

**CLARK COUNTY  
STAFF REPORT**



**DEPARTMENT:** Elections Department

**DATE:** June 2, 2015

**REQUESTED ACTION:** Board approval of an Intergovernmental Agreement between Clark County and C-TRAN to place a permanent 24-hour Ballot Drop Box in Fisher's Landing Transit Center

**BACKGROUND**

Because permanent 24 hour Ballot Drop Boxes (e.g. the "Big Red" ballot Drop Box in the center of 14<sup>th</sup> Street near the Public Service Center) are available to voters beginning 18 days before each election they provide greater accessibility and convenience for voters than election day only staffed ballot drop locations. The Clark County Elections Office plans to place several permanent 24-hour ballot drop boxes around the County, with a related reduction in the number of election day only staffed ballot drop locations. This proposed Intergovernmental Agreement with C-TRAN allows Clark County Facilities to install, and Clark County Elections to maintain, a permanent 24-hour Ballot Drop Box at the Fisher's Landing Transit Center.

The Fisher's Landing Transit Center location is particularly attractive because voters will be able to drive up to the drop box and drivers will be able to deposit ballots without leaving their vehicles.

Exhibits are attached of the Ballot Box Intergovernmental Agreement.

**ADMINISTRATIVE POLICY IMPLICATIONS**

There are no anticipated local policy changes.

**COUNCIL POLICY IMPLICATIONS**

There are no anticipated policy implications for the Board of County Councilors.

**PREVIOUS REVIEWS AND ACTIONS**

None

**COMMUNITY OUTREACH**

Future community outreach with media outlets and information in the Voters' Pamphlet along with the ballot packet will provide information to voters regarding the new 24-hour drop sites.

**BUDGET IMPLICATIONS**

None

YES	NO	
	X	Action falls within existing budget capacity.
		Action falls within existing budget capacity but requires a change of purpose within existing appropriation
		Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

*MSJ  
OK  
N*

**SUBMITTED BY:** Catherine Garber  
**DATE:** June 2, 2015

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Distribution of staff reports is made via the Grid. <http://www.clark.wa.gov/thegrid/>  
Copies are available by close of business on the Thursday after council deliberations.

**DISTRIBUTION OF COUNTY MANAGER STAFF REPORTS:**

County Auditor  
Elections Department  
Jane Vetto, Deputy Prosecuting Attorney  
C-Tran

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**CLARK COUNTY ELECTIONS DEPARTMENT APPROVALS:**

  
Catherine Garber  
Elections Department Manager

**Attachments:**

- a. Exhibit A: Ballot Box Intergovernmental Agreement

**APPROVED:** 

**CLARK COUNTY, WASHINGTON  
BOARD OF COUNTY COUNCILORS**

**DATE:** June 2, 2015

**SR#** SR 106-15

**COUNTY MANAGER ACTION\RECOMMENDATION**

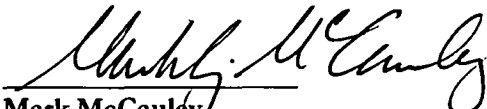
By: Mark McCauley  
Date: 5/27/15  
SR Number:

**REQUESTED ACTION:**

Board approval of requests of three elective districts to not participate in the Primary and General Election Local Voters' Pamphlet, due to financial hardship

**COUNTY MANAGER RECOMMENDATION:**

Action	Conditions	Referral to council?
<del>Approval</del> denial	Enter conditions or requests here	<del>Yes</del> No

  
Mark McCauley  
Acting County Manager

**DISTRIBUTION**

RESOLUTION NO. 2015-DLE-01

A Resolution for Interlocal Agreement Relating to Ballot Box Placement

1 WHEREAS the Board considers a resolution relating to an agreement pursuant to  
2 Chapter 39.34 RCW and Chapter 70.48 RCW whereby Clark County Public Transportation  
3 Benefit Area ("C-Tran") agrees to the placement of a Clark County ballot drop box at C-Tran's  
4 Fisher Landing Transit Center; and

5 WHEREAS the Board finds that Clark County runs election services throughout the  
6 county; and

7 WHEREAS, the Board finds that to better serve its citizens, the County and C-Tran have  
8 agreed the county will install and maintain a 24 hour assessable ballot drop off box inside C-  
9 Tran's Fisher Landing Transit Center at a mutually agreed upon location to be used by voters  
10 during times of elections; therefore,

11 BE IT RESOLVED, the Board of County Councilors, Clark County, Washington, hereby  
12 approves entry into the Interlocal Agreement between Clark County and C-Tran, attached hereto  
13 as Exhibit A.

