

GCA 6532

Washington State Department of Transportation
and King County

COOPERATIVE AGREEMENT

**For the King County Project Coordinator & Technical Reviewers
for the SR 520 MEDINA TO SR 202: EASTSIDE TRANSIT AND HOV PROJECT**

THIS AGREEMENT is made and entered into by King County (the "COUNTY") 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 transit capacity and mobility improvements in the SR 520 Corridor, proposes improvements along SR 520 within the COUNTY in a project known as the SR 520 Medina to SR 202: Eastside Transit and HOV Project (the "PROJECT"); and

WHEREAS, the COUNTY and STATE are coordinating review of design and construction of the PROJECT described in Exhibits A and B of GCA 6531, Cooperative Agreement for the Design and Construction of the PROJECT, which is being entered into concurrently with this AGREEMENT; 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 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 COUNTY review of the design elements will be required; and

WHEREAS, as part of the PROJECT, the PARTIES have found it beneficial to have a COUNTY Project Coordinator to serve as a liaison for the COUNTY and to expedite review of the STATE's PROJECT submittals by COUNTY staff; and

WHEREAS, pursuant to the terms of agreement GCA 6531, the STATE has committed to reimburse the COUNTY for costs that are directly related to services rendered solely for the PROJECT by a COUNTY Project Coordinator and COUNTY Technical Reviewers.

NOW, THEREFORE, pursuant to RCW47.28.140, and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, **IT IS MUTUALLY AGREED AS FOLLOWS:**

1.0 GENERAL

- 1.1 The STATE and the COUNTY agree that it is to the benefit of both PARTIES for the STATE to fund the temporary assignment of the COUNTY Project Coordinator and the COUNTY Technical Reviewers (as defined herein), in order to facilitate communication and coordination between the STATE and the COUNTY regarding the PROJECT after design-build contract award and execution.
- 1.2 The STATE's SR 520 Project Engineer will serve as the STATE's PROJECT liaison.
- 1.3 The COUNTY Project Coordinator will serve as the COUNTY's PROJECT liaison.
- 1.4 The individual(s) serving in the capacity of COUNTY Project Coordinator shall be designated by the COUNTY as the person experienced at interagency and internal agency coordination. The individuals serving in the capacity of COUNTY Technical Reviewers shall be designated by the COUNTY as the person(s) knowledgeable of the items of which they are reviewing and/or providing information.
- 1.5 The COUNTY shall consult with the STATE on its choice of the individual(s) chosen to serve in the COUNTY Project Coordinator assignment. The COUNTY and the STATE shall mutually agree on the individual(s) who will fill the COUNTY Project Coordinator assignment.
- 1.6 The COUNTY may not change the individual serving in the capacity of COUNTY Project Coordinator at any time without first discussing these changes with the STATE and reaching a mutual agreement between the COUNTY and the STATE as outlined in Section 1.5.
- 1.7 More than one individual, meeting the terms and conditions of Sections 1.4, 1.5, and 1.12, may serve in the COUNTY Project Coordinator assignment.
- 1.8 The COUNTY Project Coordinator shall consult with the STATE's SR 520 Project Engineer, on a routine basis, the frequency to which shall be mutually agreed upon by the STATE's SR 520 Project Engineer and the COUNTY, for the purpose of PROJECT activity and priority direction.
- 1.9 The PARTIES agree that the STATE shall pay for work by the COUNTY Project Coordinator and the COUNTY Technical Reviewers, as outlined in Section 7.0.
- 1.10 The STATE shall only fund those hours worked by the COUNTY Project Coordinator and the COUNTY Technical Reviewers for activities directly related to the PROJECT. All other hours not directly related to the PROJECT worked by the person serving as COUNTY Project Coordinator or Technical Reviewers shall be paid by the COUNTY.

