

GCA-5828

Washington State Department of Transportation
and the City of Renton**COOPERATIVE AGREEMENT**
For the City of Renton Project Coordinator
for the I-405/I-5 TO SR 169 STAGE 2 – WIDENING
AND SR 515 INTERCHANGE PROJECT

THIS AGREEMENT is made and entered into by the CITY OF RENTON (the “CITY”) and the STATE OF WASHINGTON, DEPARTMENT OF TRANSPORTATION (the “STATE”), collectively referred to as the “PARTIES” and individually referred to as “PARTY.”

WHEREAS, the STATE, in the interest of providing congestion relief in the I-405 Corridor, proposes improvements along I-405 within the CITY in a project known as the I-405/I-5 to SR 169 Stage 2 – Widening and SR 515 Interchange Project (the “PROJECT”); and

WHEREAS, the STATE will construct the PROJECT using the design-build method of project delivery; and

WHEREAS, the design-build method of project delivery is flexible and allows for the development and finalization of the design after the contract is awarded, unlike the typical design-bid-build method of project delivery; and

WHEREAS, the PARTIES entered into GCA-5721 for the design and construction of the PROJECT; and

WHEREAS, the design of project elements in the design-build method of project delivery moves faster than in the typical design-bid-build method of project delivery; therefore, expedited CITY review of the design elements will be required; and

WHEREAS, as part of the I-405/I-5 to SR 169 Stage 1 – Widening Project, the PARTIES have found it beneficial to have a CITY Project Coordinator to serve as a liaison for the CITY and to expedite review of PROJECT submittals; and

WHEREAS, pursuant to the terms of agreement GCA-5721, the STATE has committed to reimburse the CITY for costs that are directly related to services rendered solely for the PROJECT by a CITY Project Coordinator.

NOW, THEREFORE, pursuant to Revised Code of Washington (RCW) 39.34.080, which authorizes a public agency to contract with another public agency to perform any governmental service that each public agency is authorized to perform, and in consideration of the terms, conditions, covenants, and performances contained herein, **IT IS MUTUALLY AGREED AS FOLLOWS:**

1.0 DESIGNATED REPRESENTATIVES

- 1.1 The CITY Project Coordinator will serve as the CITY's PROJECT liaison.
- 1.2 The STATE's I-405 Project Engineer will serve as the STATE's PROJECT liaison.

2.0 GENERAL

- 2.1 The STATE and the CITY agree that it is to the benefit of both PARTIES for the STATE to fund the temporary position of CITY Project Coordinator, in order to facilitate communication and coordination between the STATE and the CITY.
- 2.2 The individual serving in the capacity of CITY Project Coordinator shall be a Civil Engineer III or greater.
- 2.3 The CITY shall consult with the STATE on its choice of the individual chosen to serve as the CITY Project Coordinator. The STATE shall have the authority to reject the individual the CITY has chosen to fill the CITY Project Coordinator position.
- 2.4 The CITY may not change the individual serving in the capacity of CITY Project Coordinator at any time without first receiving the written authorization of the STATE.
- 2.5 The CITY Project Coordinator shall consult with the STATE's I-405 Project Engineer, on a basis to be mutually agreed upon by the STATE's I-405 Project Engineer and the CITY, for the purpose of PROJECT activity and priority direction.
- 2.6 The STATE shall only fund those hours worked by the CITY Project Coordinator for activities directly related to the PROJECT. All other hours not directly related to the PROJECT worked by the person serving as CITY Project Coordinator shall be paid by the CITY.
- 2.7 The PARTIES agree that the STATE shall pay an all-inclusive flat-rate for work by the CITY Project Coordinator, as outlined in Section 7.0.
- 2.8 The CITY may require the CITY Project Coordinator to work in excess of 40 hours per week. Even if the CITY Project Coordinator works more than 40 hours per week on PROJECT-related activities, the CITY shall bill the STATE, to the nearest fifteen (15) minute increment, at the agreed upon all-inclusive flat-rate outlined in Section 7.0.
- 2.9 In the event the CITY Project Coordinator is absent, the CITY will assign a designee to act in the stead of the CITY Project Coordinator. The designee shall also be subject to the terms and conditions of Section 2.2. The CITY's designee acting on behalf of the CITY Project Coordinator shall serve no more than ten (10) consecutive business days without STATE approval. If the CITY Project Coordinator is absent for more than ten

(10) consecutive business days, the CITY shall name a replacement, temporary or otherwise, subject to the terms and conditions outlined in Sections 2.2, 2.3, and 2.4.

2.10 If the STATE is unable to resolve to its satisfaction a dispute regarding the CITY Project Coordinator, upon following the dispute resolution process specified in Section 8.0, the STATE shall have the authority to request a replacement to fill the CITY Project Coordinator position.

