. At the end of the ten-year term, this Agreement may be renewed under those terms and conditions mutually agreed to by the parties herein. Prior to commencement, this Agreement shall be filed in accordance with RCW 39.34.040.

### IV. PAYMENT FOR SERVICES.

IT shall pay TRPC for planning and data services rendered, as specified herein, and as outlined in each scope of work. TRPC shall submit monthly vouchers for services rendered under this Agreement and IT shall pay thereon within thirty (30) days of receipt.

Payment for any planning and data services that utilize federal grant funds shall be in accordance with eligible rates established under the current approved Indirect Cost Plan as certified by TRPC's Executive Director.

V. PROHIBITION AGAINST ASSIGNMENT

Neither this Agreement nor any interest therein may be assigned by either party, without first obtaining the written consent of the other party.

VI. OWNERSHIP OF MATERIALS.

Ownership of materials produced as part of this Agreement, including but not limited to documents, maps, and computer data, etc. shall be the property of IT and shall be made available upon request.

VII. TERMINATION.

This Agreement may be terminated by either party upon thirty (30) calendar days prior written notice to the other party specifying the date of termination. IT agrees to be responsible for financial obligations incurred by TRPC up through, and including the date of termination, for work performed in accordance with the terms of this Agreement on behalf of IT. Upon receipt of written notice of termination of this Agreement, TRPC agrees not to undertake any further obligations on behalf of IT beyond the date scheduled for termination.

VII. ADMINISTRATION; ACQUISITION OF PROPERTY.

This Agreement will be administered by IT. 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 real or personal property is to be jointly acquired or held.

IX. EQUAL EMPLOYMENT OPPORTUNITY.

In execution of this Agreement, TRPC shall not discriminate against any employee or applicant for employment because of race, creed, religion, ethnicity, marital status, veteran status, age, color, sex, national origin, sexual orientation or disability.

X. HOLD HARMLESS/INDEMNIFICATION AND INSURANCE.

TRPC shall defend, indemnify and hold IT, its officers, officials, employees and agents harmless from all claims, injuries, damages, losses or suits including costs and attorneys' fees, arising out of or resulting from the acts, errors or omissions of TRPC or its subcontractors in performance of this Agreement, except for injuries and damages caused by the sole negligence of IT.

IT shall defend, indemnify and hold TRPC, its officers, officials, employees and agents harmless from all claims, injuries, damages, losses or suits including costs and attorneys' fees, arising out of or resulting from the acts, errors or omissions of IT in performance of this Agreement, except for injuries and damages caused by the sole negligence of TRPC.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of TRPC and IT, its officers, officials, employees, and agents, TRPC's liability, including the duty and cost to defend, hereunder shall be only to the extent of TRPC's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes TRPC's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the completion, expiration or termination of this Agreement.

TRPC shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by TRPC, its agents, representatives, or employees.

TRPC's membership in a public insurance risk pool that provides equal coverage as that specified below shall satisfy the requirements of this section.

A. Insurance Term

TRPC shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by TRPC, its agents, representatives, or employees.

B. No Limitation

TRPC's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of TRPC to the coverage provided by such insurance, or otherwise limit IT's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance

TRPC shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance.

D. Minimum Amounts of Insurance

TRPC shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

E. Other Insurance Provisions

TRPC's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect to IT. Any Insurance, self-insurance, or self-insured pool coverage maintained by IT shall be excess of TRPC's insurance and shall not contribute with it.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A. M. Best rating of not less than A:VII.

G. Verification of Coverage

TRPC shall, upon request, furnish IT with original certificates and a copy evidencing the insurance requirements. A letter of coverage from a public insurance risk pool shall satisfy this requirement.

H. Notice of Cancellation

TRPC shall provide IT with written notice of any policy cancellation within two business days of their receipt of such notice.

XI. INDEPENDENT CONTRACTOR.

The parties intend that an independent contractor relationship will be created by this Agreement. IT will not exercise control and direction over the work of TRPC, and is interested primarily in the results to be achieved with regard to data and planning services work. No agent, employee, servant or representative of TRPC shall be deemed to be an employee, agent, servant or representative of IT for any purpose, and the employees of TRPC are not entitled to any of the benefits IT provides for its employees. TRPC will be solely and entirely responsible for its acts and

for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.

In the performance of the services herein contemplated TRPC is an independent contractor with the authority to control and direct the performance of the details of the work; however, the results of the work contemplated herein must meet the approval of IT and shall be subject to IT's general rights of inspection and review to secure the satisfactory completion thereof.

As an independent contractor, TRPC shall be responsible for the reporting and payment of all applicable local, state, and federal taxes.

XII. COMPLIANCE WITH LAWS.

TRPC, in the performance of this Agreement, shall comply with all applicable federal, state and local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

XIII. POLITICAL ACTIVITY PROHIBITED.

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

XIV. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

XV. GOVERNING LAW AND VENUE.

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 laws of the state of Washington, both as to interpretation and performance.

Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in any of the courts of competent jurisdiction in Thurston County, Washington.

XVI. SEVERABILITY.

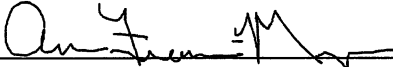
If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

XVIII. CHANGES, MODIFICATIONS, AND AMENDMENTS

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.

IN WITNESS WHEREOF, TRPC and IT have executed this Agreement as of the date and year written below.

INTERCITY TRANSIT

  
\_\_\_\_\_  
Ann Freeman-Manzanares, General Manager

THURSTON REGIONAL PLANNING COUNCIL

  
\_\_\_\_\_  
Marc Daily, Executive Director

October 1, 2020  
\_\_\_\_\_  
DATE

10-2, 2020  
\_\_\_\_\_  
DATE

**EXHIBIT A**  
(Examples of authorized activities)

**Planning and Data Services:** The following are examples of planning and data services that may be provided:

- Modeling
- Mapping (GIS)
- Data analysis
- Project Coordination & Meeting facilitation
- Transportation data storage (e.g., traffic counts)
- Planning studies
- Communication materials
- Grant preparation