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|---|---------------------|------------|---------------------|
| Developer Agreement Construction by Developer at Developer Expense | | | Developer & Address |
| Agreement Number | | | Section/Location |
| State Route No. | Control Section No. | Region | Description of Work |
| Surety Bond | | Work Hours | |

This Agreement is made and entered into between the Washington State Department of Transportation (WSDOT) and the above named organization (Developer).

Recitals

- A. The Developer wishes to construct an intersection and/or related improvements within WSDOT's right-of-way.
- B. WSDOT and Developer now wish to define responsibilities for construction and maintenance of the proposed improvements.

Now Therefore, by virtue of Title 47.50 RCW, it is mutually agreed between the parties hereto as follows:

1. WSDOT agrees to grant the Developer permission to construct the above described work within WSDOT right-of-way at the location described in Exhibit A, attached hereto and by this reference made a part of this Agreement.
2. The Developer agrees to construct the project as shown on Exhibit B, at 100 percent Developer expense and responsibility. Exhibit B is attached hereto and by this reference made a part of this Agreement.
 - 2.1 The responsibility of the Developer for performance, safe conduct, and adequate policing and supervision of the project shall not be lessened or otherwise affected by WSDOT's approval of plans, specifications, or work, or by the presence at the worksite of WSDOT's representative(s), or by compliance by the Developer with any requests or recommendations made by such representative(s).
3. Any change of work from that shown on Exhibit B must be approved by WSDOT prior to beginning such work. Plan revisions may be required by WSDOT if design standards change between the time of the Agreement approval and the beginning of construction.
4. Upon receipt of this Agreement by the Developer, WSDOT may request a construction schedule showing critical dates and activities that will lead to the timely completion of the work required under this Agreement.
 - 4.1 Failure by the Developer to provide the construction schedule within thirty (30) days may cause cancellation of the Agreement. Cancellation of this Agreement will not lessen the Developer's responsibility to reimburse WSDOT for those costs agreed to by item 13.
5. Prior to beginning of construction, a preconstruction conference shall be held with WSDOT, Developer, and the Developer's contractor.

6. Should the Developer choose to perform the work outlined herein with other than its own forces, a representative of the Developer shall be present at all times unless otherwise agreed to by the Region Administrator. All contact between WSDOT and Developer's contractor shall be through the representative of the Developer. Where the Developer chooses to perform the work with its own forces, it may elect to appoint one of its own employees engaged in the construction as its representative. Failure to comply with this provision shall be grounds for restricting any further work by the Developer within WSDOT right-of-way, until said requirement is met.
 - 6.1 The Developer, at its own expense, shall adequately police and supervise all work on the above described project by itself, its contractor(s), subcontractor(s), agent(s), and others, so as to not endanger or injure any person or property.
7. Work within WSDOT right-of-way shall be restricted to the above specified hours and no work shall be allowed on the right-of-way Saturdays, Sundays, or Holidays, unless otherwise authorized by WSDOT.
8. In the construction and/or maintenance of this facility, the Developer shall comply with the "Manual on Uniform Traffic Control Devices for Streets and Highways," current edition. Any closures or restrictions of the highway shall require a WSDOT approved traffic control plan.
9. All material and workmanship shall conform to the Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction, current edition, and shall be subject to inspection by WSDOT.
10. All disturbed right-of-way shall be seeded, fertilized, mulched, and protected from erosion.
11. The Developer shall provide an executed surety bond acceptable to WSDOT in the amount stated above. the bond shall:
 - a. Be signed by a surety that is registered with the Washington State Insurance Commissioner and appears on the current authorized list published by the Office of the Insurance Commissioner.
 - b. Be conditioned upon faithful performance of the Agreement.
 - c. Guarantee that the surety shall indemnify and defend WSDOT against any loss resulting from the Developer's failure to faithfully perform all the terms under this Agreement.
 - d. Guarantee that the Developer or the contractor of the Developer shall pay all laborers, mechanics, subcontractors, and materialmen, or any person who provides supplies or provisions for carrying out the work.
 - e. The surety bond shall remain in full force and effect until released in writing by WSDOT.
 - f. WSDOT will recover from the Developer and its sureties such damages as WSDOT may sustain by reason of the Developer's failure to comply with the provisions of this Agreement.
12. The Developer shall obtain and keep in force for the duration of the work under this Agreement, public liability and property damage insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW. WSDOT shall be specifically named as an insured in a policy with the same company which insures the Developer or by an endorsement to an existing policy. The amount of coverage shall be not less than a single limit of \$1,000,000 for bodily injury, including death and property damage per occurrence. The Developer shall furnish WSDOT proof of insurance prior to undertaking any work covered by this Agreement.
13. The Developer shall reimburse WSDOT for all actual direct and related indirect costs necessitated by this Agreement. Such costs include, but are not limited to, agreement preparation, plan review, and construction inspection.
 - 13.1 The Developer agrees to make payment for the work to be done by WSDOT within thirty (30) days from receipt of billing from WSDOT. Payment not made within thirty (30) days after receipt of billings shall bear interest at the rate of one percent per month or fraction thereof until paid pursuant to RCW 43.17.240.

14. WSDOT shall have ownership and control of the completed facility within WSDOT right-of-way and related traffic signal induction loops outside WSDOT's right-of-way, all subject to final acceptance by WSDOT with the exception that the Developer, his assigns, and successors, shall be responsible for the construction and maintenance of the private connections and appurtenances between the shoulder line of the highway and the right-of-way line inclusive of surfacing and drainage, when applicable. Future construction or maintenance within the areas of responsibility by the Developer, his assigns, and successors which will affect the traffic signal induction loops and related appurtenances shall require WSDOT review and approval.
15. Any breach of the terms and conditions of this Agreement, or failure on the part of the Developer to proceed with due diligence and in good faith in the construction and maintenance work provided for herein, shall subject this Agreement to be cancelled and, at the option of WSDOT, may require the Developer to remove all or part of the facilities constructed hereunder at the Developer's sole expense.
16. The Developer shall indemnify and hold WSDOT, and its agents, employees and/or officers harmless from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against WSDOT, its agents, employees and officers arising out of, in connection with, or incident to the execution of this Agreement and/or the Developer's performance or failure to perform any aspect of this Agreement. Provided, however, that if such claims are caused by or result from the concurrent negligence of (a) the Developer and (b) WSDOT, its agents, employees and/or officers, this indemnify provision shall be valid and enforceable only to the extent of the negligence of the Developer, and provided further, that nothing herein shall require the Developer to hold harmless or defend WSDOT, its agents, employees and/or officers from any claims arising from the sole negligence of WSDOT, its agents, employees, and/or officers.
17. In the event that any 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 proceedings shall be brought in a court of competent jurisdiction situated in _____ County, Washington.

In Witness Whereof, the parties hereto have executed this Agreement as of the day and year last written below.

| Developer | Washington State Department of Transportation |
|-------------------------|--|
| Signature: _____ | Signature: _____ |
| By: _____ Print Name | By: _____ Print Name |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |