AGREEMENT RELATING TO MUTUAL RESPONSIBILITIES IN CARRYING OUT THE METROPOLITAN TRANSPORTATION PLANNING PROCESS IN THE SKAGIT COUNCIL OF GOVERNMENTS METROPOLITAN PLANNING AREA

GCB 1363

This AGREEMENT is entered into by the Washington State Department of Transportation (WSDOT), Skagit Council of Governments (SCOG), and the Skagit Transit System (Skagit Transit), collectively referred to as the "Parties" and individually as "Party" in this AGREEMENT.

RECITALS

WHEREAS, SCOG which is organized as a Regional Agency pursuant to RCW 36.64.080 and acts as the Regional Transportation Planning Organization (RTPO) for Skagit County as authorized by Chapter 47.80 RCW and pursuant to Chapter 468-86 WAC and also acts as the Metropolitan Planning Organization (MPO) designated for the SCOG Metropolitan Planning Area (MPA) as referenced in Title 23 CFR and Title 49 CFR, is charged with the responsibility of carrying out transportation planning and programming processes that lead to the development and operation of an integrated multimodal transportation system; and

WHEREAS, WSDOT is the state highway agency as referenced in Title 23 CFR and Title 49 CFR with the responsibility to preserve, manage and operate the state-owned transportation system's facilities and services including, but not limited to, highways, ferries, airports, and rail; and

WHEREAS, Skagit Transit as a Public Transportation Benefit Area authority pursuant to RCW 36.57A, is the sole public transit operator within the MPA, as referenced in Title 23 CFR and Title 49 CFR, designated to receive federal transit funding under 49 USC Chapter 53 within the Mount Vernon, WA Urbanized Area (UZA); and

WHEREAS, the Parties desire to ensure a continuous, cooperative, and comprehensive transportation planning process (3-C Process) for the MPA that involves cooperation and coordination between and among SCOG, WSDOT, and Skagit Transit; and

WHEREAS, WSDOT is responsible for carrying out a statewide transportation planning process as defined by 23 CFR 450.206 and is the administrator of all federal planning funds received or to be received for carrying out the metropolitan planning programs as defined in 23 USC 104(d) and 49 USC 5305(d)(2); and

WHEREAS, WSDOT is responsible for delivering a federally compliant long-range statewide transportation plan, and engaging in the metropolitan and non-metropolitan planning processes as both a network asset manager and a compliance and fiduciary agent of the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) by administering federal pass-through funds to the MPOs in Washington state, including SCOG; and

WHEREAS, it is mandated and consistent with federal requirements to cooperatively determine the mutual responsibilities of SCOG, WSDOT, and Skagit Transit in order to effectively carry out their respective metropolitan and statewide transportation planning and programming requirements to support metropolitan and statewide transportation plan implementation; such cooperation being agreed and understood in this AGREEMENT to mean where lawful, practicable and in good faith.

NOW THEREFORE, pursuant to the Washington Interlocal Cooperation Act RCW 39.34, and the above recitals that are incorporated herein, it is mutually agreed as follows:

SECTION 1. PURPOSE

The purpose of this AGREEMENT is to cooperatively determine mutual responsibilities between the Parties in carrying out the 3-C Process to satisfy the requirements of 23 CFR 450.314. The AGREEMENT defines the processes for cooperation, communication, and exchanging information among the Parties to advance the metropolitan transportation planning process consistent with 23 CFR 450 Subpart C. This AGREEMENT includes specific provisions for cooperatively developing and sharing of information related to financial plans that support the Metropolitan Transportation Plan (MTP), the metropolitan Transportation Improvement Program (TIP), and the annual listing of obligated projects, as defined in 23 CFR 450.

SECTION 2. AUTHORITY

2.1 Compliance with Applicable Laws and Regulations

The Parties will comply with all applicable local, state, and federal laws and regulations in effect at the time of execution of this AGREEMENT. This Agreement shall be construed in a manner consistent with compliance with such laws and regulations. Nothing contained herein shall modify an existing duty or responsibility of any Party, except to the extent expressly set forth herein and as permitted by law.

2.2 SCOG

SCOG is the MPO, as defined by 23 CFR 450.104, designated through agreement of units of general purpose local governments and the Governor of Washington for the MPA. SCOG is organized through a governance agreement of its members, and is responsible for carrying out the 3-C Process, as prescribed by the current federal Surface Transportation Act, 23 USC 134, 49 USC 5303, 23 CFR 450, and 49 CFR 613.

