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INTERLOCAL AGREEMENT
Between
SNOHOMISH COUNTY and THE CITY OF GRANITE FALLS
CONCERNING DESIGN AND CONSTRUCTION OF AN ALTERNATE ROUTE TO
ALLEVIATE THE IMPACTS OF HEAVY-VEHICLE TRAFFIC ON THE CITY

THIS AGREEMENT, is for the design and construction of the Granite Falls Alternate Route, made and entered into this 28th day of February, 2007, by and between SNOHOMISH COUNTY a political subdivision of the State of Washington, hereinafter referred to as "COUNTY," and the CITY OF GRANITE FALLS a municipal corporation, hereinafter referred to as "CITY."

WHEREAS, the CITY and the COUNTY entered into an interlocal agreement on October 18, 2000, to jointly fund a predesign study to examine alternate routes for heavy truck traffic around the CITY from the Mountain Loop Highway to SR 92; and

WHEREAS, the CITY and the COUNTY have concluded that proceeding with an alternate route as recommended in the predesign study is in the public interest to promote road safety and traffic circulation and, therefore, is a project of high priority and should be undertaken immediately and cooperatively in three phases namely engineering design, right-of-way acquisition and construction; and

WHEREAS, it has been agreed between the two parties that for the engineering design, right-of-way acquisition and construction phases, hereinafter referred to as the "Project," the COUNTY will be the lead agency; and

WHEREAS, the CITY and COUNTY plan to achieve 100% design by early 2007, for a total cost of \$3,683,000, to purchase right-of-way for the Project by mid 2008, at a cost of approximately \$4,379,000 and to complete construction of the Project by the end of 2009, at a cost of approximately \$24,501,000, resulting in a total Project cost of \$32,563,000 including inflation; and

WHEREAS, the CITY and the COUNTY entered into an interlocal agreement on July 31, 2002, for reciprocal mitigation of transportation impacts wherein a portion of the funds collected by the CITY will be used for construction of the alternate route; and

WHEREAS, the CITY has entered into agreements with a number of quarries for mitigation of traffic impacts on City streets wherein funds would be contributed to the alternate route including an agreement with Green Mountain Mine dated April 20, 1997, an agreement with ARC Materials d/b/a CSR Associated dated October 22, 1999, and an agreement with James Burnett, Sharon Silverstone, LP Hughes and Mary Hughes for the Burnett/Hughes Asphalt Plant signed by the parties in October and November, 2001;

WHEREAS, the CITY has \$200,000 from a federal Rural Surface Transportation Grant (STP-R) it received in 2003 for the Project, and \$664,000, as of September 2006, from the agreements identified in the preceding paragraph and traffic impact fees for the Project and anticipates having an additional \$510,000 (\$120,000/year) of CITY funds available by the end of 2010, bringing the total funds by the CITY for the Project through the end of 2010, to \$1,174,000; and

WHEREAS, the CITY created the Capital Improvement Fund/Arterial Street/Alternate Route account by City Ordinance No. 690-04 on April 28, 2004, for the purpose of collection of contributions and fees to be used for the Project; and

WHEREAS, the COUNTY expended \$710,000 on the Project during 2002 and 2003, expended \$1,019,000 on the Project in 2004, of which \$955,000 was reimbursed by Federal Funds, and \$774,000 was paid from COUNTY funds and expended \$2,298,000 in 2005 of which, \$1,669,000 was reimbursed by State FMSIB funds and \$629,000 was paid from COUNTY funds; and

WHEREAS, the total funds expended for the project through the end of 2005, include \$1,403,000 of COUNTY funds, \$955,000 of Federal Funds and \$1,669,000 of State FMSIB funds; and

WHEREAS, the COUNTY has budgeted \$950,000 of COUNTY funds for the Project in the 2006 Annual Construction Program (ACP) and \$573,000 in the 2007 ACP bringing the total COUNTY funds spent and budgeted to \$2,926,000; and

WHEREAS, the COUNTY and CITY received a federal appropriation of \$750,000 during 2003, and state FMSIB funding of \$1,800,000 during 2005, for the Project; and

WHEREAS, the COUNTY received an allocation of federal SAFETELU funding of \$2,420,000 for the Project in 2005, available in equal amounts in fiscal years 2005 through 2009, and state FMSIB funding of \$3,200,000 was reallocated for the construction phase of the Project; and

WHEREAS, total funds available for the project through the end of 2010 include \$1,174,000 CITY funds, \$2,926,000 COUNTY funds, \$3,170,000 Federal Funds and \$5,000,000 FMSIB funds for a total of \$12,270,000, resulting in a need for an additional \$20,293,000 to complete the Project; and