- 1.11 In the event the COUNTY Project Coordinator is absent, the COUNTY will assign a designee to act in the stead of the COUNTY Project Coordinator. The designee shall also be subject to the terms and conditions of Section 1.4. The COUNTY's designee acting on behalf of the COUNTY Project Coordinator shall serve no more than ten (10) consecutive business days. If the COUNTY Project Coordinator is absent for more than ten (10) consecutive business days, the COUNTY shall name a replacement, temporary or otherwise, subject to the terms and conditions outlined in Sections 1.4 through 1.7.
- 1.12 If the STATE is dissatisfied with the assignment of the Project Coordinator and is unable to resolve to its satisfaction in a dispute regarding the COUNTY Project Coordinator, upon following the informal dispute resolution process specified in Section 8.2, the STATE shall have the authority to request a replacement to fill the COUNTY Project Coordinator assignment.
- 1.12.1 The STATE's written request for replacement shall be submitted to the COUNTY, and the COUNTY shall have thirty (30) calendar days to comply. The COUNTY shall name a replacement COUNTY Project Coordinator subject to the terms and conditions outlined in Sections 1.3 through 1.7.
- 1.12.2 In the event that the COUNTY 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.

2.0 COUNTY RESPONSIBILITIES

- 2.1 The COUNTY agrees to pay the individual(s) serving in the COUNTY Project Coordinator and the COUNTY Technical Reviewer assignments and, if applicable, administer all employee benefits in the same manner as all other COUNTY employees, subject to the terms and conditions of Section 1.0.

3.0 STATE RESPONSIBILITIES

- 3.1 The STATE's SR 520 Project Engineer, or designee, will be responsible for facilitating all PROJECT-related communication between the COUNTY Project Coordinator and STATE staff as well as providing PROJECT-related submittals to the COUNTY Project Coordinator. This coordination of efforts with the COUNTY will take place via the COUNTY Project Coordinator.
- 3.2 The STATE will provide a schedule for and list of anticipated submittal packages for COUNTY review, as stated in GCA 6531.
- 3.3 The STATE will monitor the time and expenditures required to complete the tasks to ensure the tasks are completed in conformance with this AGREEMENT.

4.0 SCOPE OF WORK – PROJECT COORDINATOR

- 4.1 The COUNTY Project Coordinator shall serve as a liaison between the STATE's SR 520 Project Engineer and COUNTY staff.
- 4.2 The COUNTY Project Coordinator will be responsible for facilitating all PROJECT-related communication between the STATE and COUNTY staff as well as expediting COUNTY review of all PROJECT-related submittals. This coordination of efforts with the STATE will take place via the STATE's SR 520 Project Engineer.
- 4.3 The COUNTY Project Coordinator shall represent the COUNTY in design-build task force meetings and ongoing informal reviews during the design and construction of the PROJECT, which is estimated to occur between December 2010 and December 2014. The COUNTY Project Coordinator shall be responsible for informing the appropriate COUNTY staff of discussions and decisions made at task force meetings.
- 4.4 The COUNTY Project Coordinator shall circulate PROJECT submittals to appropriate COUNTY Technical Reviewers and ensure timely COUNTY review. The COUNTY Project Coordinator shall be responsible for expediting those reviews in accordance with Section 3.0 of GCA 6531.
- 4.5 The COUNTY Project Coordinator will facilitate COUNTY staff attending public meetings with the community regarding transit elements of the transit facility and transit service.

5.0 SCOPE OF WORK – TECHNICAL REVIEWERS

- 5.1 The COUNTY Technical Reviewers shall work with the COUNTY Project Coordinator, provide transit related information, and review submittals (after design-build contract award and execution) according to specific timeframes and conditions in accordance with Section 3.0 of GCA 6531.

