

**AFTER RECORDING RETURN TO:
SKAGIT COUNTY BOARD OF COMMISSIONERS
1800 CONTINENTAL PLACE, STE. 100
MOUNT VERNON, WA 98273**

DOCUMENT TITLE: Interlocal Communications Network Consortium Agreement
Between Skagit County, The City of Anacortes, The City of
Burlington, The City of Mount Vernon, The City of Sedro-
Woolley, The Public Utility District #1 of Skagit County, and
the Port of Skagit County.

DATE SIGNED:

GRANTOR: SKAGIT COUNTY

GRANTEE: The City of Anacortes, The City of Burlington, The City of
Mount Vernon, The City of Sedro-Woolley, The Public Utility
District #1 of Skagit County, and the Port of Skagit County.

COUNTY CONTRACT NO.:

**INTERLOCAL COMMUNICATIONS NETWORK CONSORTIUM
AGREEMENT**

BETWEEN

**SKAGIT COUNTY, THE CITY OF ANACORTES, THE CITY OF
BURLINGTON, THE CITY OF MOUNT VERNON, THE CITY OF SEDRO-
WOOLLEY, AND THE PUBLIC UTILITY DISTRICT #1 OF SKAGIT COUNTY,
AND THE PORT OF SKAGIT COUNTY**

**REGARDING THE CREATION OF A COMMUNICATIONS NETWORK
THROUGHOUT SKAGIT COUNTY**

THIS AGREEMENT is entered into by the above public agencies (collectively referred to as the "Parties" or individually as "Public Agency") pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW. Each party is a Public Agency as defined in Chapter 39.34, possesses the independent authority to take all action authorized by this Agreement and has been authorized by the legislative body of its jurisdiction to participate in this Agreement.

1. Name and Purpose. The purpose of this Agreement is to establish the Skagit County Communications Network Consortium (hereinafter referred to as the "Consortium") and the terms and conditions under which the Parties shall participate in the activities of the Consortium.

2. Mission. It is understood and agreed by the Parties that the technical necessities of conducting government operations and conducting private business, as well as to enhance the personal lives of the citizens of Skagit County, require the ability to connect to high speed telecommunications networks, and that the availability of a county-wide fiber optic network and complementary technologies will encourage the economic development of Skagit County. The Parties believe that private enterprises will not likely build this Network because of the cost. Therefore, the Parties desire to find a way to provide a locally focused backbone on which such services can be offered to government, private business, and citizens by third party providers. It is also understood and agreed by the Parties that each public entity alone does not have sufficient resources to undertake all of the tasks necessary to provide a comprehensive fiber optic network and, because of the economies of scale, it is in the interest of the public for a Consortium to be formed to use its combined efforts to efficiently enable a backbone to be built in Skagit County connecting to the surrounding region. The Parties to this Agreement agree to:

- coordinate planning and development
- establish design and technology standards and guidelines
- devise a standard contract framework for third party services
- obtain outside technical assistance as required
- obtain funding as required or convenient to the Consortium's purposes
- cooperate with each other in order to facilitate economic development

all for the purpose of creating a communications network (“hereinafter referred to as “Network”) throughout Skagit County.

3. Limitation of Powers. The Consortium will not own the Network or its component parts, and will not provide service over the Network. The Network and its component parts will be owned by individual members of the Consortium who are otherwise authorized to do so, and is not a part of this Agreement. The Consortium is formed for the purpose of creating the Network as stated above, and while individual members of the Consortium have authority to provide certain services, any action individual members of the Consortium may take to offer telecommunications services shall be taken as an individual entity, and not representing the Consortium or as representing another member of this Consortium. The parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein.

4. Effective Date. This Agreement shall be deemed to be in full force and effect and binding upon all such parties when counterparts are executed by Skagit County and by at least three of the Public Agencies described above shall be deemed to be in full force and effect and binding upon all such parties. Notwithstanding the date of such separate execution hereof, the effective date of this Agreement, and all of the obligations set forth shall be deemed in full force and effect for all purposes upon filing per RCW 39.34.030 and shall automatically renew for a one year period each April 1st unless terminated as provided in Section 9 herein.

5. Organization. The Skagit County Network Consortium shall consist of an Executive Board and a Technical Advisory Committee.