WHEREAS, the CITY and the COUNTY agree to jointly fund the Project, and intend to jointly pursue other state and federal funding avenues to achieve the remaining \$20,293,000 required for the Project; and

WHEREAS, the COUNTY is a "Certified Acceptance" agency and is, therefore, qualified to administer federally funded projects, and

WHEREAS, the parties are authorized to enter into an interlocal agreement pursuant to chapter 39.34 RCW in order to jointly accomplish this Project;

NOW THEREFORE, it is mutually agreed as follows:

I. PURPOSE

This Agreement provides for engineering design, right-of-way acquisition and construction for the Project as described in Exhibit A, attached hereto and by this reference incorporated herein, and sets forth the roles, responsibilities and obligations of the COUNTY and CITY as they relate to this Agreement. No separate legal entity is created by this Agreement.

II. FINANCIAL CONTRIBUTIONS

The COUNTY and CITY are each responsible for one-half of the total fees and costs of the Project subject to the exceptions below. In order to allocate the Project fees and costs fairly between the COUNTY and CITY, the parties hereto agree as follows:

A. CITY Responsibilities:

1. The CITY will deposit and hold all funds collected from the agreements with Green Mountain Mine dated April 20, 1997, with ARC Materials

d/b/a CSR Associated dated October 22, 1999, and with James Burnett, Sharon Silverstone, LP Hughes and Mary Hughes for the Burnett/Hughes Asphalt Plant signed by the parties in October and November, 2001, and any other similar agreements with quarry operators and the portion of other traffic mitigation funds collected by the CITY for the alternate route (not less than 40% of total mitigation funds collected by the CITY) in the CITY's Capital Improvement Fund/Arterial Street/Alternate Route account.

2. The CITY will not spend funds held in the CITY Capital Improvement Fund/Arterial Street/Alternate Route account for any purpose other than as specified by this Agreement without concurrence from the COUNTY, except that it may use these funds for payment for CITY professional services associated with the CITY's role in the Project and for maintenance of those portions of the alternate route located within CITY limits up to a maximum of \$11,000 per lane mile per year.
3. The CITY will annually notify the COUNTY of the total CITY funds held in the Capital Improvement Fund/Arterial Street/Alternate Route Account and the amount it needs to reasonably retain in order to pay for professional services referred to in Section IV.G.
4. The CITY will pay the COUNTY within 30 days of receipt of the invoices issued pursuant to Section II.B.2, unless the COUNTY delays payment until CITY investments mature so that full interest is earned. If an amount invoiced exceeds the amount accumulated in the Capital Improvement Fund/Arterial Street/Alternate Route, the CITY will not be required to pay at the time of invoice the difference between the amount invoiced for any given year and the amount the CITY has accumulated during that year in the Capital Improvement Fund/Arterial Street/Alternate Route account less funds it needs to reasonably retain to pay for professional services referred to in Section II.A. 2. Notwithstanding the above, any funds collected by the CITY pursuant to Section II.A.1 beyond 2010, shall be paid to the COUNTY until all amounts, as invoiced pursuant to this Agreement, are completely paid to the COUNTY. No interest shall accrue on the unpaid balance of an invoice which exceeds the amount actually held by the CITY in the Capital Improvement Fund/Arterial Street/Alternate Route account less funds it needs to reasonably retain to pay for professional services and maintenance of the alternate route referred to in Section II.A.2.
5. The CITY will contribute the entire amount of the STP-R Grant, \$200,000, to the Project.
6. The CITY shall pay the COUNTY \$701,500 upon execution of this Agreement. The STP-R Grant of \$200,000.00 can be used to partially pay this amount.

B. COUNTY Responsibilities:

1. The COUNTY will notify the CITY annually of the total funds expended on the Project.
2. The COUNTY will annually invoice the CITY for one-half of the fees and costs expended on the Project. The COUNTY will invoice the CITY on a more frequent basis if requested by the CITY.
3. The COUNTY will credit the CITY \$200,000, for the STP-R Grant, in the 2002-03 Invoice.
4. The COUNTY will deposit funds it receives from the CITY into a cumulative reserve fund for the Project and spend them as needed for the Project.