2.3 Skagit Transit

Skagit Transit is a Public Transportation Benefit Area authority and municipal corporation pursuant to RCW 36.57A. Skagit Transit is the public transportation operator, as defined by 23 CFR 450.104, participating in the 3-C Process in the MPA. In the creation of Skagit Transit, component cities and the county of the Skagit County Transportation Benefit Area transferred all rights to construct and operate public transit to Skagit Transit. Consistent with authority granted by the Legislature, Skagit Transit has contracted with the FTA, an agency of the United States Department of Transportation, through a Master Agreement as amended periodically, to enable Skagit Transit to be an eligible recipient of certain federal funds.

2.4 WSDOT

WSDOT as a department of the State of Washington, as defined by 23 CFR 450.104, is the steward of a large and robust transportation system, and is responsible for ensuring that people and goods move safely and efficiently. In addition to building, maintaining, and operating the state highway system, WSDOT is responsible for the state ferry system, and works in partnership with others to maintain and improve local roads, railroads, airports, and multimodal alternatives to driving. WSDOT is responsible for carrying out the statewide transportation planning process, as prescribed by the federal Fixing America's Surface Transportation Act (FAST) and any amendments thereto, 23 USC 135, 49 USC 5304, 23 CFR 450, and 49 CFR 613.

SECTION 3. POLICY DEVELOPMENT AND REGIONAL COORDINATION

3.1 Scope of Metropolitan Transportation Planning Process

SCOG, in cooperation with WSDOT and Skagit Transit, conducts a metropolitan transportation planning process that is continuous, cooperative, and comprehensive and provides for the consideration of projects, strategies and services that will address the factors specified in 23 CFR 450.306(b) and FAST. This planning process will be carried out in coordination with the statewide

transportation planning process conducted by WSDOT as required by 23 CFR 450 Subpart B, and 49 CFR 613 Subpart B.

3.2 Unified Planning Work Program

On an annual or biennial basis, SCOG develops a Unified Planning Work Program (UPWP) consistent with 23 CFR 450.308, that describes, to the extent practicable, all metropolitan transportation planning activities in the MPA using funds provided by Title 23 USC and Title 49 USC Chapter 53 for the next one- (1) or two- (2) year period. Pursuant to 23 CFR 450.308(c), the UPWP is required to include sufficient detail on planning priorities facing the MPA including: major activities and tasks, who will perform the work for each task, the schedule for performing the work, resulting products, proposed funding by activity/task and a summary of the total amount and sources of federal and matching funds.

3.2.1
Between January and May of each year, or every other year, SCOG, in cooperation with WSDOT and Skagit Transit agrees to prepare the UPWP as required by 23 CFR 450.308. The UPWP and budget may be amended at any time by SCOG in accordance with its adopted procedures and pending approval by WSDOT, FTA, and FHWA.

3.2.2
By December 31 of each year, WSDOT will provide written notice to SCOG of expected allocations of FHWA Metropolitan Planning funds (PL funds), FTA Section 5303 Metropolitan Planning Program funds, state Regional Transportation Planning Organization (RTPO) funds, and any other State-administered funds that are available to SCOG to conduct the UPWP process for the following state fiscal year(s), defined as July 1 through June 30 of each calendar year.

3.2.3
SCOG agrees to cooperate with WSDOT and Skagit Transit in developing and preparing the UPWP as funding allows, utilizing the expected allocations in Section 3.2.2 and any local match required. Skagit Transit agrees to provide SCOG with the public transportation planning components within Skagit Transit's public transportation benefit area and WSDOT agrees to provide SCOG with the state's transportation planning work components within the MPA for the time period covered by the UPWP. SCOG agrees to provide WSDOT metropolitan planning work in a format conducive for inclusion in the long-range statewide transportation plan. The Parties agree to cooperatively review their proposed work components to enhance coordination and avoid duplication.

3.3 Metropolitan Planning Area Boundary

The MPA boundary requirements are defined within 23 CFR 450.312, and are agreed to by SCOG and the Governor of Washington. The 3-C Process that SCOG leads is conducted within the defined MPA boundary.

3.3.1
SCOG agrees to prepare and maintain a description and map of the MPA boundary, and make it available upon request.

3.4 Regional Data Coordination

An integral part of the development and maintenance of the 3-C Process is a coordinated and consistent monitoring of the performance of the integrated multimodal transportation system within the MPA. The Parties agree to coordinate in the collection, analysis, and dissemination of data in support of the regional transportation planning process.