6.0 SUPERVISION AND INDEPENDENT CAPACITY

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

7.0 PAYMENT

- 7.1 The STATE, in consideration of the faithful performance of work to be done on the PROJECT by individual(s) serving in the COUNTY Project Coordinator and the

COUNTY Technical Reviewer assignments, agrees to pay the COUNTY for the actual direct and related indirect costs the COUNTY incurs for such work. The actual direct and related indirect costs shall be invoiced, to the nearest thirty (30) minute increment, for all hours worked in order to perform the specific tasks listed in Sections 4.0 and 5.0. The invoiced costs shall serve as full compensation to the COUNTY for work performed by any individual serving in the COUNTY Project Coordinator or the COUNTY Technical Reviewer assignments.

- 7.2 The PARTIES agree that the invoiced costs shall not include costs for overhead pursuant to reciprocal agreement OH-0019.
- 7.3 The maximum amount payable by the STATE to the COUNTY under this AGREEMENT is \$100,000.
- 7.4 The COUNTY agrees to submit an invoice to the STATE, not more than once each month, summarizing the hours worked, tasks requested by the STATE, and tasks accomplished by the COUNTY by the COUNTY Project Coordinator and the COUNTY Technical Reviewers for the billing period.
- 7.5 The invoice shall be submitted to the STATE not more than once a month and by the twentieth (20) day of the month following any month in which the COUNTY Project Coordinator or the COUNTY Technical Reviewers had at least thirty (30) minutes of work to report. The invoices shall substantially conform to the invoice template shown in Exhibit A, attached hereto and by this reference made a part of this AGREEMENT. The STATE will approve or request resubmittal of the invoice within ten (10) calendar days of receipt.
- 7.6 COUNTY invoices must be signed by an authorized representative of the COUNTY who shall verify that the invoice is accurate, the Services have been performed, and that the costs shown have been reasonably incurred in accordance with this AGREEMENT.
- 7.7 Upon receipt of the approved monthly invoice and the accompanying activity report, and upon STATE concurrence of the hours worked, the STATE agrees to reimburse the COUNTY within thirty (30) calendar days of receipt of an approved invoice.
- 7.8 The COUNTY agrees to submit a final invoice to the STATE within forty five (45) calendar days after COUNTY has completed the work or this AGREEMENT is terminated, whichever comes first.

8.0 DISPUTE RESOLUTION

- 8.1 The COUNTY and the STATE shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Article applies to disputes arising under or in connection with the terms of this AGREEMENT.

8.2 **Informal Resolution.** The informal resolution process begins at the staff level and is raised to the higher organizational levels, if necessary. The levels of resolution are described below:

8.2.1 The COUNTY's Project Manager and the STATE's Project Engineer, shall jointly cooperate to informally resolve any disputes as quickly and efficiently as possible.

8.2.2 If unresolved, the COUNTY's Design and Construction Section Manager and the STATE's Engineering Manager shall jointly cooperate to informally resolve any dispute as quickly and efficiently as possible.

8.2.3 If the dispute cannot be resolved at any of the levels described above, the COUNTY's General Manager and the STATE's Program Director shall notify each other in writing of any dispute that still requires resolution.

8.2.4 Upon receipt of notification, the Parties shall work together to identify and define a process and timeline to reach resolution of the dispute as quickly and efficiently as possible. If at any time in the informal dispute resolution process described in 8.2.1, 8.2.2, or 8.2.3 one of the Parties determines progress is not being made towards resolving the dispute, such Party shall notify the other Party of such lack of progress and upon such notice the dispute resolution shall proceed as described in 8.3.

8.3 In the event that the STATE and the COUNTY are unable to resolve the dispute as described in 8.2, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon, mediator. The PARTIES shall share equally in the cost of the mediator.

8.4 Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the PROJECT.

8.5 The STATE and the COUNTY agree that they shall have no right to seek relief in a court of law until and unless the dispute resolution process has been exhausted.

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 negligent 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 COUNTY 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 INDEPENDENT STATUS

10.1 In the performance of this AGREEMENT, the PARTIES will be acting for their own benefit and not as agents, employees, partners, joint ventures, or associates of one another.

10.2 The PARTIES intend that an independent contractor relationship will be created by this AGREEMENT. The employees or agents of one PARTY shall not be deemed or construed to be the employees or agents of the other PARTY for any purpose whatsoever.

