

**INTERLOCAL DEVELOPMENT AGREEMENT FOR
INTERCITY TRANSIT PATTISON REHABILITATION AND EXPANSION PROJECT**

THIS DEVELOPMENT AGREEMENT (hereinafter "Agreement") is between Intercity Transit, a Washington municipal corporation, hereinafter referred to as "Transit", and the City of Olympia, a Washington municipal corporation, hereinafter referred to as "City."

RECITALS

WHEREAS, the Washington State Legislature has authorized the execution of development agreements between local governments and property owners under the conditions contained in RCW Chapter 36.70B; and

WHEREAS, Transit and City are both municipal corporations and can enter into interlocal agreements pursuant to RCW Chapter 39.34; and

WHEREAS, Transit is the owner of that property described in Exhibits 5 and 6 attached hereto, referred to as Development Property; and

WHEREAS, Transit plans to rehabilitate and expand its Maintenance and Operation Facility to provide public transit options, assist local partners' in compliance with the Growth Management Act and Comprehensive Plan, replace its underground storage tanks for safe and efficient operation, and to serve a regional emergency response role; and

WHEREAS, Transit and the City both benefit by agreement on development standards and definition of Project parameters; and

WHEREAS, the intent of this Agreement includes, but is not limited to, providing certainty for Transit regarding applicable City development regulations and ordinances; and includes a determination that the current City regulations and ordinances in place on the effective date of this Agreement shall apply to this Project for the duration of this Agreement;

NOW THEREFORE, in consideration of the mutual promises and benefits contained herein, the City and Transit agree that the Pattison Rehabilitation and Expansion Project ("Project") shall be consistent with the following development standards:

1. **Term.** The Term of this Agreement shall commence on the effective date of the Resolution approving this Agreement ("Effective Date") and shall continue in full force and effect for a period of Ten (10) Years unless amended by mutual agreement of the City and Transit, in the same manner and following the same procedures as required to adopt the original Agreement.

2. **Project Background**

Transit is located at 526 Pattison Street, SE, in Olympia, Washington, which is legally described in Exhibit 6, and referred to as the southern parcel. Transit owns an adjacent parcel immediately to the north, which is legally described in Exhibit 5, and referred to as the northern parcel. Transit plans to rehabilitate existing facilities currently existing on its southern parcel and expand onto its northern parcel. The Project is being phased due to limited grant opportunities. In Phase 1 (Outlined in Exhibit 1) Transit will replace old single-walled underground storage tanks that are currently located on its southern parcel with new tanks on the adjacent northern parcel. In addition, Transit is rehabilitating the lubricant room, upgrading an existing fuel dispensing station, adding paved parking, temporary sidewalk and crossing on the northern and southern parcels. Transit plans to construct Phase 1 as soon as permitting is complete. Phase 2 (Outlined in Exhibits 2 and 3) reflects additional rehabilitation to the existing facility and the expansion of the entire northern parcel with new access points on the northern parcel from Martin Way and Pattison.

3. **Property**

The Project Site is legally described in Exhibits 5 and 6, attached hereto and incorporated by this reference.

4. **Vested Rights**

During the term of this Agreement, in developing the Property consistent with the Project described herein, Transit is assured, and the City agrees, the development rights, obligations, terms and conditions specifically in this Agreement, are fully vested in Transit under the Existing Land Use Regulations and may not be changed or modified by the City, except as may be expressly permitted by, and in accordance with, the terms and conditions of this Agreement, including the Exhibits hereto, or as expressly consented to by the City and Transit. This does not include any building or fire code that is state-mandated (See RCW 19.27.031), or any other regulations resulting from superseding state or federal law, impact fees, mitigation fees, or any other fees or charges, except as specifically described in this Agreement. Existing land use regulations means the ordinances adopted by the City Council of Olympia in effect on the Effective Date, including the adopting ordinances that govern the permitted uses of land, the density and intensity of use, and the design, improvement construction standards, and specifications applicable to the development of the Property, including, but not limited to the Comprehensive Plan, the City's Official Zoning Map and development standards, SEPA, Concurrency Ordinance, the EDDS, and all other ordinances, codes, rules, and regulations of the City establishing standards in relation to the development of the Property; and the division of land, whether through the subdivision process, the binding site plan process, or otherwise. As noted above, this does not include any building or fire code that is state-mandated (See RCW 19.27.031); or any other

regulations resulting from superseding state or federal law impact fees, mitigation fees, or any other fees or charges, except as specifically described in this Agreement. Pursuant to OMC 18.53.010, this development agreement reserves authority by the City to impose new or different regulations to the extent required by serious threat to public health and safety.