3.5 Regional Travel Demand Modeling and Forecasting

SCOG develops, maintains, and updates the regional travel demand model that is used for the MTP and TIP, and for transportation studies within the MPA. The Parties agree to consult with each other regarding various modeling issues, including software platforms, data requirements, and overall

model performance for the regional travel demand model for the MPA. SCOG agrees to provide the model, excluding any confidential information that cannot be shared, and information from the model to WSDOT and Skagit Transit for their own planning purposes. Data distributed by SCOG for these purposes will be considered by the Parties to be the official regional travel demand model for the purposes of regional transportation planning and programming.

3.5.1
WSDOT and Skagit Transit may modify the SCOG regional travel demand model to meet their specific planning purposes only after written approval from SCOG. When such modifications are made, WSDOT and Skagit Transit agree: 1) to provide a written list of the modifications to SCOG; and 2) that the modified model will not be portrayed publicly or privately as the regional travel demand model for the MPA, unless prior written consent is provided by SCOG provided that the Parties will comply with the requirements of RCW 42.56, the state Public Records Act, including application of RCW 42.56 to the regional travel demand model.

3.5.2
Any traffic forecast utilized by WSDOT or Skagit Transit for the MPA, to meet their specific planning purposes, requires the written concurrence of SCOG prior to its use. When any such forecasts are developed by WSDOT or Skagit Transit, they will coordinate with SCOG throughout the traffic forecast development process to ensure consistency with the 3-C Process.

3.6 Self-Certification and Federal Certification

Every year as part of the submittal of the proposed TIP, SCOG and WSDOT shall certify that the 3-C Process is being carried out in accordance with all applicable federal requirements (23 CFR 450.336). SCOG and WSDOT are responsible for ensuring compliance with the applicable federal regulations, and agree to coordinate with Skagit Transit, as necessary, throughout the federal certification process.

SECTION 4. TRANSPORTATION PLANNING

4.1 Metropolitan Transportation Plan

The metropolitan transportation plan is the multimodal, long-range transportation plan for the MPA. As the designated MPO, SCOG is required to prepare, review and update a MTP in accordance with 23 USC 134, 49 USC 5303, 23 CFR 450.324 and 49 CFR 613. The MTP is required to include a description of performance measures and performance targets used to evaluate the performance of the regional transportation system, pursuant to 23 USC 134(i)(2)(B). The MTP is also required through 23 USC 134(i)(2)(C) to include a report evaluating the condition and performance of the transportation system with respect to performance targets and a scenario planning analysis, if applicable.

4.1.1
The Parties agree to work together cooperatively to validate data utilized in preparing other existing modal plans for providing input into the MTP, pursuant to 23 CFR 450.324(e). SCOG agrees to transmit the adopted MTP to WSDOT, Skagit Transit, FHWA, and FTA within thirty (30) days of updating the MTP, including any amendment to the plan.

4.1.2
The Parties agree to monitor internal plans, studies, and other activities to identify potential issues or conflicts with the MTP and will work together to take actions with the goal of resolving any potential issues or conflicts. WSDOT and Skagit Transit agree to provide timely technical assistance, data and information to SCOG during the development or amendment of the MTP.

4.1.3
SCOG agrees to consult and coordinate with WSDOT and Skagit Transit during the MTP update process to ensure continued consistency between the long-range statewide transportation plan (23 CFR 450.216) and other statewide transportation-related plans. WSDOT agrees to consider information, studies or analyses provided by SCOG for the portions of the statewide

transportation system located within the MPA (23 CFR 450.208 (a)(1)). The Parties agree to coordinate related planning activities and studies to promote consistency between metropolitan, transit, and statewide planning processes.

4.1.4
MTP amendments are generally undertaken for purposes that include, but are not limited to: adding, deleting, or significantly changing a regionally significant project between scheduled MTP updates. MTP review and update occurs every five years, as per 23 CFR 450.324(c). The effective date for the MTP is the date of MTP adoption by SCOG's Transportation Policy Board. SCOG will ensure that MTP amendments adhere to relevant federal planning requirements and are developed and adopted through the 3-C Process. When SCOG determines that a review and update of the MTP is necessary, it will propose an MTP update in the UPWP for the MPA for the timeframe over which the work for the update is anticipated to occur. Typically, the MTP is updated every five (5) years. SCOG may also notify WSDOT and Skagit Transit in writing of the anticipated update. This notification should include information regarding both the update process and the schedule that SCOG intends to follow. Minor plan amendments may occur in addition to the five- (5) year MTP review and update required by 23 CFR 450.324(c). SCOG will cooperate with WSDOT and Skagit Transit as it develops potential modifications to the MTP. After the SCOG Transportation Policy Board's approval of any MTP update, SCOG will transmit to WSDOT and Skagit Transit the final Board-adopted MTP for information purposes.

4.2 Statewide Plans

As a part of carrying out the statewide transportation planning process, WSDOT develops and updates the long-range statewide transportation plan, as required by 23 CFR 450.216(a). Other statewide transportation plans should be coordinated and consistent with the statewide transportation planning process, per 23 CFR 450.208.

4.2.1
When WSDOT determines that an update or modification to statewide plans, policies and performance measures and targets that relates to the MPA is necessary, it will notify SCOG in writing. This notification will include information regarding both the process and schedule WSDOT intends to follow. WSDOT will consult and coordinate with MPOs statewide, including SCOG, and with Skagit Transit during these statewide planning processes to assure continued consistency with the 3-C Process and to determine a reasonable schedule prior to the beginning of each process. Within 30 days of approval of such updates, WSDOT will formally notify SCOG and Skagit Transit in writing of the final content of the updates.

4.2.2
WSDOT, in coordination with SCOG, will ensure that all long-range statewide transportation plan components and elements, which relate to the MPA and the MTP, are consistent. WSDOT is required to develop the long-range statewide transportation plan in cooperation with SCOG, pursuant to 23 CFR 450.216(f).

4.3 Coordinated Public Transit-Human Services Transportation Plan

The Parties should ensure coordination and consistency between the locally developed, coordinated public transit-Human Services Transportation Plan (HSTP) for the MPA and the statewide and metropolitan transportation planning processes as set forth in 23 CFR 450.208(h), 23 CFR 450.306(h) and 49 CFR 613. SCOG agrees to lead the development of the HSTP, to be updated every four years, in partnership with Skagit Transit and other providers of human services transportation.

4.4 Roadway Functional Classification

WSDOT has the primary responsibility for developing and updating the statewide FHWA highway functional classification system in the rural and urban areas of Washington state, per 23 CFR 470.105(b). SCOG agrees to assist WSDOT in developing and updating the statewide FHWA highway functional classification system within the MPA and to provide comments and

recommendations to WSDOT regarding requests from local agencies to designate a roadway or to change the designation of a roadway pursuant to applicable guidelines. WSDOT agrees to notify SCOG, in writing, of all requests for functional classification designations of roadways or revisions to existing designations within the MPA. WSDOT agrees to only approve roadway designations or changes to designations within the MPA after review and consideration of comments and recommendations from SCOG, if any, along with consideration of criteria consistent with state law and federal regulations, RCW 47.05.021 and 23 CFR 470.105(b) respectively, relating to the functional classification of highways.

4.5 Transportation Planning Studies and Project Development

The Parties agree to cooperate on the identification, conduct, and completion of multimodal, systems-level corridor and subarea planning studies as part of the statewide and metropolitan transportation planning processes, as consistent with the provisions of 23 CFR 450.212 and 23 CFR 450.318. The Parties also agree to coordinate in identifying project planning needs as part of the UPWP development process.

4.6 Regional Intelligent Transportation System

The regional Intelligent Transportation Systems (ITS) as defined by 23 CFR 940.3 are the electronics, communications, or information processing used singly or in combination to monitor and improve the operations of the surface transportation systems within the MPA.

4.6.1
WSDOT agrees to ensure that the statewide transportation planning process is consistent with the regional ITS architecture as defined in 23 CFR 940 (23 CFR 450.208(g)) for the MPA, to the maximum extent practicable.

4.6.2
SCOG agrees to ensure that the 3-C Process is consistent with the regional ITS architecture as defined in 23 CFR 940 (23 CFR 450.306(g)) for the MPA, to the maximum extent practicable.

4.6.3
SCOG agrees to lead the development of any update to the regional ITS architecture for the MPA. The Parties agree to coordinate in any update to the regional ITS architecture, including providing information on existing and planned ITS projects and programs within the MPA.

4.7 Performance Management

The FAST Act continues transformational changes to the statewide and metropolitan transportation planning processes introduced in MAP-21, instituting a performance-based approach to planning and programming to support the national goals described in 23 USC 150(b). The performance-based approach establishes performance measures at the federal level, and requires the selection and establishment of performance targets at the statewide and metropolitan levels. The performance-based approach links investment decision-making to achieving performance targets. Progress will be tracked to ascertain how critical outcomes are being met statewide. Each Party to this AGREEMENT has responsibilities for implementing the performance-based approach.

4.7.1
SCOG shall include state performance measures and state performance targets, and establish MPA performance targets in the MTP in consultation with WSDOT and Skagit Transit, as appropriate, in accordance with 23 USC 150(c) and (d), 49 USC 5326(c), and 49 USC 5329(d). To ensure consistency, the selection of MPA performance targets shall be coordinated by SCOG with WSDOT and Skagit Transit to the maximum extent practicable. The Parties agree to share performance information and data on a periodic basis to report metropolitan transportation system performance in accordance with 23 USC 150(e).

4.7.2
WSDOT agrees to coordinate with all MPOs statewide, including SCOG, to select and establish statewide performance targets that reflect the performance measures described in 23 USC 150(c).

4.7.3
Consistent with 23 CFR 450.314(h), the Parties agree to develop specific written provisions for cooperatively developing and sharing information for implementing the performance-based approach through other means outside of this AGREEMENT.

SECTION 5. TRANSPORTATION PROGRAMMING

5.1 TRANSPORTATION IMPROVEMENT PROGRAM

SCOG, in cooperation with WSDOT and Skagit Transit, is responsible for developing and updating a metropolitan TIP for the MPA that covers a period of no less than four (4) years, pursuant to 23 CFR 450.326. Upon approval by the SCOG Transportation Policy Board and the Governor, the Parties agree that the TIP shall be included without change, directly or by reference, into the statewide transportation improvement program as required under 23 CFR 450.218(b). The TIP shall include a description of the anticipated effect of the TIP, to the maximum extent practicable, toward achieving the performance targets established in the MTP, linking the targets to investment priorities in the MPA, pursuant to 23 USC 134(j)(2)(D).

The TIP shall include all regionally significant projects proposed to be funded with federal funds as well as all regionally significant projects to be funded with non-federal funds. The TIP must be financially constrained by year to those funds that are available or reasonably expected to be available during that timeframe.

5.1.1
At least every four (4) years, SCOG is required to develop an updated TIP for all federally funded projects and regionally significant transportation projects, regardless of funding source, within the MPA. The TIP is required to be developed through a cooperative process involving WSDOT and Skagit Transit, pursuant to 23 CFR 450.326(a), along with other interested parties. SCOG shall update the TIP more frequently than every four (4) years to be compatible with the statewide transportation improvement program process developed by WSDOT, which provides for annual TIP updates and monthly TIP amendments, as necessary, for inclusion in the STIP. SCOG agrees to provide the TIP to WSDOT in October of every year, for WSDOT's incorporation, without change, into the STIP pursuant to 23 CFR 450.218(b).

5.1.2
The TIP, as approved by SCOG's Transportation Policy Board and by the Washington state Secretary of Transportation as delegated by the Governor, shall be included in the STIP, directly or by reference, as required by 23 CFR 450.218(b).

5.1.3
Recommendations for WSDOT's programming of state highway components in the TIP shall be based on statewide transportation plans and area/corridor specific studies and shall be consistent with, and implement, the MTP. In July of every year, WSDOT agrees to provide SCOG with the current WSDOT six-(6) year highway program for consideration of inclusion in the TIP of state projects within the MPA.

5.1.4
Recommendations made by Skagit Transit for programming of transit system components in the TIP shall be consistent with Skagit Transit's most recent six-(6) year transit development plan as adopted by the Skagit Transit Board of Directors, or as otherwise provided by Skagit Transit.

5.1.5
Both WSDOT and Skagit Transit agree to provide SCOG with their estimates of funds reasonably expected to be available to support TIP implementation. The Parties agree to work cooperatively to develop final estimates of funds that are reasonably expected to be available to support TIP implementation, pursuant to 23 CFR 450.326(j).

5.1.6
SCOG agrees to ensure that public notices for its responsibility to develop the TIP include language noting that the public involvement activities and time established for public review of the TIP satisfies Skagit Transit's program of projects requirements of 49 USC 5307 for the FTA Urbanized Area Formula Program (Section 5307). SCOG will ensure that its participation plan for its TIP indicates that Skagit Transit utilizes SCOG's TIP public participation process to satisfy Skagit Transit's public hearing requirements for the Section 5307 Program. If Skagit Transit no longer wishes to follow this practice, Skagit Transit agrees to notify SCOG in writing of such, after which SCOG will remove reference to satisfying the public hearing requirements for the Section 5307 Program from the participation plan and discontinue the practice of including Skagit Transit's program of projects language on all TIP public notices.

5.2 Project Selection from the Transportation Improvement Program

The first year of the TIP constitutes an "agreed to" list of projects for projection selection purposes and no further action is needed for project selection by an implementing agency to proceed with projects, except where appropriated federal funds are significantly less than authorized amounts for the MPA, or where there are significant shifting of projects between years of the TIP, pursuant to 23 CFR 450.332(a).