III. COUNTY RESPONSIBILITIES

- A. The COUNTY shall act as the lead agency on the Project and will be responsible for compliance with the Local Agency Guidelines under certification acceptance authority during all phases of the Project. The COUNTY's Project Manager shall act as the administrator of this cooperative undertaking.
- B. The COUNTY, in performing work on the Project will closely coordinate its own efforts and the activities of consultants with the CITY, and whenever appropriate with the Washington state Department of Transportation (WSDOT).
- C. The COUNTY will provide the CITY with copies of significant documents the COUNTY or consultants produce for the Project.
- D. The COUNTY will respond in writing to any written comments it receives from the CITY about the design and will act in good faith in resolving any conflicts with the CITY.
- E. The COUNTY will not approve key elements of design without prior consultation with the CITY.
- F. The COUNTY will not make final decisions about the design of the Project without concurrence of the CITY, which concurrence will not be unreasonably withheld.
- G. The COUNTY will, with the CITY's concurrence, which concurrence will not be unreasonably withheld, develop and implement an expenditure plan, hereinafter the "Plan," of federal, state, COUNTY and CITY funds to make best use of such funds for the Project .

IV. CITY RESPONSIBILITIES

- A. The City Engineer will be the CITY's project manager for the Project and will coordinate with the COUNTY's project manager throughout the project.

- B. The CITY will provide the COUNTY with copies of any significant documents the CITY prepares related to the design of the Project.
- C. The CITY will respond in writing to any written comments received from the COUNTY about the design and will act in good faith in resolving any conflicts with the COUNTY.
- D. The CITY will respond in a timely manner to COUNTY requests for review and concurrence of Project design.

V. LEGAL RELATIONS, INDEMNIFICATION AND LIABILITY

- A. This Agreement in no way modifies or supersedes existing laws and statutes. In meeting the commitments encompassed in this Agreement, all parties shall comply with the requirements of federal, state or local law. The COUNTY and CITY retain the ultimate authority for legislative and administrative decisions within their respective jurisdictions. By executing this Agreement, the COUNTY and CITY do not purport to abrogate the decision-making responsibility vested in them by law.
- B. The parties agree that the performance of services pursuant to this Agreement shall not constitute an assumption by the COUNTY of any CITY municipal obligations or responsibilities relating to the roads, streets, utilities, transportation facilities, or other elements of the Project or activities described in this Agreement located within the incorporated CITY limits. The CITY shall be fully responsible for improvements, repairs, or corrections to any facilities and all maintenance of any facilities covered under or described by this Agreement. Ownership and jurisdiction of all such facilities located within the incorporated CITY limits shall remain with the CITY.
- C. The CITY shall hold harmless, indemnify, and defend, at its own expense, the COUNTY, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, arising out of this Agreement, including claims by the CITY'S employees or third parties, except for those damages solely caused by the negligence or willful misconduct of the COUNTY, its elected and appointed officials, officers, employees or agents.
- D. The COUNTY shall hold harmless, indemnify, and defend, at its own expense the CITY, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, arising out of this Agreement, including claims by the COUNTY's employees or third parties, except for those damages solely caused by the negligence or willful misconduct of the CITY, its elected and appointed officials, officers, employees or agents.

- E. In the event of liability for damages of any nature whatsoever arising out of the performance of this Agreement by the CITY and the COUNTY, including claims by the CITY's or the COUNTY's own officers, officials, employees, agents, volunteers, or third parties, caused by or resulting from the concurrent negligence of the COUNTY and the CITY, their officers, officials, employees, agents and volunteers, each party's liability hereunder shall only be to the extent of that party's negligence.
- F. It is specifically and expressly understood that the indemnification provided in this Agreement constitutes the parties' waiver of immunity under the State Industrial Insurance laws, Title 51 RCW, solely for the purposes of this indemnification, and that this waiver has been mutually negotiated.
- G. In entering this Agreement, neither the CITY nor the COUNTY assume any duty to any third party and no liability shall attach to either the COUNTY or the CITY by reason of entering into this Agreement except as expressly provided herein.

VI. GENERAL TERMS

- A. Effective Date. This Agreement shall become effective following execution of the Agreement by the each of the parties' duly authorized representative and recording with the Snohomish County Auditor.
- B. Duration. The terms of this Agreement related to administration and construction of the Project shall remain in effect until construction of the Project has been completed and accepted by the CITY and COUNTY but in no event later than December 31, 2010, unless otherwise extended or modified as set forth below. The terms of this Agreement pertaining to the parties' financial responsibilities shall remain in effect until the COUNTY had been completely reimbursed pursuant to the terms of this Agreement unless otherwise extended, terminated, or modified as set forth below.
- C. Survival. The terms of this Agreement pertaining to the CITY'S obligations to reimburse the COUNTY and pertaining to the parties' legal relations, indemnification and liability shall survive termination of this Agreement.
- D. Modification. Either party may request changes, amendments, or additions to any portion of this Agreement; however, except as otherwise provided in this Agreement, no such changes, amendments, or additions shall be valid or binding upon either party unless it is in writing, executed by both parties, and recorded with the County Auditor. All amendments shall be attached to and made part of this Agreement.
- E. Termination.
 - 1. Mutual Agreement. This Agreement may be terminated upon mutual

agreement of the parties. Any mutual termination shall become effective when executed by both parties or as otherwise agreed upon.

