

**INTERLOCAL AGREEMENT
BETWEEN OKANOGAN PUD AND CITY OF OKANOGAN
FOR LED STREETLIGHT CONVERSION PROJECT**

THIS AGREEMENT is made and entered into by and between Okanogan PUD (hereinafter "PUD") and City of Okanogan, WA (hereinafter "City") pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act.

**ARTICLE I
PURPOSE**

1.01 **PURPOSE.** The purpose of this Agreement is to set forth the terms and conditions under which PUD will administer the procurement and performance of the LED Streetlight Conversion Project, pursuant to the Washington State Transportation Improvement Board ("TIB") Grant Agreement with the City, attached hereto (Exhibit A), and for the services identified in the attached Scope of Work (Exhibit B). No new or separate legal or administrative entity is created by this Agreement.

**ARTICLE II
ADMINISTRATION**

2.01 **ADMINISTRATOR.** The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of the Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

2.02 PUD's representative shall be Allen Allie, Construction Design Manager.

2.03 City's representative shall be Shawn Davisson, Public Works Director.

**ARTICLE III
TERM**

3.01 **TERM.** This Agreement shall be effective when executed by both parties and shall continue through December 31, 2017.

sustained by any person or persons and on account of damage to property, including loss of use thereof.

ARTICLE VII DISPUTES

7.01 **TIME.** Time is of the essence of this Agreement.

7.02 **GOVERNING LAW.** This Agreement shall be governed exclusively by the laws of the State of Washington.

ARTICLE VIII GENERAL PROVISIONS

8.01 CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS.

The Agreement may be changed, modified, amended or waived only by written agreement signed by the parties. Any waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission, and shall not constitute a waiver as to any other term or condition or future act, occurrence or omission. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

8.02 **ASSIGNMENT.** Neither party may assign its rights or obligations under this Agreement. Any such attempted assignment shall be void and shall constitute a material breach of this Agreement.

8.03 **SEVERABILITY.** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

8.04 **ENTIRE AGREEMENT.** 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.

8.05 **FILING.** Pursuant to RCW 39.34.040, this Agreement shall be posted on the City's public website.



City of Okanogan
S-E-881(001)-1
LED Streetlight Conversion

RECEIVED

JUN 26 2017

TIB

EXHIBIT A

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Okanogan
GRANT AGREEMENT

THIS GRANT AGREEMENT ("Agreement") is made and entered into between the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD ("TIB") and the City of Okanogan, a Washington state municipal corporation ("RECIPIENT").

WHEREAS, the TIB has developed a grant program, Relight Washington, to provide for the conversion of standard streetlights to LED lighting ("Project") for eligible cities and towns to reduce municipal electrical costs, and

WHEREAS, the above-identified city/town is eligible to receive a Project grant and attests that it has the legal authority to receive such grant and to perform the Project pursuant to the terms of this grant,

NOW, THEREFORE, pursuant to chapter 47.26 RCW and chapter 479 WAC, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, and performances contained herein, and the attached Exhibits, if any, which are made a part hereof,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. GRANT

TIB agrees to grant funds in the amount of Seventy Six Thousand Seven Hundred AND NO/100 dollars (\$76,700) for the Project pursuant to terms contained herein, and the RECIPIENT agrees to accept such grant funds and agrees to perform and be subject to the terms and conditions of this Agreement.

2. USE OF TIB GRANT FUNDS

TIB grant funds may come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than for highway or street Project improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9.

3. PROJECT AND BUDGET

The Project shall provide for the conversion of identified streetlights within RECIPIENT's city limits. The RECIPIENT agrees to enter into an agreement with or otherwise provide for a service provider to perform the actual conversion work. The RECIPIENT further agrees that it shall be solely responsible for and shall pay its service provider's invoices for costs of the work. The Project and Budget may be amended by the Parties, pursuant to Section 7.



9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) RECIPIENT shall provide a written response within ten (10) business days of receipt of TIB's notice of non-compliance, which shall include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details. An agreement to amend the Project must be pursuant to Section 14.
- c) RECIPIENT shall have thirty (30) days in which to make reasonable progress toward compliance pursuant to its plan to correct or implement an amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold reimbursement payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:

- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation, TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project progress payments until the requested corrections have been made or if the Agreement is terminated.

9.3 TERMINATION

- a) In the event of default as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which may be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such actions necessary as may be directed by TIB.
- b) In the event of default and/or termination, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION OR SUSPENSION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate or suspend this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for Project work performed or costs incurred prior to the effective date of termination.



The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

14. AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

15. INDEPENDENT CAPACITY


The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

16. ENTIRE AGREEMENT

This Agreement, together with the Exhibits, if any, the provisions of chapter 47.26 RCW, chapter 479 WAC, and TIB Policies, constitute the entire Agreement between the Parties and supersedes all previous written or oral agreements between the Parties.

RECIPIENT


Transportation Improvement Board



Chief Executive Officer
6/20/17

Date
Jon K. Culp

Print Name



Executive Director
6-27-17

Date
Ashley Probert

Print Name

Approved as to Form

By: SIGNATURE ON FILE
ANN E. SALAY

Senior Assistant Attorney General

NOTE: Any changes to the terms of this Agreement shall require further approval of the Office of the Attorney General