10.3 The COUNTY shall not make any claim of right, privilege, or benefit that would accrue to a STATE employee under chapter 41.06 RCW or Title 51 RCW.

11.0 AMENDMENT

11.1 This AGREEMENT may be modified or amended upon mutual agreement of the PARTIES via an amendment executed in accordance with Section 11.2, if the COUNTY Project Coordinator assignment or additional COUNTY technical review is deemed necessary beyond the maximum amount payable outlined in Section 7.3.

11.2 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.

12.0 ALL WRITINGS CONTAINED HEREIN

12.1 This AGREEMENT contains all the terms and conditions agreed upon by the PARTIES to this AGREEMENT.

12.2 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.

13.0 GOVERNANCE

- 13.1 This AGREEMENT is entered into pursuant to, and under the authority granted by, the laws of the State of Washington and applicable federal laws.
- 13.2 The provisions of this AGREEMENT shall be construed to conform to those laws.

14.0 EFFECTIVENESS AND DURATION

- 14.1 This AGREEMENT is effective upon execution by both PARTIES and unless terminated earlier as provided herein, will remain in effect until completion of the PROJECT construction contract, or until GCA 6531 is terminated pursuant to the termination clauses of that agreement, whichever occurs earlier.
- 14.2 The PARTIES agree that work under this AGREEMENT, as described in Section 4.0, SCOPE OF WORK – PROJECT COORDINATOR, and Section 5.0, SCOPE OF WORK – TECHNICAL REVIEWERS, began March 17, 2011, per authorization given in STATE email dated March 17, 2011, regardless its date of execution.

15.0 SEVERABILITY

- 15.1 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.

16.0 TERMINATION

- 16.1 This AGREEMENT may be terminated by either PARTY upon thirty (30) calendar days advanced written notice to the other PARTY.
- 16.2 The STATE shall be responsible for reimbursing the COUNTY for all hours worked by the COUNTY Project Coordinator under the terms of this AGREEMENT prior to the date of termination.

17.0 VENUE

- 17.1 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 King County, Washington.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT as of the PARTY's date signed last below:

KING COUNTY

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

By (signature):
Kevin Desmond
General Manager

By (signature):
Julie Meredith, P.E.
SR 520 Project Director

Date:

Date:

APPROVED AS TO FORM:

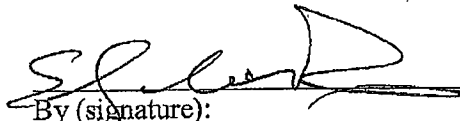
APPROVED AS TO FORM:

By (print):

Elizabeth Lagerberg

By (print):

By (signature):
County Attorney



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

Date:

3-14-2011

Date:



GCA 6532
Exhibit A
Invoice Template

King County Billing Request

BILL TO	Washington State Dept of Transportation	ORDER NUMBER	
Contact Name	Daniel Babuca	Requestor	Sally Turner/Rita Ritter
Title	Accounts Payable	Dept	Metro Transit
Company	Washington State Dept of Transportation	Division	Transportation
Mailing Address	600 Stewart Street, Suite 520	Section	Design and Construction
City, State, Zip	Seattle, WA 98101	Phone No.	263-4581/263-6056
REASON	Payment for actual expenditures per GCA 6532	Mailstop	KSC-TR-0435

DATE	ITEM	QUANTITY	RATE	AMOUNT
	RE: Item A. Project Coordinator Subproject 010			\$0.00
	RE: Item B. Technical Reviewer Subproject 000			\$0.00

Comments:
Questions should be directed to Sally Turner or Rita Ritter

SubTotal \$0.00
Tax \$0.00
TOTAL \$0.00

IBIS FLEXFIELD

Name	Fund	Cost Center	Account	Project	Phase	SubProject	Grant	Amount
	3641	5531	#####	#####	2	varies	0	\$0.00
Total								\$0.00