14 DATED this 2<sup>nd</sup> day of June, 2015.

Attest:

  
Clerk to the Board

Approved as to form only:  
ANTHONY F. GOLIK  
Prosecuting Attorney

  
Deputy Prosecuting Attorney

BOARD OF COUNTY COUNCILORS  
CLARK COUNTY, WASHINGTON

By:   
David Madore, Chair

By: \_\_\_\_\_  
Jeanne E. Stewart, Councilor

By: \_\_\_\_\_  
Tom Mielke, Councilor

**BALLOT BOX INTERGOVERNMENTAL AGREEMENT**

**BETWEEN**

**CLARK COUNTY AND C-TRAN ('Agreement')**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between CLARK COUNTY, a political subdivision of the State of Washington ("County") and Clark County Public Transportation Benefit Area ("C-TRAN"), a municipal corporation pursuant to the authority of Ch. 36.57A RCW, hereinafter sets forth a common agreement concerning the placement of a Clark County ballot drop box at C-TRAN's Fisher Landing Facility, a cooperative effort as authorized by Ch. 39.34 RCW.

**RECITALS**

**WHEREAS**, the County conducts election services throughout Clark County; and

**WHEREAS**, to better serve its citizens, the County and C-TRAN have agreed the County will install and maintain a 24-hour accessible ballot drop off box ("Box") inside C-TRAN's Fisher's Landing Transit Center facility located at 3510 SE 164th Ave, Vancouver, WA at a mutually agreed upon location to be used by voters during times of elections; and

**WHEREAS**, pursuant to Chapter 39.34 RCW (Interlocal Cooperation Act), one or more public entities may contract with one another to perform government functions or services which each is by law authorized to perform; and

**NOW, THEREFORE,** pursuant to RCW 39.34 and in consideration of the terms, conditions, covenants, and performances contained herein, as well as the attached Exhibits which are incorporated and made a part hereof, the parties agree as follows:

**1.0 RECITALS ADOPTED.** The recitals set forth above are hereby adopted as the factual basis for this Agreement.

**2.0 PURPOSE.** The purpose of this Agreement is to provide Clark County voters with a convenient depository for their election ballots by granting to the County a revocable license to use, a certain portion inside Fisher's Landing Transit Center to install and maintain a 24 hour ballot drop off Box.

**3.0 RESPONSIBILITIES OF PARTIES.**

**3.1.** The County is responsible for the installation, maintenance and control of a Box and adequate signage to direct voters to a mutually agreed upon location inside Fisher's Landing Transit Center. The County agrees the Box shall be placed in a location and manner which will not interfere with C-Tran's ability to carry out the intended public transit purpose and activity at the Fisher's Landing Transit Center .

**3.2.** C-Tran is responsible for allowing the County access to install, maintain and control a Box with adequate signage inside Fisher's Landing Transit Center.

**4.0 DISPUTE RESOLUTION.** In the event of a dispute between the parties which cannot be resolved by the[ contract managers], the County Administrator and C-TRAN Executive Director/CEO or their designated representatives shall review such dispute and may attempt to resolve the dispute.

**4.1** Any controversy or claim arising out of or relating to this Agreement or the alleged breach of this Agreement that cannot be resolved by the County Administrator and C-TRAN Executive Director/CEO may be submitted to mutually agreed upon mediation, but such mediation is not a predicate action to seeking other legal remedies specified in 4.2.below.

**4.2** In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties agree that any such action or proceedings shall be brought in the Superior Court of Clark County, Washington. Each Party shall be responsible for its own attorney's fees and costs.

**5.0 INDEPENDENT CONTRACTOR.** Both Parties shall be deemed independent contractors for all purposes, and the employees of each party and any of its contractors, subcontractors, consultants, and the employees thereof, shall not in any manner be deemed to be the employees of the other Party. The County and C-TRAN shall retain all authority for provision of services, standards of performance, discipline and control of personnel, and other matters incident to their respective performance of services pursuant to this Agreement. Nothing in this Agreement shall make any employee of a party to this Agreement the

employee of another party to this Agreement for any purpose, including but not limited to, withholding of taxes, payment of benefits, workers' compensation pursuant to Title 51 RCW, or any other rights or privileges accorded their respective employees by virtue of their employment.

