

After filing, return to:
City Clerk
City of Spokane
Fifth Floor, City Hall
808 West Spokane Falls Boulevard
Spokane, Washington 99201

**INTERLOCAL AGREEMENT CREATING COMMUNICATIONS LINKS
BETWEEN THE CITY OF SPOKANE AND SPOKANE TRANSIT AUTHORITY**

THIS INTERLOCAL AGREEMENT (hereinafter "Agreement") is between the CITY OF SPOKANE, a Washington State municipal corporation, (hereinafter "City") and SPOKANE TRANSIT AUTHORITY, a Washington State political subdivision and special purpose district (hereinafter "STA"), 1230 West Boone Avenue, Spokane, Washington 99201, and jointly referred to as the "Parties."

RECITALS:

WHEREAS Chapter 39.34 RCW, Interlocal Cooperation Act, permits governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on the basis of mutual advantage to perform functions, and provide services and facilities to each other and the public; and

WHEREAS, the Parties require communications (voice, data, video) to, from and/or through, STA's passenger transfer center, The Plaza, located at 701 West Riverside Avenue, Spokane, Washington; and

WHEREAS, it is in the operational and financial best interest of both Parties to jointly install this Communications Link to facilitate expanded Communications Links within our community; -- Now, Therefore, the Parties agree as follows:

1. DEFINITIONS AND LOCATIONS

Avista Utilities Franchise Agreement. Agreement between the City of Spokane and Avista Corporation regarding the installation and use of equipment or facilities which expires September 8, 2012.

Chapter 39.34 RCW, Interlocal Cooperation Act. Permits governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on the basis of mutual advantage to perform functions, and provide services and facilities to each other and the public.

Chapter 39.34 RCW Required Clauses. Purpose, Duration, Organization Of Separate Entity And Its Powers, Responsibilities Of The Parties, Agreement To Be Filed, Financing, Termination, Property Upon Termination.

City of Spokane. A Washington State municipal corporation, as "City".

Communications Link(s). Another name for a communications channel. Includes conduit, innerduct and fiber optics cable and associated facilities or equipment.

Conduit. Piping used to contain and protect cable.

Fiber Cable. Installed for this project; forty eight (48) strand, single mode or twenty four (24) pairs.

Fiber Link. The fiber segment or connection between two sites, and associated end of link equipment necessary to activate service.

Innerduct. A non-metallic raceway, usually round, that is placed within a larger raceway.

Notice. Written communication served either personally or by certified mail, return receipt requested, at their respective addresses.

The Plaza. STA's passenger transfer and waiting facility located at 701 West Riverside Avenue, Spokane, Washington.

Plaza Telecom Room. Located within The Plaza's second floor area known as The Bus Shop, located in the northwest corner of the second floor.

Spokane City Hall. Located at 808 West Spokane Falls Boulevard, Spokane, Washington.

Spokane City/Spokane County Public Safety Building. Located at 1100 West Mallon Avenue, Spokane, Washington.

Spokane County Emergency Services Building. Located at 1121 West Gardner Avenue, Spokane, Washington.

Spokane Transit Authority. A Washington State political subdivision and special purpose district known as STA, headquartered at Spokane Transit Administration Facility, 1230 West Boone Avenue, Spokane, Washington.

Spokane Transit Maintenance Facility. Located at 1229 West Boone Avenue, Spokane, Washington.

2. PURPOSE

The purpose of this Interlocal Agreement is to define the shared installation, management and costs of the conduit, innerduct and fiber optics cable and associated facilities or equipment called for in this joint communications project.

3. TERM

This Agreement shall begin upon signature by both jurisdictions' authorizing agent and shall extend twenty five (25) years. Post-installation, either Party may terminate this Agreement for cause or functionality any time upon one hundred eighty (180) days written Notice. Upon termination of use of facilities described in this Agreement first right of refusal for the equipment shall be offered to the remaining party.