2. Unilateral Termination. Either party may terminate its obligations under this Agreement upon 15 days advance written notice to the other party. Either party may terminate this Agreement if the party determines not to undertake the Project or to discontinue the Project. Upon termination, the CITY shall be responsible for one-half of the fees and costs incurred or irrevocably committed by the COUNTY prior to the notice of termination pursuant to Section II.A.2.

- F. Dispute Resolution. In the event the COUNTY and CITY disagree over whether the COUNTY's consultants have fulfilled their obligations under the design contract, the COUNTY reserves the right to make the final decision as to the acceptability of the work. COUNTY's final decision on acceptability shall be based upon conformance to applicable project specifications. COUNTY shall notify CITY prior to making a final decision on acceptability. If CITY disagrees with this decision, COUNTY and CITY shall resolve their differences as specified in this Agreement.

If a dispute arises between the CITY and the COUNTY, the parties agree that they will attempt to resolve the issues through mutual negotiation. In the event that the parties are not able to reach an agreement through such negotiation, the parties agree to engage in mediation in order to resolve the dispute. Mediation may be requested by either party, and shall be attempted prior to the institution of any lawsuit arising under this Agreement. The parties agree to share the costs of mediation equally.

- G. Project Records

1. Both parties shall maintain adequate records to document obligations performed under this Agreement. Each party shall have the right to review the other party's records with regard to the subject matter of this Agreement, upon reasonable notice. All such records shall be maintained for at least six years following termination of this Agreement.
2. The CITY shall receive a reproducible copy of all final plan sheets and reports. The COUNTY will retain and file the original mylar plan sheets and all other Project records.

- H. Ownership of Materials. The COUNTY and CITY shall jointly own materials prepared for the Project as part of the work subject to this Agreement.

- I. Property Acquisition and Jurisdiction

1. The COUNTY shall acquire in the name of the COUNTY all property necessary to complete the Project, whether real or personal, including but not limited to all of the rights-of-way. In acquiring property, the COUNTY will obtain appraisals and negotiate property acquisitions with property owners in accordance with applicable laws, professional standards, and COUNTY practices.
2. The CITY authorizes the COUNTY to acquire necessary property interests for the Project in the CITY, including any condemnation proceedings for properties within the incorporated CITY limits if condemnation becomes necessary.
3. The CITY grants and conveys to the COUNTY a right-of-entry upon all land in which the CITY has an interest, for the purposes of designing, acquiring rights-of-way required by, constructing and, if necessary, maintaining the Project.
4. Review and granting of franchises for use of rights-of-way acquired for the Project shall remain with the party with franchise jurisdiction. The COUNTY and CITY will provide each other the opportunity to review and comment on any new franchise or use under an existing franchise of the right-of-way acquired for the Project.
5. Upon completion of the Project as provided in this Agreement, all operation and maintenance of those portions of the Project within the CITY limits shall be at the sole cost of the CITY and without expense to the COUNTY, and the COUNTY shall be solely responsible for the costs of operation and maintenance of those portions of the Project and related facilities located outside the CITY limits. These obligations shall continue until such time as the proposed alternate route becomes a state highway.

J. Disposition of Assets

1. Upon completion of the Project, the COUNTY will convey to the CITY all rights-of-way and other real property interests acquired and used for the Project, located within the incorporated CITY limits; except that if the proposed alternate route becomes a state highway then the rights-of-way and other real property interests acquired and needed for the Project will be conveyed pursuant to law.
2. The COUNTY will convey to the CITY all rights-of-way and other real property interests acquired but not used for the Project, located within the incorporated CITY limits, once the CITY has satisfied all of its financial obligations under this Agreement.