5.2.1
In the case where federal funds appropriated to the MPA are significantly less than authorized amounts, the Parties agree to jointly develop an "agreed to" list of projects if requested by any Party pursuant to 23 CFR 450.332(a).

5.2.2
Projects from the second, third or fourth year of the TIP shall only be selected by WSDOT or Skagit Transit if they have Committed Funds per 23 CFR 450.104 that have been dedicated or obligated for transportation purposes. The Parties may develop additional expedited project selection procedures to provide for the advancement of projects from the second, third and fourth year of the TIP as they deem necessary.

5.3 Statewide Transportation Improvement Program

The statewide transportation improvement program is a fiscally constrained, prioritized program of transportation projects from across Washington state that covers a period of no less than four (4) years, as required by 23 CFR 450.218. These projects have been identified through state, metropolitan, regional and local planning processes, as the highest priority for the available funding to preserve and improve the state's transportation network. Although the STIP is required to be updated no less than every four (4) years, the Governor of Washington has elected to update the STIP annually, pursuant to 23 CFR 450.218(a).

5.3.1
WSDOT is responsible for developing the STIP and for incorporating the TIP without change (and subsequent amendments) into the STIP, fulfilling the requirement included in 23 CFR 450.218(b) to cooperate with SCOG on STIP development as it applies to the MPA. WSDOT agrees to work cooperatively with SCOG and Skagit Transit in developing reasonable financial principles, revenue and cost estimates, and other information for the STIP.

5.3.2
SCOG agrees to develop and document procedures, criteria, and schedules for amendments and administrative modifications that are consistent with WSDOT-, FHWA-, and FTA-approved criteria and schedule. WSDOT agrees to transmit STIP related policies, criteria, procedures and schedules to SCOG after they are updated.

5.3.3
SCOG agrees to submit requests approved by SCOG's Transportation Policy Board for STIP/TIP amendments and administrative modifications to WSDOT via the web based STIP software located on WSDOT's Secure Access Washington site. On a monthly basis, from January through October, WSDOT agrees to compile the projects submitted by SCOG and to submit them to FHWA and FTA for approval.

5.3.4
The STIP may be revised under procedures agreed to jointly by WSDOT, Skagit Transit and other public transportation operators, and SCOG and other MPOs, consistent with STIP development procedures for Washington state, pursuant to 23 CFR 450.218(n).

5.4 Annual Listing of Obligated Projects

The Parties are required to cooperatively develop an annual listing of projects within the MPA for which federal transportation funds, under Title 23 USC and/or Title 49 USC Chapter 53 as applicable, were obligated for projects in the preceding program year (which is also the calendar year in Washington state), pursuant to 23 CFR 450.334(a). WSDOT, SCOG and Skagit Transit are required to develop the listing of projects no later than 90 calendar days following the end of the program year. The listing of projects must be published or otherwise made available in accordance with SCOG's public participation criteria for the TIP, as required by 23 CFR 450.334(c).

5.4.1
To assist with the development of the annual listing of obligated projects, WSDOT and Skagit Transit agree to provide SCOG with all project obligation reports no more than forty-five (45) calendar days after the calendar year ends. SCOG agrees to coordinate directly with the WSDOT Local Programs Division regarding designated regional fund obligation administration and reporting.

5.4.2
SCOG agrees to lead the cooperative development of the annual listing of obligated projects among the Parties, and of publishing or otherwise making the listing of projects available in accord with SCOG's public participation criteria for the TIP.

5.5 Skagit Transit Planning and Programming

As the designated recipient of federal funds for the MPA under Title 49 USC, Skagit Transit is the entity designated by the Governor of Washington to receive and apportion such federal funds.

5.5.1
As the public transportation operator within the MPA, Skagit Transit is required to develop a six-(6) year Transit Development Plan (TDP) per RCW 35.58.2795. Skagit Transit agrees to coordinate with SCOG on the annual development of the TDP, to ensure consistency with the 3-C Process for the MPA, and to submit the TDP to WSDOT by September 1st.

5.5.2
As the designated recipient for FTA funds for the MPA, Skagit Transit is responsible for developing a program of projects for apportioned FTA funds in the UZA, in a manner that is consistent with the requirements of the United States Code and the Code of Federal Regulations (Program of Projects). In July of every year, Skagit Transit agrees to provide SCOG with its recommended Program of Projects for inclusion in the TIP and to notify SCOG of its intended use of FTA funds apportioned to Skagit Transit under Title 49 USC Chapter 53 for the upcoming calendar year. Skagit Transit will utilize a public participation process that complies with 49 USC 5307(b) in developing its Program of Projects. To meet this public participation requirement for the Program of Projects, Skagit Transit utilizes SCOG's public participation process associated with TIP development.