**6.0 HOLD HARMLESS/INDEMNIFICATION.** To the extent authorized by law, the County and C-TRAN shall defend, indemnify and hold harmless one another and their officials, employees, officers, contractors and agents, from any and all claims, demands, suits at law or equity, actions, penalties, losses, damages (both to persons and/or property), or cost (including attorneys fees and expenses), of whatsoever kind or nature, brought against the one Party arising out of, in connection with, or incident to the other Party's negligent performance or failure to perform any aspect of this Agreement, provided, that if such claims are caused by or result from the concurrent negligence of (a) the County and (b) C-TRAN, their respective employees, officers, contractors or agents, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the County or C-TRAN, and provided further, that nothing herein shall require the County or C-TRAN to hold harmless or defend the other or its employees, officers, contractors or agents from any claims arising from that Party's sole negligence or that of its employees, officers, contractors or agents. The terms of this section shall survive the termination of this Agreement.



**6.1** In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against either party, each party retains the right to participate in said suit if any principle of public law is involved.

**6.2** This indemnity and hold harmless provision shall include any claim made against either party by an employee, officer, contractor, subcontractor or agent of the other party, even if the other party is thus otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of the first party. Both parties specifically acknowledge that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that each party provide the other party with the broadest scope of indemnity permitted by RCW 4.24.115.

**7.0 ATTORNEYS FEES AND COSTS.** The parties shall bear their own costs of enforcing the rights and responsibilities under this Agreement, except as provided in 6.0 above.

**8.0 NO THIRD PARTY BENEFICIARY.** The County does not intend by this Agreement to assume any contractual obligations to anyone other than C-TRAN. C-TRAN does not intend by this Agreement to assume any contractual obligations to anyone other than the County. The County and C-TRAN do not intend there be any third-party beneficiary to this Agreement.

**9.0 NOTICE.** Any notices to be given under this Agreement shall at minimum be in writing, delivered, postage prepaid and addressed to:

To C-TRAN:

C-TRAN

PO Box 2529, Vancouver, WA, 98668

Attention: Jeff Hamm

To the County:

CLARK COUNTY AUDITOR – ELECTIONS OFFICE

PO Box 8815

Vancouver, WA 98666

Attention: ELECTIONS MANAGER

The name and address to which notices shall be directed may be changed by either party giving the other notice of such change to the other as provided in this section.

**10.0 WAIVER.** No waiver by either party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision.

**11.0 TERM.** The term of this Agreement is for a period of 10 years, from May 1, 2015, through May 1, 2025.

**12.0 EXTENSIONS.** The term of this Agreement shall automatically be extended in five-year increments, up to a maximum of fifteen (15) additional years, through May 1, 2040, without further authorization of the Board of County Councilors or C-TRAN. Either party may choose to terminate such extension of this Agreement by notifying the other party in writing ninety (90) days prior to termination.

**13.0 TERMINATION.** Either party may choose to terminate this Agreement by notifying the other party in writing ninety (90) days prior to termination.

**14.0 Equal Employment Opportunity:** The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual orientation, age, disability, marital status or national origin or as otherwise provided by law.

**15.0 Public Records Act:** Notwithstanding the provisions of this Agreement, to the extent any record, including any electronic, audio, paper or other media, is required to be kept or indexed as a public record in accordance with the Washington Public Records Act, RCW Chapter 42.56, as may hereafter be amended, Both parties agree to maintain all records constituting public records and to produce or assist each other in

Its duration is as specified in Sections 11 (Term), 12 (Extensions), and 13 (Termination). Its method of termination is set forth in Section 13.

**18.0 ENTIRE AGREEMENT.** This Agreement contains all of the agreements of the parties with respect to the subject matter covered or mentioned therein, and no prior Agreements shall be effective to the contrary.

**19.0 AMENDMENT.** The provisions of this Agreement may be amended with the mutual consent of the parties. No additions to, or alterations of, the terms of this Agreement shall be valid unless made in writing and formally approved and executed by the duly authorized agents and legislative bodies of both parties, except as provided in previous sections.

**20.0 RATIFICATION.** Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.

**21.0 SEVERABILITY.** If any section or part of this Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

IN WITNESS WHEREOF, the County and C-TRAN have caused this Agreement to be executed in their respective names by their duly authorized officers and have caused this Agreement to be dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

CLARK COUNTY

C-TRAN

By: \_\_\_\_\_  
Mark McCauley, County Administrator

\_\_\_\_\_  
Jeff Hamm  
Executive Director/CEO

Approved as to form:

By: \_\_\_\_\_  
\_\_\_\_\_, Attorney for the County

Approved as to form:

By: \_\_\_\_\_  
\_\_\_\_\_, Legal Counsel for C-TRAN