4. PROJECT INSTALLATION

- A. All equipment, conduit, innerduct, cable and installation services will be based on current industry wide area network standards. A schematic, Attachment I, illustrates the connections described below.
- B. For purposes of this joint communications project, STA shall provide the following materials:
- 1) Fiber cable from the Spokane Transit Maintenance Facility located at 1229 West Boone Avenue to the Spokane County Emergency Services Building located at 1121 West Gardner Avenue.
 - 2) Innerduct from Spokane City Hall located at 808 West Spokane Falls Boulevard to the STA Plaza.
 - 3) Fiber cable (forty eight (48) strands, single mode) from Spokane City Hall to STA Plaza.
 - 4) Fiber cable, conduit and innerduct within the STA Plaza from the building entrance to the second floor administration office's Telecom Room, also known as The Bus Shop.
- C. For purposes of this joint communications project, the City shall provide the following materials and services:
- 1) Project management support for the project.
 - 2) Fiber cable connectivity from Spokane County Emergency Services Building to Spokane City Hall.
 - 3) Conduit (via Avista Utilities Franchise Agreement) from Spokane City Hall to The Plaza.
 - 4) Fiber termination equipment and fiber termination services at Spokane City Hall.
 - 5) Fiber termination equipment and fiber termination services at Spokane County Emergency Services Building via Spokane County Public Safety Building located at 1100 West Mallon Avenue and the STA Plaza.

5. PROJECT OPERATION AND OWNERSHIP

A. STA shall maintain:

- 1) Ownership and maintenance responsibility for the link from STA Maintenance Building to Spokane County Emergency Services Building.
- 2) Control of twelve (12) strands (six (6) fiber pairs) from Spokane City Hall to the telecom room at the STA Plaza. STA accepts twenty five percent (25%) of maintenance costs for this portion of the Communications Link.
- 3) Ownership of conduit in the STA Plaza.

B. The City shall maintain:

- 1) Operational management and control of the communications links.
- 2) Ownership and maintenance responsibility of all parts of the communication link as set forth in 5. A., above. The City also accepts location responsibility.

6. ADMINISTRATION AND FINANCIAL RESPONSIBILITY

- A. Both STA and City accept the financial responsibilities for equipment and services to be provided as noted above in 4. PROJECT INSTALLATION.
- B. Both STA and City accept the financial responsibilities for maintenance and repairs as noted above in 5. PROJECT OPERATION AND OWNERSHIP.
- C. The City shall be responsible for the project management, construction, installation and testing under the terms of this interlocal agreement.

7. LIABILITY

- A. The City shall defend, indemnify and hold harmless STA, its officers, employees and agents, from any claim, damage, loss, liability, injury, cost and expense arising out of the negligence of the City, its officers, employees and agents in connection with the Agreement, except to the extent of the negligence of STA, its officers, employees and agents. If an action, claim or proceeding instituted by a third party is directed at work or action taken by the City solely on behalf of STA, its officers, employees and agents, STA shall defend, indemnify and hold harmless the City from any expenses connected with the defense, settlement, or monetary judgment ensuing from such actions, claims, or proceedings.
- B. STA shall defend, indemnify and hold harmless the City, its officers, employees and agents, from any claim, damage, loss, liability, injury, cost and expense arising out of the negligence of STA, its officers, employees and agents in connection with the Agreement, except to the extent of the negligence of the City, its officers, employees and agents. If an action, claim or proceeding instituted by a third party is directed at work or action taken by STA solely on behalf of the City, its

officers, employees and agents, the City shall defend, indemnify and hold harmless STA from any expenses connected with the defense, settlement, or monetary judgment ensuing from such actions, claims, or proceedings.

- C. Each Party specifically assumes potential liability for actions brought by its own employees against the other Party, and solely for the purposes of this indemnification, each Party specifically waives any immunity under Title 51 RCW. The parties have specifically negotiated this provision.

8. NOTICES

All Notices shall be in writing and served on any of the Parties either personally or by certified mail, return receipt requested, at their respective addresses. Notices sent by certified mail shall be deemed served when deposited in the United States mail, postage prepaid.