SECTION 6. PUBLIC PARTICIPATION

To coordinate effective planning and programming activities, the Parties to this AGREEMENT shall, to the maximum extent practicable, coordinate their public participation efforts and seek joint opportunities for public involvement.

6.1 WSDOT

WSDOT is required to develop and use a documented public involvement process in carrying out the statewide transportation planning process, pursuant to 23 CFR 450.210(a). WSDOT agrees, to the maximum extent practicable, to coordinate public participation efforts with SCOG and Skagit Transit, and seek joint opportunities for public involvement between the Parties.

6.2 SCOG

SCOG is required to develop and use a documented participation plan that defines a process for interested parties to be involved in the 3-C Process, pursuant to 23 CFR 450.316. SCOG agrees, to the maximum extent practicable, to coordinate its public participation planning with the statewide public participation efforts of WSDOT as well as the local public participation efforts of Skagit Transit.

6.3 SKAGIT TRANSIT

Skagit Transit agrees, to the maximum extent practicable, to coordinate its outreach activities related to transit planning with SCOG and WSDOT.

SECTION 7. FINANCIAL PLANNING AND FUNDING

7.1 DISTRIBUTION OF PLANNING FUNDS

In consultation with SCOG, WSDOT agrees to develop, implement, and periodically review a transparent process for the distribution of FHWA and FTA planning funds to SCOG. SCOG agrees to work cooperatively with WSDOT in this process. WSDOT agrees to the efficient and timely transfer of funds to SCOG, in accordance with procedures developed by WSDOT, FHWA and FTA.

7.1.1
As provided under 23 USC 104(d)(1)(A) and 23 CFR 420.109, WSDOT has the responsibility to allocate FHWA Metropolitan Planning (PL) grant funds to MPOs statewide, including SCOG. WSDOT shall make such PL funds available to SCOG in accordance with a distribution formula developed by WSDOT under 23 CFR 420.109 in consultation with the MPOs, and approved by the FHWA Division Administrator.

7.1.2
WSDOT also has the responsibility under 49 USC 5305(d)(2) to allocate FTA Metropolitan Transportation Planning 49 USC 5303 grant funds to MPOs statewide, including SCOG. Amounts apportioned to SCOG shall be made available no later than thirty (30) calendar days after the date of apportionment from FTA to WSDOT under a formula developed by WSDOT that: considers the population of urbanized areas; provides an appropriate distribution for urbanized areas to carry out a cooperative planning process; is developed in cooperation with the MPOs of Washington state; and is approved by the FTA Regional Administrator as authorized by the Secretary of the U.S. Department of Transportation.

7.1.3

In addition to FHWA Metropolitan Planning and FTA Metropolitan Transportation Planning grant funds, other FHWA and FTA grant funds may be distributed to SCOG and other MPOs statewide by WSDOT to support metropolitan transportation planning per 23 CFR 450.308(a).

7.2 FINANCIAL PLANNING

A "Financial Plan" is documentation included with the MTP and TIP that demonstrates the consistency between reasonably available and projected sources of federal, state, local and

private revenues, and the costs of implementing proposed transportation system improvements (23 CFR 450.104). Financial Plans are optional for the long-range statewide transportation plan and STIP developed by WSDOT.

7.2.1
The Parties agree to cooperatively develop and share information related to the development of financial plans to support statewide and metropolitan transportation planning processes identified in 23 CFR 450, to the maximum extent practicable. The Parties further agree to work cooperatively to develop estimates of funds that are reasonably expected to be available to implement the MTP and the TIP.

7.2.2
SCOG agrees to develop and maintain procedures and methodologies, in cooperation with Skagit Transit and WSDOT, for generating revenue forecasts that are consistent with federal guidance for financial forecasting.

7.2.3
WSDOT agrees to provide historical information regarding funding levels and expenditures by county area, including Skagit County, and available forecasts of future state and federal revenues to SCOG.

7.2.4
Skagit Transit agrees to provide historical funding information and forecasts for future funding to SCOG. In the event that WSDOT and Skagit Transit provide disparate assumptions for the future availability of federal funds, the Parties agree to work cooperatively to determine a consistent forecasting methodology that demonstrates financial constraint.

7.3 Funding Accountability

7.3.1
WSDOT agrees to provide monthly updates to SCOG on the obligation of all funds programmed within the MPA.

7.3.2
A Flex Funds process has been established by FTA and FHWA to transfer federal highway and transit program funds between them, pursuant to 23 USC 104(f) and 49 USC 5334(i). If SCOG awards regionally managed FHWA federal funds to Skagit Transit, the public transit operator may request to transfer Flex Funds from FHWA to the FTA Section 5307 Program, to be used for authorized projects of Skagit Transit. The process of transferring these funds includes a request from FTA to WSDOT to process the transfer followed by a transfer request from WSDOT to FHWA. Requests for transfer occur only after projects are included in the approved TIP and STIP.

7.4 Sub-allocation of Federal Funds

SCOG is responsible for selecting and programming projects from specified federal funds that are sub-allocated to SCOG by WSDOT. WSDOT is responsible for determining the sub-allocation amounts, in consultation with SCOG and other MPOs statewide. WSDOT agrees to develop, implement, and periodically review an accounting process for sub-allocating Surface Transportation Block Grant Program and Set Aside, (formerly Transportation Alternatives Program), and/or other funds that are designated by the federal government to be sub-allocated to MPOs statewide, including SCOG. As part of this process, WSDOT agrees to provide SCOG with a transparent accounting of how much funding is received by WSDOT in total and annually, and all the steps applied to get to the regional allocations.

7.4.1
For federal funds where Skagit Transit is the designated recipient as determined by the Governor of Washington, Skagit Transit agrees to administer the sub-allocation of said funds to federally recognized Indian tribes, local municipalities and other subdivisions of the State of Washington, consistent with the STIP.

SECTION 8. MISCELLANEOUS PROVISIONS

8.1 DISPUTE RESOLUTION

In the event that a dispute arises under this AGREEMENT, it shall be resolved as follows: The Parties shall each appoint a member to a Disputes Resolution Board (DRB). These three (3) members shall select a fourth (neutral) board member not affiliated with any of the Parties. The DRB shall conduct a dispute resolution hearing that shall be informal, non-binding, and unrecorded. An attempt at such dispute resolution in compliance with aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute. The Parties shall equally share in the cost of the fourth DRB member; however, each Party shall be responsible for its own costs and fees.

8.2 AMENDMENTS AND MODIFICATIONS

Any Party may request changes to this AGREEMENT at any time by written notice to the other Parties. Such changes as are mutually agreed upon by and between the Parties shall be incorporated by written amendment to this AGREEMENT. The Parties should periodically review and update the AGREEMENT, as appropriate, to reflect effective changes pursuant to 23 CFR 450.314(b).

8.3 SEVERABILITY

If any of the provisions of this AGREEMENT are held to be illegal, invalid or unenforceable, all other provisions shall remain in full force and effect.

8.4 EXECUTION AND TERM

This AGREEMENT, including any amendments incorporated into the AGREEMENT, shall remain in full force and effect unless terminated for cause or convenience by a Party with written notice to the other Parties sixty (60) days prior to the effective date of the termination. A Party may terminate for cause by providing written notice sixty (60) days in advance. This AGREEMENT shall take effect upon both: mutual execution hereof by the Parties; and the posting of this AGREEMENT on each or one of the agency's website, or recordation hereof with the Skagit County Auditor. Any official notifications between the Parties to this AGREEMENT that would substantially affect the terms or conditions of this AGREEMENT shall be directed to the Agreement Managers as noted below:

Washington State Department of Transportation
Attn: Secretary of Transportation
P.O. Box 47316
Olympia, WA 98504-7316

Skagit Council of Governments
Attn: Kevin Murphy, Executive Director
204 W. Montgomery Street
Mount Vernon, WA 98273

Skagit Transit
Attn: Dale O'Brien, Executive Director
600 County Shop Lane
Burlington, WA 98233

8.5 AUTHORITY TO SIGN

The signatories below represent that they have authority to sign this AGREEMENT and bind their respective entities thereto.

8.6 RECITALS

The recitals are hereby incorporated into this AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT as of the date signed last by the Parties below.

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Roger Millar, Secretary of Transportation

Date 6/29/17

APPROVED AS TO FORM:

Susan Cruise
Assistant Attorney General

Date May 8, 2017

SKAGIT TRANSIT SYSTEM

Dale O'Brien, Executive Director

Date 5-30-17

APPROVED AS TO FORM:

Richard J. Langabeer, WSBA #3171
Attorney
by Dannon C. Traxler, WSBA #37158
of Langabeer & Traxler, P.S.

Date 06/07/2017

SKAGIT COUNCIL OF GOVERNMENTS

Kevin Murphy, Executive Director

Date 5-24-2017

APPROVED AS TO FORM:

Bradford E. Furlong, WSBA #12924
Attorney

Date 5/24/17