



COB's Contract
eRouter

Number
(Assigned by FINANCE)

CITY OF BELLINGHAM

CONTRACT #

2003-0183A

Tracking Number AMHW-667RV6
Type Contract
Dept Executive

Contracting Party	Bellingham-Whatcom Public Facilities District	Original Cont #	2003-0183
Name/Project #	First Amendment to Interlocal Operating Agreement between the City of Bellingham and the Bellingham-Whatcom		
Termination Date	05/27/2028	If Contract is Extended, New Termination Date:	
City Project Mgr			
Certificate of Insurance	<input type="radio"/> Attached <input type="radio"/> Waived <input checked="" type="radio"/> N/A		
Is Notary required?	Yes		
P.O. Required?	No	Maximum Payable \$\$	<input checked="" type="checkbox"/> See Contract
Exhibits Attached:	<input type="radio"/> Yes <input checked="" type="radio"/> No		
Special Instructions:	Please e-mail signed; scanned original to Alison Henshaw. Thank you.		

11/2
Distribution: Original - Attach to Contract, Copy: Return to Originating Dept.
Modification of Contract - Attach Copy of Original Contract to Physical document

You are an Administrator of the approval process

Contract eRouter: In Process

Approvers	Title	Assigned	Notified	Email Received	Status Changed	Status
Kerry L Messer	Legal Administrative Assistant	10/28/2004	10/28/2004	-	-	-
Renie B Hill	Executive Receptionist/Secretary	-	-	-	-	-
Kristina J Bowker	1/2.	-	-	-	-	-
Marc L Hagen	Office Technician	-	-	-	-	-
	Office Assistant I/PT					

Approval Cycle Settings

- 2 Approval conditions: 100 % approval
2 Routing method Serial (one at a time)
2 Approvers Grp_eRouter
2 Allow Approver comments Yes
2 Automatically Delegate to Assistant... No
2 Automatically Skip Approvers... Yes
Days until skipped/delegated 30 Weekdays
30 Weekdays

Notification
Access

11/2/04 Bill Finance
11/3/04 notes / HSO/scan

2003-0183A

**FIRST AMENDMENT TO
INTERLOCAL OPERATING AGREEMENT BETWEEN
THE CITY OF BELLINGHAM
AND
THE BELLINGHAM-WHATCOM PUBLIC FACILITIES DISTRICT**

This **FIRST AMENDMENT TO INTERLOCAL OPERATING AGREEMENT** (this "Amendment"), is dated as of Nov. 2, 2004, by and between the **CITY OF BELLINGHAM**, a Washington Municipal Corporation (the "City"), and **BELLINGHAM-WHATCOM PUBLIC FACILITIES DISTRICT**, a Washington Municipal Corporation (the "District"), and amends the Interlocal Operating Agreement (the "Original Agreement") between the parties dated as of May 20, 2003.

RECITALS

WHEREAS, the City and the District have entered into the Original Agreement to facilitate the financing, design, construction, remodel, operation and maintenance of a Regional Center in the City, with associated improvements including parking facilities ("Regional Center") pursuant to RCW 39.34, RCW 35.57 and RCW 35.59; and

WHEREAS, the City, pursuant to Ordinance No. 2004-10-075 (the "Bond Ordinance"), has authorized the issuance and sale of its \$16,375,000 par value Limited Tax General Obligation Improvement and Refunding Bonds, 2004 (the "Bonds"), a portion of the proceeds of which will be used to finance the Regional Center; and

WHEREAS, the Bonds are being issued as qualified 501(c)(3) bonds pursuant to the Internal Revenue Code of 1986, as amended (the "Code"), and under the Code the City is required to comply, and has covenanted in the Bond Ordinance to comply, with certain requirements after the date of issuance of the Bonds in order to maintain the exclusion of the interest on the Bonds from gross income for federal income tax purposes, including, without limitation, requirements concerning the qualified use of Bond proceeds and the facilities financed or refinanced with Bond proceeds, limitations on investing gross proceeds of the Bonds in higher yielding investments in certain circumstances and the arbitrage rebate requirement to the extent applicable to the Bonds; and

WHEREAS, the District has agreed to include in the terms of the Original Agreement its covenant to comply with the provisions of the Code to prevent interest on the Bonds and any other tax-exempt obligation of the City issued to finance the Regional Center from being included in gross income for federal income tax purposes;