5. Permitted Uses, Development Standards, & Phasing

Whether developed in one phase or a series of phases as anticipated, the following uses and standards shall be those in effect as of the effective date of this Agreement, whether set forth in this Agreement, or in the permits and approvals, if any identified herein and all Exhibits incorporated herein: (a) the permitted uses, (b) the density and intensity of use, (c) the maximum height and size of proposed buildings, (d) provisions for reservation and dedication of land, (e) as noted above, the existing Land Use Regulations relating to among other items, the construction, installation and extension of public improvements, (f) the EDDS, (g) critical areas regulations, and (h) development guidelines and standards for and applicable to the development of the Property. This does not include any building or fire code that is state-mandated (See RCW 19.27.031); any other regulations resulting from superseding state or federal law, impact fees, mitigation fees or any other fees or charges, except as specifically described in this Agreement.

6. Project Development Plans.

A. Project Development Plan Documents. Transit agrees to construct the Project consistent with the Plans attached as Exhibits 1 through 4, incorporated by reference, as approved in a final decision by the Director of Community Planning and Development. The following documents are incorporated into the Agreement:

Exhibit 1: Phase 1 Site Plan (plus landscaping & Pattison sidewalk)

Exhibit 2: Phase 2 Site Plan (A)

Exhibit 3: Phase 2 Landscape Plan (B)

Exhibit 4: Pattison Base Master Plan, Reissued in June 2010
(incorporated by reference)

Exhibit 5: Northern Parcel Legal Description

Exhibit 6: Southern Parcel Legal Description

B. Non-Substantive Modifications. Transit shall have the right to make minor modifications to the documents described in Section 4(A). Minor modifications shall not be considered substantive under this Agreement and will not require amendment to this Agreement so long as they comply with this section. Modifications shall not (1) increase the total number of buildings or increase the total number of buildings dedicated to a specific use, (2) include any changes that would increase the traffic impacts, (3) reduce required frontage improvements, or (4) fundamentally alter

the layout of the site plan, including but not limited to, the amount of landscaping, the size of the fuel station building, or the size of the buildings on the southern site, as determined by the City.

7. **Phases.** The Project is anticipated to be completed in two phases as identified in Exhibits 1 through 3. This does not preclude Transits' ability to partially rehabilitate existing facilities as identified in its Pattison Base Master Plan (reissued in June 2010) if necessary and funding is available. However, changes to other existing facilities identified in the Pattison Base Master Plan are not vested under this development agreement.
8. **Infrastructure.** The Parties agree that in Phase 1 construction, Transit will construct an asphalt ribbon sidewalk in the Pattison Road SE right of way, along the western property line of the northern parcel, as identified in Exhibit 1. Transit will install curb stops or another divider to separate parking space from the asphalt sidewalk in a form to be approved by the City of Olympia Director of Planning and Community Development. Transit will also install a pedestrian crossing across Pattison Street, where it intersects with Martin Way in a form and location to be approved by the City of Olympia Director of Planning and Community Development. As part of this Phase I work, Transit will dedicate right-of-way to the City along the western edge of the northern parcel, as depicted in Exhibit 1.
9. **Future Traffic Signal Installation.** Transit will install a traffic signal and pedestrian crossing at Pattison and Martin Way as part of Phase 2 construction. Because the traffic signal and crossing benefit both the City and Transit, the Parties agree to examine the potential cost share partnership on these items closer to the start of Phase 2.
10. **Tree Plan.** The north parcel expansion is 5.25 acres. The minimum Tree Density requirement is 30 Tree Units per acre ($30\text{TU} \times 5.25\text{ac} = 158 \text{ Trees Minimum}$). Intercity Transit agrees to plant 45 Trees, in addition to screening plants, along the perimeter as part of Phase 1 work. For Phase 2 Intercity Transit also agrees to either remove, retain or replant to achieve a total of 80 tree units. The Parties agree the 78 Tree Unit deficit from Phase 2 ($158 \text{ TU} - 80\text{TU} = 78 \text{ Tree units}$) will be planted off site at an approved location or paid as a Fee in lieu of \$27,768 ($\$356/\text{Tree} \times 78 \text{ Trees}$) into the City of Olympia Tree Fund at the time of Land Use Approval for Phase 2.

11. **Right of Way Improvements.**

With the exception of the right of way improvements identified to occur in Phase 1, all other right of way improvements on Martin Way and Pattison will occur in Phase 2.

The Parties agree that Transit is required to install a maximum of seventy percent (70%) frontage improvements along Transit property on Martin Way. The conceptual frontage improvements are reflected in Exhibits 1, 2 and 3.

12. **Transfer of Property.**

Transit retains the right to sell, transfer, convey, mortgage and otherwise encumber the parcels, as identified in Exhibits 4 and 5. Any action shall be expressly subject to the rights and obligations of this Agreement. This Agreement shall be binding upon and inure to the benefit of any subsequent owner.

13. **Default.**

Failure or delay by either party to perform any term or provision of this Agreement shall constitute a default of this Agreement. In the event of the alleged default or breach of any terms or conditions of this Agreement, the party alleging such breach shall give the other party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30) day period, the Party alleged to have breached shall not be considered in default for the purposes of termination of this Agreement.

After notice any Party to this Agreement may, at its discretion, institute dispute resolution proceedings. Dispute Resolution Proceedings means involving a third party in facilitating a discussion between Transit and the City to resolve any allegation of breach of this Agreement.

In addition to these remedies, the City may file an action to enforce this Agreement, the vested development codes, and to obtain penalties for any violations.

14. **Authority to Execute Agreement.**

A. Transit. By executing this Agreement, Transit represents and warrants that it has taken all necessary steps under its corporate governance to authorize this Agreement and that this Agreement shall be valid and binding for all purposes.

B. City. By executing this Agreement, the City represents and warrants

that it has taken all necessary steps that a non-charter code City is required to take in order to authorize the execution of this Agreement.

15. **Miscellaneous Provisions.**

- A. **Governing Law and Attorneys' Fees.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. In the event either party shall bring an action to enforce this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and expenses incurred in connection with such action.
- B. **Amendments.** This Agreement may not be amended except upon the mutual consent of the parties in the same manner as the original Agreement was adopted. Consent may be withheld for any reason.
- C. **Headings.** The headings in this Agreement are inserted for convenience only and shall not affect the interpretations of this Agreement.
- D. **Waivers.** The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.
- E. **Severability.** If any provision of this Agreement or the application thereof to any party or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.
- F. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which taken together shall constitute the complete Agreement.
- G. **Entire Agreement.** This Agreement, together with Exhibits 1-6, constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement.

EXHIBIT 1

PHASE 1 SITE PLAN (including landscaping & Pattison sidewalk)

EXHIBIT 2

PHASE 2 SITE PLAN (A)

EXHIBIT 3

PHASE 2 LANDSCAPE PLAN (B)

EXHIBIT 4

PATTISON BASE MASTER PLAN, REISSUED IN JUNE 2010
(incorporated by reference)

EXHIBIT 5

NORTHERN PARCEL LEGAL DESCRIPTION

EXHIBIT 6

SOUTHERN PARCEL LEGAL DESCRIPTION

EXHIBIT 1

PHASE 1 SITE PLAN (including landscaping & Pattison sidewalk)

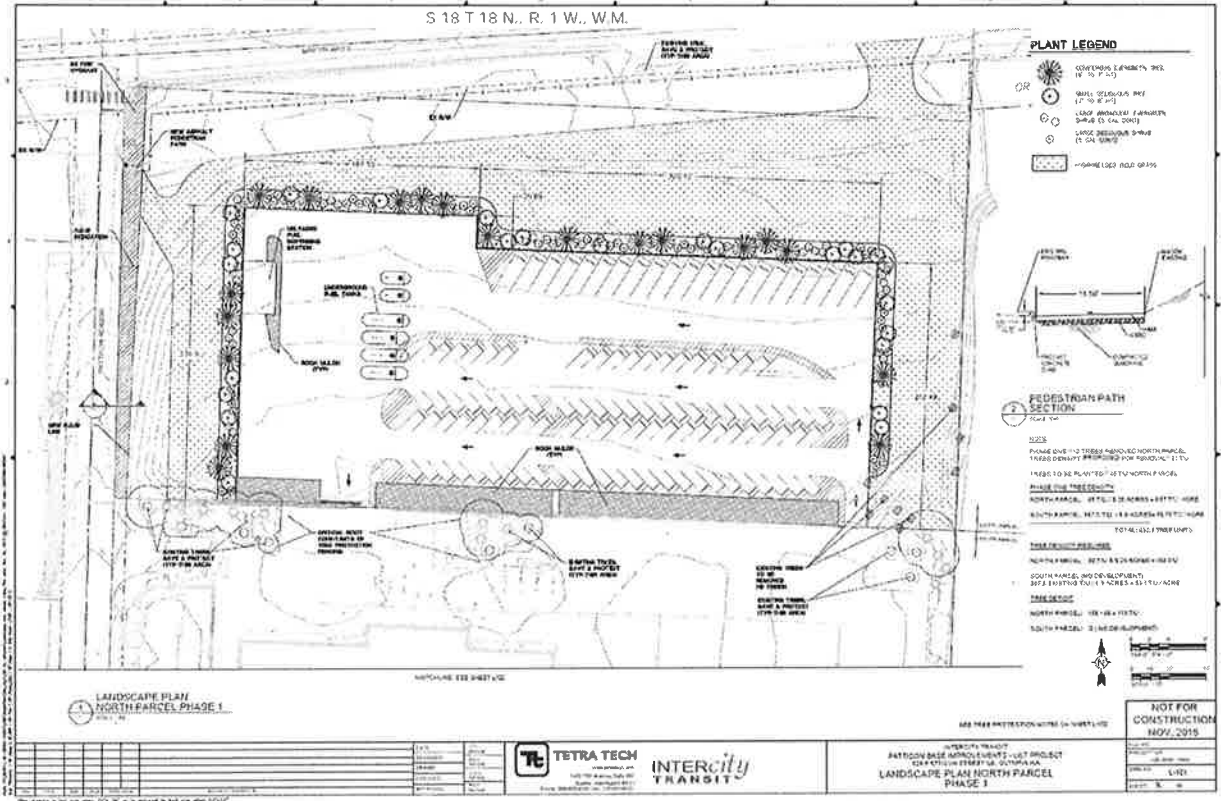


EXHIBIT 2 PHASE 2 SITE PLAN (A)

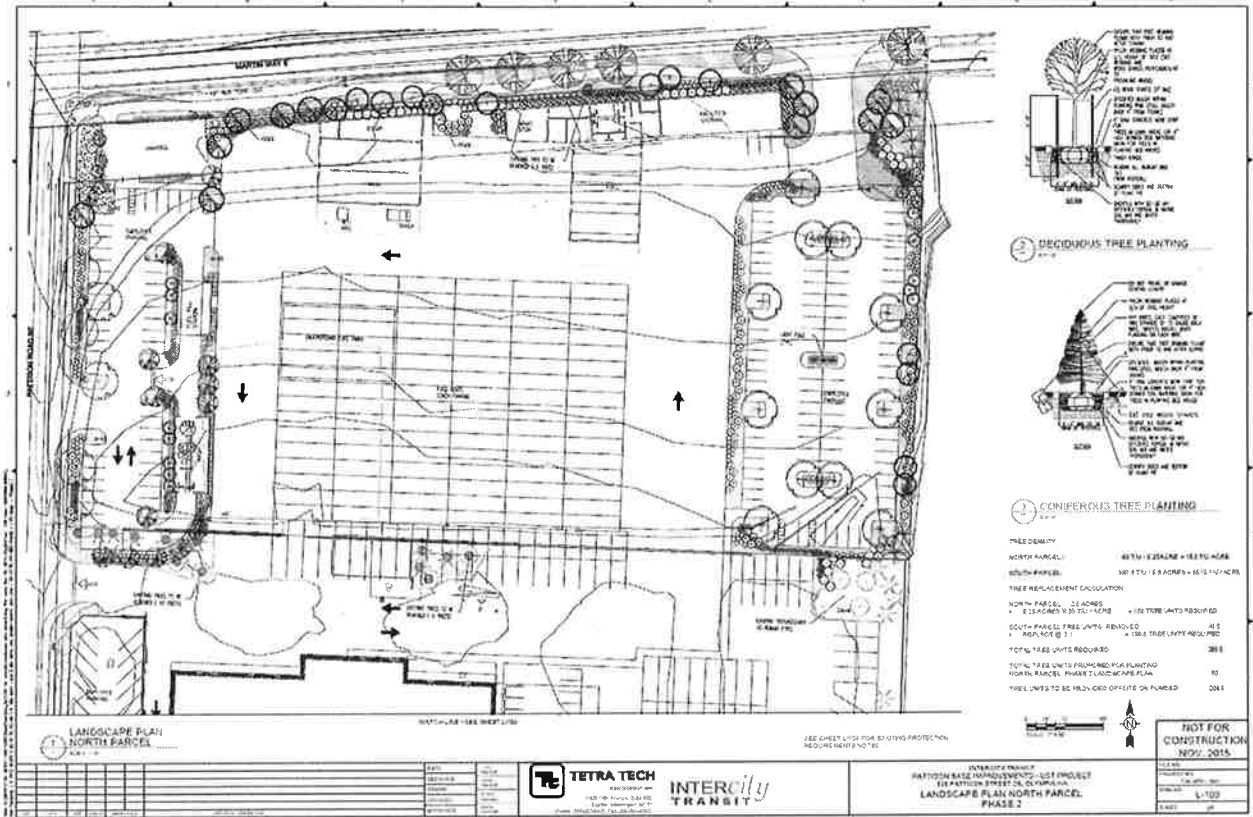


EXHIBIT 4

PATTISON BASE MASTER PLAN (reissued June 2010)
(incorporated by reference)

EXHIBIT 5

NORTH PARCEL LEGAL DESCRIPTION

Intercity Transit's north parcel, located at 3000 Martin Way E, Olympia, WA, 98501:

Parcel Number: 3420260000

Legal Description: ALL THE PART OF TRACTS 26 AND 27 OF BERRY FARMS ADDITION TO OLYMPIA LYING SOUTH OF THE RIGHT-OF-WAY CONVEYED TO THE STATE OF WASHINGTON FOR PRIMARY STATE HIGHWAY NO. 1 BY DEED DATED NOVEMBER 24, 1933 AND RECORDED IN VOLUME 146 OF DEEDS, PAGE 489, AS PER PLAT OF SAID ADDITION RECORDED IN VOLUME 8 OF PLATS, PAGE 28, RECORDS OF THURSTON COUNTY AUDITOR;

SITUATED IN THE CITY OF OLYMPIA, COUNTY OF THURSTON, STATE OF WASHINGTON.

EXHIBIT 6

SOUTH PARCEL LEGAL DESCRIPTION

Intercity Transit's south parcel, located at 526 Pattison St. SE, Olympia, WA, 98501:

Parcel Number: 34202500100

Legal Description:

Block 25 of Berry Farms Addition to Olympia, as recorded in Volume 8 of Plats, page 28.

That portion of Tract 24 of Berry Farms Addition to Olympia, as recorded in Volume 8 of Plats, page 28, and of Smith Donation Land Claim No. 42, Township 18 North, Range 1 W, W.M., described as follows: Beginning at the Northwest corner of Tract 24 of said Berry Farms Addition and running thence South 89 degrees 27' 00" East 611.965 feet, thence South 0 degrees 03' 58" West 210.92 feet, thence South 89 degrees 56' 02" West 220 feet, thence North 0 degrees 03' 58" East a distance of 105.46 feet, thence North 89 degrees 27' 00" West 391.96 feet, more or less, to the Easterly line of Pattison Street, thence North along said Easterly line 105.46 feet, more or less, to the point of beginning; EXCEPT road.