3. The COUNTY will convey to the CITY all personal property acquired for the Project which is fixed within the incorporated CITY limits, once the CITY has satisfied all of its financial obligations under this Agreement.
4. The parties agree to execute such further documents as may be reasonably necessary to implement disposition of assets.
- K. Compliance with Laws. The County and the City shall comply with all applicable federal, state and local laws in performing this Agreement.
- L. Nonwaiver. Failure of either party to exercise any rights or remedies under this Agreement shall not be a waiver of any obligation by either party and shall not prevent either party from pursuing that right at any future time.
- M. Severability. Should any clause, phrase, sentence, or paragraph of this Agreement or its application be declared invalid or void by a court of competent jurisdiction, the remaining provisions of this Agreement or its application of those provisions not so declared shall remain in full force and effect.
- N. Governing Law, Venue and Attorney's Fees. This Agreement has been made pursuant to, and shall be construed according to, the laws of the State of Washington. In the event that mediation is unsuccessful and either party finds it necessary to institute legal proceedings to enforce any provision of this Agreement, such proceedings may only be brought in the Superior Court of Snohomish County, Washington. In the event that a lawsuit is instituted to enforce any provision of this Agreement, the prevailing party shall be entitled to recover all costs of such a lawsuit, including reasonable attorney's fees.
- O. Contacts for Agreement. Unless otherwise directed in writing, notices, reports and payments shall be delivered to each party as follows:

City of Granite Falls
P.O. Box 1440
Granite Falls, WA98252
Attn: Gerry James
City Clerk

Snohomish County Public Works
2930 Wetmore Avenue
Everett, WA 98201
Attn: Stephen Dickson
Assistant to the Director

Notices mailed by either party shall be effective on the date mailed. Either party may change its address for receipt of reports, notices, or payments by giving the other written notice of not less than five days prior to the effective date.

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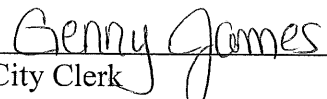
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Dated this 2nd day of March 2007.

CITY OF GRANITE FALLS

By: 
Lyle Romack
Mayor

ATTEST:


City Clerk

Approved as to form:


City Attorney

SNOHOMISH COUNTY

By: 
for Aaron Reardon
County Executive

MARK SOINE 2/28/07
Deputy Executive D-6

Approved as to form:


 12/12/06
Deputy Prosecuting Attorney

EXHIBIT "A"

PROJECT DESCRIPTION

The proposed Granite Falls Alternate Route will serve as an extension of SR-92 from existing SR-92 west of Granite Falls to the Mountain Loop Highway (east of Granite Falls). It will pass to the north of the city crossing Jordan Road. Improvements include the construction of a two-lane roadway for a distance of 2.1 miles with two-twelve foot lanes and eight foot shoulders on each side with extra lanes at intersections. It will have a design speed of 50 mph, allowing for a posted speed of 45 mph consistent with the Mountain Loop Highway.

The pavement will be designed to accommodate the existing freight tonnage and expected increase in freight in the near future. All improvements (including the roadway and intersections) will be designed to WSDOT standards for heavy freight movement and the design will accommodate freight trucks (gravel truck and trailer). Improvements will occur at four intersections along the proposed alternate route: SR-92, Burn Road, Jordan Road, and Mountain Loop Highway, with signals where warranted.

The alternate route will significantly reduce travel times for heavy freight movement and for general vehicular traffic using the streets of Granite Falls.

EXHIBIT "B"

PRELIMINARY COST ESTIMATE

YEAR

2002 \$235,000

- Traffic surveys and data collection
- Preliminary alignment and profile
- Property right of entry
- Environmental review strategy
- Cultural resource investigations
- Pursue funding

2003 \$475,000

- Traffic analysis
- Preliminary drainage layout, pond location and sizing.
- Critical areas identification
- Horizontal and vertical alignment
- Design Report
- Cultural Resources/Archeological site assessment and study
- Survey base map and field locations
- Preliminary wall selections and feasibility studies
- Begin biological assessment and NEPA evaluation

2004 \$1,019,000

- Design report
- Wetland mitigation design
- Intersection plan and profile
- Storm drainage design
- Alignment plan and profile finalization
- Environmental assessment completion and submittal
- Right-of-way plan
- Advanced right of way acquisition

2005-2007 \$1,954,000

- Illumination and channelization design
- Temporary erosion control plan
- Detention pond details
- Traffic control plans
- Reviews with WSDOT
- Signal design.
- Right-of-way plan
- Finalize biological assessment

2005-2008 \$4,379,000

- Right-of-way acquisition

2008-2009 \$24,501,000

- Construction
- Construction Engineering

Total Cost 2003-2009 \$32,563,000