NOW, THEREFORE, pursuant to RCW 39.34 and in consideration of the mutual understanding, undertaking and promises contained herein including the recitals above, and the benefits to be realized by each party and by the general public from the creation and operation of the Regional Center, the City and the District agree as follows:

Section 4.1 of the Original Agreement is amended to add a new subsection (b) and renumber the subsequent paragraphs, to read as follows:

4.1 District.

a. The District shall, upon collection, pay or cause to be paid all funds collected by or on behalf of the District from the State sales and use tax and admission and parking taxes imposed by the District, and from any other sources, to the City of Bellingham for deposit in the Public Facilities District special revenue fund. Such funds shall be used primarily for the debt service for bonds issued by the City of Bellingham to fund the design, development and construction of the Regional Center inclusive of costs of pre-development and property acquisition. The duration of the District's obligations described above shall be consistent with the duration of the debt obligation of the City for the bonds issued but shall be no longer than the maximum time period allowed by law.

b. The District shall take such action or actions, including being a party to or consenting to such amendments of this Agreement or such other documents pertaining to tax-exempt obligations issued by the City to finance the Regional Center, as may be necessary, in the opinion of bond counsel to the City, to comply fully with all applicable rules, rulings, regulations, policies, procedures or other official statements promulgated or proposed by the Internal Revenue Service pertaining to obligations the interest on which is excludable from gross income under Section 103 of the Code and which pertain to such bonds. In particular, the District shall ensure that any leases or other contracts relating to the improvements financed with tax-exempt obligations (other than contracts entered by the City pursuant to the Section 1.2 of this Agreement) comply with the applicable provisions of the Code and such rules, rulings, regulations, policies, procedures or official statements.

b.c. The District may undertake fundraising from public or private sources to obtain gifts, grants and donations for the purpose of a Regional Center.

e.d. The District shall have the right, subject to City Council approval, to lease, purchase and own real property to accomplish the purposes of the Public Facilities District.

d.e. The District shall have the right, for purposes of determining compliance with the Interlocal Operating Agreement, to periodically review documents relative to the expenditure by the City of funds paid by the District to the City for deposit into the Public Facilities District special revenue fund.

e.f. The District shall have the right, for purposes of determining compliance with this Agreement, to review reports prepared by or on behalf of the City of Bellingham relative to the status of the construction of the Regional Center. Such

reports will generally include a description of the progress of the work and completion dates relative to the construction schedule.

f.g. The District shall have the right, for purposes of determining compliance with this Agreement, to review annual reports prepared by or on behalf of the City, which pertain to the management and operation of the Regional Center.

g.h. The District shall have the right to exercise any of the remedies provided herein in the event of a material breach of this agreement by the City of Bellingham.

NO OTHER CHANGES

The Original Agreement shall remain in full force and effect in all other respects.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first written above.

EXECUTED this 2nd day of Nov, 2004.

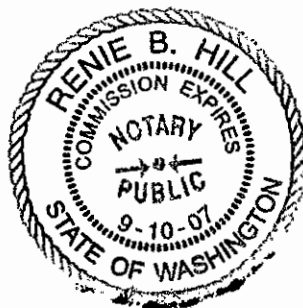
CITY OF BELLINGHAM, WASHINGTON

Mark Asmundson
Mayor

STATE OF WASHINGTON)

COUNTY OF WHATCOM) ss.

On this 2nd day of Nov, 2004, before me personally appeared Mark Asmundson, Mayor, to me known to be the person individually or jointly described in and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Renie B Hill
NOTARY PUBLIC in and for the State
of Washington, residing at Bellingham
My commission expires: 10 Sept 2007

Attest:

Therese Holm
Finance Director

Approved as to form:

Les E. Brinkley
Office of the City Attorney

EXECUTED this 28th day of October, 2004.

**BELLINGHAM-WHATCOM
PUBLIC FACILITIES DISTRICT**

by DL G
Dunham Gooding, President

Approved as to form:

Alison M. Henshaw
Attorney for Bellingham-Whatcom
Public Facilities District

STATE OF WASHINGTON)

COUNTY OF WHATCOM) ss.

On this 28th day of October, 2004, before me personally appeared Dunham Gooding, to me known to be the person individually or jointly described in and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Alison M. Henshaw
NOTARY PUBLIC in and for the State
of Washington, residing at Bellingham
My commission expires: 7/19/06