- A. Executive Board. Pursuant to RCW 39.34.030 (4), an Executive Board for Intergovernmental Cooperation (the “Executive Board”) is hereby established to govern the affairs of the Consortium. The Executive Board is not a separate legal entity and shall be made up of the Mayors of each city or town of Skagit County who are members of the Consortium, one elected Skagit County Commissioner, one appointed employee of Skagit County, and one elected official from each of the following jurisdictions that are members of the Consortium: the Skagit County Public Utility District Commissioners, the Port of Skagit County Commissioners, and the Port of Anacortes Commissioners. Any of the Mayors or elected officials of the Public Agencies listed above may designate in writing a representative from their Public Agency to serve in their place on the Executive Board. The Designated Representative may not have any other financial interest in the Network except as permitted by law. A member of the Executive Board may not serve as a member of the Technology Advisory Committee at the same time. The Executive Board shall have the authority to make county wide decisions regarding the Network to be developed.

- B. Voting. All decisions, including approval of funding and policies and procedures of the Executive Board, shall be arrived at by consensus. In the event unanimous consent cannot be reached, a simple majority of those present at the meeting shall prevail as long as a quorum is present. A Quorum shall be defined as having greater than fifty (50) percent of the Executive Board in attendance at the time of the vote. Each Executive Board Member to this Consortium has an equal vote regardless of money contributed or geographic area covered.
- C. Executive Board Meetings. The Consortium Executive Board shall conduct regular meetings, as it deems necessary for the transaction of business. The Executive Board may enact bylaws for the transaction of duties, but in any event, shall keep minutes of all proceedings, transactions, findings, determinations, and the number of votes for and against each question and whether any member is absent or disqualified from voting. These minutes shall be public records. Special meetings of the Executive Board may be called as provided by the bylaws consistent with Chapter 42.30 RCW. All meetings shall be open to the public to the extent required by the Open Public meetings Act, Chapter 42.30 RCW.
- D. Executive Board Officers. The Executive Board shall elect, from among its members, a Chairman and Vice Chairman and any other officers it deems necessary. In the absence of the Chairman, the Vice Chairman shall act and have all the powers and duties of the Chairman. The terms of each officer shall be for one (1) year.
- E. Technical Advisory Committee. Each member of the Executive Board may appoint a staff member or another designee to serve on the Technical Advisory Committee. Any such Designated Representative will not be eligible for a contract to provide services on the Network and may not have any other financial interest in the Network, except as permitted by law. The Technical Advisory Committee may apply for grants and other funding, subject to the approval of the Executive Board, but does not have authority to approve payment of funds. Only the Executive Board can approve expenditure of funds for the Network.

The Technical Advisory Committee shall have the authority to:

- 1) coordinate planning and development;
- 2) cooperate with each other in order to facilitate economic development.

Subject to the approval of the Executive Board, the Technical Advisory Committee shall:

- 1) write an annual business plan, to include a yearly budget recommendation;
- 2) establish design and other technology standards and guidelines;
- 3) devise a standard contract framework for third party services;

- 4) recommend the need for and assist in selection of outside technical and other professional assistance;
- 5) apply for grants and other funding or seek expert assistance in identifying sources for additional funding.

6. **Powers and Duties.** Without limiting the powers of the Executive Board to govern the affairs of the Consortium to achieve the purposes set forth in this Agreement, the Executive Board of the Consortium shall have the following specific powers:

- A. To adopt rules of procedure and bylaws, to regulate its affairs and conduct business, including the ability to establish minimum requirements for attendance at meetings by party representatives.
- B. To hold public hearings and sponsor public forums whenever deemed necessary or useful in the execution of the functions of the Executive Board.
- C. The Executive Board shall be responsible to approve of the Business Plan of the Technical Advisory Committee and shall approve all funding expenditures.

7. **Funding.** Skagit County shall be the Administrator of the funds for the Skagit County Communications Network Consortium, and shall establish a separate fund for the Consortium. The fund shall be titled "Operating Fund of the Skagit County Communications Network Consortium." Skagit County is hereby authorized to accept all funds of the Parties as well as any federal, state or private grants in order to accomplish the purposes of this Agreement and RCW Chapter 39.34.

- A. The Parties understand that there will be expenses to operate the Consortium. Each party will pay its pro rata share of expenses as determined in the annual Business Plan approved by the Executive Board. For the first year each party will contribute a one time fee of two thousand dollars (\$2000) for the set up of this Consortium. For subsequent years, the Technical Advisory Committee shall develop a budget as part of the annual Business Plan. The Business Plan and any expense allocations will be approved by the Executive Board. Members who choose not to support the annual budget may withdraw within thirty (30) days after its adoptions pursuant to section 9, without any obligation for their share of this budget.
- B. Delinquencies. A party who is six months or more delinquent in payment shall relinquish its voting rights until it returns to good standing by paying all amounts due. Delinquency does not relieve the party from its obligation to pay for services rendered.
- C. Use of Funds. The Consortium may use any available funds for any purpose authorized by this Agreement, consistent with, the Business Plan adopted by the Consortium.

- D. Accounting. Skagit County will keep an accounting of the manner of acquiring, holding and disposing of funds and any personal property used in the Consortium.
- E. Audits and inspections. Skagit County shall, at any time during normal business hours and as often as any member or the Washington State Auditor deems necessary, make available for examination all of the Consortium's financial records, and shall permit any member agency or the Washington State Auditor to audit, examine, and make excerpts of transcripts from such financial records.

8. New Members. Any Public Agency wishing to join the Consortium should petition the Executive Board who may accept additional Public Agencies as participants in this Consortium upon a simple majority vote of a quorum of the Executive Board Members attending the Executive Board meeting. New participants will be required to sign this Agreement and to pay a membership fee established by the Executive Board.

9. Withdrawal/Termination.

9.1 Withdrawal

Any Public Agency may withdraw from this Agreement upon thirty (30) days written notice to the Executive Board of its intention to terminate. A Public Agency shall not be entitled to a refund of any financial contributions to the Consortium.

9.2 Termination

This Agreement shall be effective until terminated as provided herein. This Agreement may be terminated upon thirty (30) days written notice to the Executive Board with two-thirds of the public agencies party hereto consenting. Upon termination of this Agreement, assets acquired during the life of the Agreement or any financial contributions remaining shall be disposed of in the following manner:

1. All property contributed without charge by each Public Agency shall revert to the contributor.
2. All funds contributed after the effective date excluding initial startup fees as given in section 7 of this Agreement shall be distributed pro rata based on the annual charges assessed by the Executive Board during the period of this Agreement and paid by each Public Agency.
3. All unencumbered or reserved funds shall be distributed pro rata to the Public Agencies based on their financial contribution allocation.

10. **Property.** No real property shall be acquired pursuant to this Agreement.
11. **Interpretation.** This Agreement shall be construed under and in accordance with the laws of the State of Washington without regard to Washington's choice of law provisions, and all obligations of the Parties created by this Agreement are permissible in Skagit County, Washington.
12. **Authority.** This Agreement is entered into by the duly authorized officials of each respective Public Agency. Each person signing this Agreement on behalf of a Public Agency hereby confirms for the benefit of each of the other Public Agencies to this Agreement than any requisite approval from the governing body of such Party have been obtained, and all prerequisites to the execution, delivery and performance hereof have been obtained by or on behalf of that Public Agency.
13. **Renegotiation.** In the event any one or more of the provisions contained herein shall be held to be illegal, invalid or unenforceable in any respect, the Parties agree to make a good faith effort to renegotiate another agreement to fulfill the purpose and intent of the present Agreement.
14. **Severability.** In the event any provision contained herein should be held to be illegal, invalid or unenforceable in any respect, such illegality, invalidity, or unenforceability shall not affect any other provision of this Agreement. This Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been included in this Agreement.
15. **Insurance; Liability.** Each Public Agency shall be responsible for the wrongful, intentional or negligent actions of its agents and employees while assigned to the Consortium and shall defend, indemnify, and hold the Consortium and other members of the Executive Board and the Technical Advisory Committee harmless except to the extent that the harm complained of arises out of the negligence or other fault of another Public Agency representative; provided that "Fault" as used herein shall have the same meaning as in RCW 4.22.015. This Agreement is not intended to diminish or expand any liability of any Public Agency under the laws of the State of Washington and / or Federal law.
16. **Filing.** This Agreement shall be filed pursuant to the requirements of RCW 39.34.040.
17. **Notices.** All notices and payments hereunder may be hand delivered or mailed, either by U.S. Mail, certified, return receipt requested, electronic FAX or electronic mail. All parties agree that the Skagit County Board of County Commissioners will act as agent on behalf of the Public Agency participants for purposes of receiving notices and notifying all parties of the matters contained in any notice sent as promptly as reasonably practicable. Consortium participants will be responsible to provide Skagit County with the address and the name of the person to be notified of any matters concerning the Consortium. Notices sent to Skagit County will be deemed to be received by all