CITY: Mayor or designee
City of Spokane
Fifth Floor, City Hall
808 West Spokane Falls Boulevard
Spokane, Washington 99201

STA: CEO or designee
Spokane Transit Authority
1230 West Boone Avenue
Spokane, Washington 99201

9. INSURANCE

During the term of the Agreement, each Party shall maintain in force at its sole expense, each insurance noted below:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000;
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$2,000,000 each occurrence for bodily injury and property damage;
- C. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles; and
- D. Professional Liability Insurance with a combined single limit of not less than \$1,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Agreement.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days written Notice from each Party or its insurer(s) to the other Party.

10. MISCELLANEOUS

A. Non-Waiver

No waiver by either Party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.

B. Headings

Headings are inserted for convenience of reference only and are not to be deemed part of or to be used in construing this Agreement.

C. Entire Agreement

This Agreement contains the entire understanding of the Parties. No representations, promises, or agreements not expressed herein have been made to induce either Party to sign this Agreement.

D. Modification

No modification or amendment to this Agreement shall be valid until put in writing and signed with the same formalities as this Agreement.

E. Assignment

Neither Party may assign its interest in this Agreement without the express written consent of the other Party.

F. Severability

In the event any portion of this Agreement should become invalid or unenforceable, the rest of the Agreement shall remain in full force and effect.

G. Compliance with Laws

The Parties shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.

H. Non-Discrimination

The Parties shall not discriminate on the basis of race, color, creed, marital status, familial status, religion, sex, national origin, sexual orientation, age, Vietnam era or disabled veteran's status, or the presence of any mental, sensory, or physical disability or use of a trained guide dog or service dog by a disabled person in

employment or application for employment or in the administration or delivery of services or any other benefits under the Agreement.

I. Venue

This Agreement shall be construed under the laws of Washington State. Any action at law, suit in equity or judicial proceeding regarding this Agreement or any provision hereto shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.

J. Counterparts

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.

11. RCW 39.34 REQUIRED CLAUSES.

A. PURPOSE

See Section 1 above.

B. DURATION

See Section 3 above.

C. ORGANIZATION OF SEPARATE ENTITY AND ITS POWERS

No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

D. RESPONSIBILITIES OF THE PARTIES

See provisions above.

E. AGREEMENT TO BE FILED

The CITY shall file this Agreement with its City Clerk. STA shall file this Agreement with the Spokane County Auditor.

F. FINANCING.

Each Party shall advise the other Party, during its yearly regular budget hearings, on the proposed budget changes (only) affecting this Agreement. Each Party shall be responsible for the financing of its contractual obligations under its normal budgetary process.

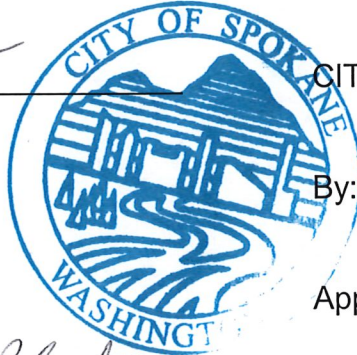
G. TERMINATION.

See provision 2 above.

H. PROPERTY UPON TERMINATION.

Title to all property acquired by any Party in the performance of this Agreement shall remain with the acquiring Party upon termination of the Agreement. Jointly acquired property shall be divided in accordance with specifications established in 5. PROJECT OPERATION AND OWNERSHIP (above).

Dated: 8/8/05 CITY OF SPOKANE



By: [Signature]
Deputy Mayor

Attest: [Signature]
City Clerk

Approved as to form: [Signature]
Assistant City Attorney

Dated: 8.1.05

SPOKANE TRANSIT AUTHORITY

By: [Signature]
E. Susan Meyer, CEO

Attest: [Signature]
Geraldyn Garberg, Clerk of the Authority

Approved as to form: [Signature]
Laura McAloon, Legal Counsel

Attachment I