2.10.1 The STATE's written request for replacement shall be submitted to the CITY, and the CITY shall have thirty (30) calendar days to comply. The CITY shall name a replacement CITY Project Coordinator subject to the terms and conditions outlined in Sections 2.2 and 2.3.

2.10.2 In the event that the CITY does not comply within thirty (30) calendar days, this AGREEMENT shall be considered terminated and the STATE will be released from any further obligations under this AGREEMENT.

3.0 CITY RESPONSIBILITIES

3.1 The CITY agrees to pay the CITY Project Coordinator and administer all employee benefits in the same manner as all other CITY employees.

3.2 The CITY agrees that the CITY Project Coordinator shall be required to submit a monthly activity report to the STATE of actual hours worked performing the tasks listed in Section 5.0. The activity report shall include a daily accounting of specific activities performed and specific hours worked to accomplish the tasks. The activity report shall be submitted to the STATE by the fifteenth (15) day of the month following any month in which the CITY Project Coordinator had at least fifteen (15) minutes of work to report. The STATE will review the hours worked and, if accurate, will approve reimbursement to the CITY at the mutually agreed upon rate identified in Section 7.0.

3.3 The CITY Project Coordinator will be responsible for facilitating all PROJECT-related communication between the STATE and CITY staff as well as expediting CITY review of all PROJECT-related submittals. This coordination of efforts with the STATE will take place via the STATE's I-405 Project Engineer.

4.0 STATE RESPONSIBILITIES

4.1 The STATE's I-405 Project Engineer, or his/her designee, will be responsible for facilitating all PROJECT-related communication between the CITY Project Coordinator and STATE staff as well as providing PROJECT-related submittals to the CITY Project Coordinator. This coordination of efforts with the CITY will take place via the CITY Project Coordinator.

5.0 SCOPE OF WORK

- 5.1 The CITY Project Coordinator shall serve as a liaison between the STATE's I-405 Project Engineer and CITY staff.
- 5.2 The CITY Project Coordinator shall represent the CITY in design-build task force meetings and ongoing informal reviews during the design and construction of the PROJECT, which is estimated to be between October 2008 and June 2011. The CITY Project Coordinator shall be responsible for informing the appropriate CITY staff of discussions and decisions made at task force meetings.
- 5.3 The CITY Project Coordinator shall circulate PROJECT submittals to appropriate CITY staff and ensure timely CITY review. The CITY Project Coordinator shall be responsible for expediting those reviews, with the goal of limiting the CITY's PROJECT submittal review period to the specific timeframes and conditions agreed upon in Section 3.0 of GCA-5721.

6.0 SUPERVISION AND INDEPENDENT CAPACITY

- 6.1 The CITY Project Coordinator engaged in the performance of this AGREEMENT shall continue to be an employee of the CITY and shall not be considered, for any purpose, to be an employee of the STATE.
- 6.2 The CITY shall be responsible for the supervision of the CITY Project Coordinator.

7.0 PAYMENT

- 7.1 The STATE, in consideration of the faithful performance of work to be done by the CITY Project Coordinator, agrees to pay the CITY an all-inclusive flat-rate of \$65.00 per hour, which includes all costs and benefits outlined in Sections 7.2 and 7.3, for a Civil Engineer III or higher. The all-inclusive flat-rate shall be billed, to the nearest fifteen (15) minute increment, for all hours worked in order to perform the specific tasks listed in Section 5.0. The \$65.00 per hour all-inclusive flat-rate shall serve as full compensation to the CITY for each hour of work performed by the CITY Project Coordinator, up to a maximum of 800 hours.
- 7.2 The PARTIES agree that the all-inclusive flat-rate shall be considered to include, but not be limited to, all costs associated with administrative costs, travel expenses, overtime, as well as medical insurance, retirement contributions, sick leave and vacation, and labor and industry payments. The CITY shall bear all actual costs of employing the CITY Project Coordinator that may be higher than the rate identified in Section 7.1.
- 7.3 The PARTIES agree that the all-inclusive flat-rate shall be considered to include all direct or indirect costs for materials and supplies necessary for performance of the position. Additionally, the all-inclusive flat-rate shall be considered to include, but not be limited to, auto and travel expenses, lodging, use of computer equipment, office space

rental and utilities, office supplies, copy machines, or any other material costs. All costs necessary for performance of the position that may exceed the all-inclusive flat-rate shall be borne solely by the CITY.

- 7.4 The CITY shall not charge overhead costs to the STATE, pursuant to agreement OH-0016 – Reciprocating Agreement for Overhead Charges.
- 7.5 The maximum amount payable by the STATE to the CITY under this AGREEMENT is \$52,000.
- 7.6 The CITY agrees to submit not more than once a month, a billing to the STATE summarizing the hours worked each day by the CITY Project Coordinator. The monthly activity report listed in Section 3.2 of this AGREEMENT shall be submitted as an attachment to the monthly billing.
- 7.7 Upon receipt of the monthly billing and the accompanying activity report, and upon STATE concurrence of the hours worked, the STATE agrees to reimburse the CITY within thirty (30) calendar days of receipt of an approved invoice.