Consortium participants. Regardless of transmittal method, any notice shall be sent to Skagit County at one of the following addresses:

Skagit County Commissioners
1800 Continental Place, Suite 100
Mount Vernon, WA 98273
Fax (360) 336- 9307

commissioners@co.skagit.wa.us

Or to such other addresses as Skagit County may hereafter from time to time designate in writing to all Public Agency participants.

All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing. Notices provided via electronic mail must be sent by an authorized representative and are deemed to be received once a return receipt and a confirmation of receipt of electronic mail is received by the party sending the notice.

Consortium members may provide notice to each other. The address and recipients of notification regarding this consortium are provided on the signature page for each agency, if that information has been provided.

18. Entire Agreement. This Agreement constitutes the entire agreement among the Parties with respect to the subject matter hereof and supersedes any prior understandings whether written or oral among the Parties. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same is agreed to in writing and is duly executed by the Parties to this Agreement.

19. Counterparts. Skagit County shall execute the original of this Agreement. Each other Public Agency hereto shall sign a counterpart of the original of this Agreement. The Parties hereto intend that all the signed counterparts taken together with the original will be considered as one original document, and given full force and effect as if all parties had signed as one document.

IN WITNESS WHEREOF, this Agreement has been executed by each Public Agency on the date set forth on each signature page.

**INTERLOCAL AGREEMENT FOR THE SKAGIT COUNTY
COMMUNICATIONS NETWORK CONSORTIUM**

Dated July 26, 2005

APPROVED:

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Recommended:

By: Mitchell Almy
Department Head

Commissioner,
By: Gusta Fogne
Budget & Finance Director

Approved as to Indemnification:

By: Breille Kadomas
Risk Manager

Approved as to Form:

By: M. Miller
Deputy Prosecuting Attorney

By: Don Munks
Don Munks, Chairman

Kenneth A. Dahlstedt
Kenneth A. Dahlstedt,

ABSENT

Ted W. Anderson, Commissioner

Attest:

Mune G. Gabevec
Clerk of the Board

**INTERLOCAL AGREEMENT FOR THE SKAGIT COUNTY
COMMUNICATIONS NETWORK CONSORTIUM**

Dated: 7/6/1, 2005

APPROVED:

CITY OF ANACORTES

By: H. Dean Maxwell
H. Dean Maxwell, Mayor

Approved as to Form:

Ian S. Munce
Ian Munce, City Attorney

Attest:

Wanda Johnson
Wanda Johnson, City Clerk/Treasurer

Official Notices regarding this agreement are to be sent to:

**INTERLOCAL AGREEMENT FOR THE SKAGIT COUNTY
COMMUNICATIONS NETWORK CONSORTIUM**

Dated: May 26, _____, 2005

APPROVED:

CITY OF BURLINGTON

By: Roger Tjeerdsma
Roger "Gus" Tjeerdsma, Mayor

Approved as to Form:

Scott G. Thomas
Scott G. Thomas, City Attorney

Attest:

Richard A. Patrick
Richard A. Patrick, Finance Director

Official Notices regarding this agreement are to be sent to:

Finance Director
City of Burlington
900 East Fairhaven Avenue
Burlington, WA 98233-1945
rpatrick@ci.burlington.wa.us

With a copy to:

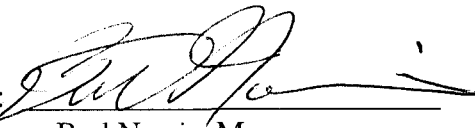
City Attorney
City of Burlington
900 East Fairhaven Avenue
Burlington, WA 98233-1945
sthenas@ci.burlington.wa.us

**INTERLOCAL AGREEMENT FOR THE SKAGIT COUNTY
COMMUNICATIONS NETWORK CONSORTIUM**

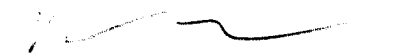
Dated: June 20, 2005

APPROVED:

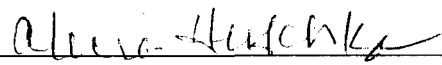
CITY OF MOUNT VERNON

By: 
Bud Norris, Mayor

Approved as to Form:


Kevin Rogerson, City Attorney

Attest:


Alicia Huschka, Finance Director


Kim Kleppe, IS Manager

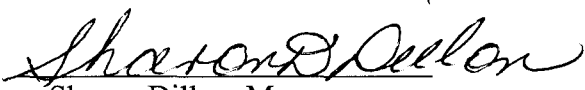
Official Notices regarding this agreement are to be sent to:

**INTERLOCAL AGREEMENT FOR THE SKAGIT COUNTY
COMMUNICATIONS NETWORK CONSORTIUM**

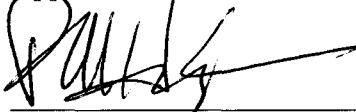
Dated: _____, 2005

APPROVED:

CITY OF SEDRO WOOLLEY

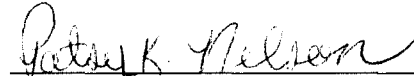
By: 
Sharon Dillon, Mayor

Approved as to Form:



Pat Hayden, City Attorney

Attest:



Patsy Nelson, Clerk

Official Notices regarding this agreement are to be sent to:

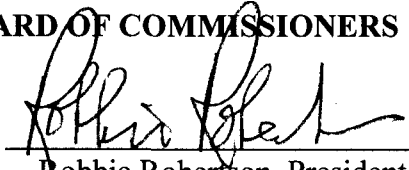
**INTERLOCAL AGREEMENT FOR THE SKAGIT COUNTY
COMMUNICATIONS NETWORK CONSORTIUM**


Dated: 08/02, 2005

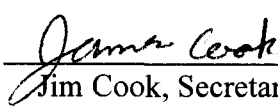
APPROVED:

**PUBLIC UTILITY DISTRICT NO. 1 of
SKAGIT COUNTY, WASHINGTON**

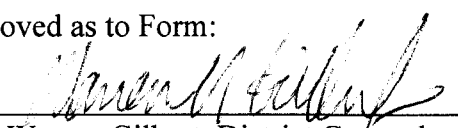
BOARD OF COMMISSIONERS

By: 
Robbie Robertson, President

By: 
Al Littlefield, Vice President

By: 
Jim Cook, Secretary

Approved as to Form:

By: 
Warren Gilbert, District Counsel

Attest:

By: 
Kim Carpenter, Recording Secretary

Official Notices regarding this agreement are to be sent to:

Physical Address:

Commission President
Public Utility District No. 1 of Skagit County
1415 Freeway Drive
Mount Vernon WA 98273

Mailing Address:

P.O. Box 1436
Mount Vernon, WA 98273-1436

FAX

360-416-0352

With Copy to:

Kenneth K. Kukuk
General Manager
Public Utility District No. 1 of Skagit County
1415 Freeway Drive
Mount Vernon WA 98273

P.O. Box 1436
Mount Vernon, WA 98273-1436

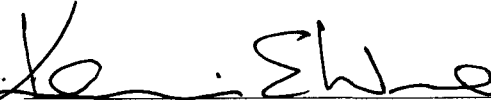
360-416-0352


**INTERLOCAL AGREEMENT FOR THE SKAGIT COUNTY
COMMUNICATIONS NETWORK CONSORTIUM**

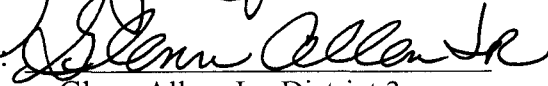
Dated May 17, 2005

APPROVED:

PORT OF SKAGIT COUNTY

By: 
Kevin E. Ware, District 1

By: 
Jerry Kaufman, District 2

By: 
Glenn Allen, Jr., District 3

Official Notices regarding this agreement are to be sent to:

Physical Address	Mailing Address	Fax
Commission President Port of Skagit County 15400 Airport Drive Burlington, WA 98233	or P.O. Box 348 Burlington, WA 98233	or (360) 757-0014

With a copy to:

Executive Director Port of Skagit County 15400 Airport Drive Burlington, WA 98233	or P.O. Box 348 Burlington, WA 98233	or (360) 757-0014
--	--	-------------------