8.0 DISPUTE RESOLUTION

- 8.1 In the event that issues arise regarding the CITY Project Coordinator that are not addressed in this AGREEMENT, the PARTIES agree to work quickly and collaboratively to determine a resolution using the following guidelines.
 - 8.1.1 Informal Resolution. The informal resolution process begins at the staff level and is raised to higher organizational levels, if necessary. The levels of resolution are described below.
 - 8.1.1.1 The CITY's Project Coordinator and the STATE's I-405 Project Engineer shall jointly cooperate to informally resolve any dispute as quickly and efficiently as possible.
 - 8.1.1.2 If unresolved, the CITY's Deputy Planning, Building, and Public Works Administrator and the STATE's I-405 Construction Manager shall jointly cooperate to informally resolve any dispute as quickly and efficiently as possible.
 - 8.1.2 Written Notice. If the dispute cannot be resolved at any of the levels described above, the CITY's Planning, Building, and Public Works Administrator and the STATE's I-405 Deputy Project Director shall notify each other in writing of any dispute needing resolution.
- 8.2 Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays and minimize costs.

9.0 INDEMNIFICATION

- 9.1 Each PARTY shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, each of the PARTY's own acts or omissions. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence.
- 9.2 The STATE and the CITY agree that their obligations under this Section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the PARTIES, by mutual negotiation, hereby waive, with respect to the other PARTY only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.
- 9.3 This indemnification and waiver shall survive the termination of this AGREEMENT.

10.0 AMENDMENT

- 10.1 This AGREEMENT may be extended upon mutual agreement of the PARTIES via an amendment executed in accordance with Section 10.2, if the CITY Project Coordinator position is deemed necessary beyond the maximum number of hours outlined in Section 7.1.
- 10.2 Either PARTY may request modifications to this AGREEMENT. Such modifications shall be mutually agreed upon by written amendments and/or supplements to this AGREEMENT. No variation or alteration of the terms of this AGREEMENT shall be valid unless made in writing and signed by authorized representatives of the PARTIES hereto.

11.0 ALL WRITINGS CONTAINED HEREIN

- 11.1 This AGREEMENT contains all the terms and conditions agreed upon by the PARTIES to this AGREEMENT. No other understanding, oral or otherwise, regarding the subject matter of this AGREEMENT shall be deemed to exist or to bind any of the PARTIES hereto.

12.0 GOVERNANCE

- 12.1 This AGREEMENT is entered into pursuant to, and under the authority granted by, the laws of the State of Washington and applicable federal laws. The provisions of this

AGREEMENT shall be construed to conform to those laws.

13.0 EFFECTIVENESS AND DURATION

13.1 This AGREEMENT is effective upon execution by both PARTIES and will remain in effect until completion of the PROJECT construction contract, or until GCA-5721 is terminated pursuant to the termination clauses of that agreement, whichever occurs earlier.

14.0 SEVERABILITY

14.1 If any provision of this AGREEMENT, or any provision of any document incorporated by reference, shall be held invalid, such invalidity shall not affect the other provisions of this AGREEMENT that can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this AGREEMENT, and to this end the provisions of this AGREEMENT are declared to be severable.

15.0 TERMINATION

15.1 This AGREEMENT may be terminated by either PARTY upon thirty (30) calendar days advanced written notice to the other PARTY. The STATE shall be responsible for reimbursing the CITY for all hours worked by the CITY Project Coordinator under the terms of this AGREEMENT prior to the date of termination. The STATE shall not be responsible for reimbursing the CITY for any hours worked by the CITY Project Coordinator after the date of termination of this AGREEMENT, even if that work is directly related to the PROJECT.

16.0 VENUE

16.1 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 hereto agree that any such action or proceeding shall be brought in the superior court situated in Thurston County, Washington.

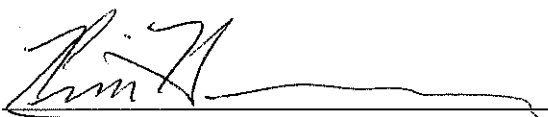
IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT as of the latest written date below:

CITY OF RENTON



By (signature):
Denis Law
Mayor

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION



By (signature):
Kim Henry
I-405 Project Director

September 26, 2008
Date:

APPROVED AS TO FORM:

Lawrence J. Warren
By (print):

Lawrence J. Warren
By (signature):
City Attorney

September 26, 2008
Date:

ATTEST:

Bonnie I. Walton
By (signature):
Bonnie I. Walton
City Clerk

September 26, 2008
Date:

10/1/08
Date:

APPROVED AS TO FORM:

Elizabeth Lagerberg
By (print):

Elizabeth Lagerberg
By (signature):
Assistant Attorney General
Office of the Attorney General

7-28-08
Date: