

Transportation Planning Project Agreement State RTPO Funding		County Organization and Address
Agreement Number	Total Amount Authorized	Project Title and Description
Agreement Start Date	Agreement End Date	Project Manager

This Agreement is made and entered into between the Washington State Department of Transportation (STATE) and the above named County Organization, hereinafter the “ORGANIZATION.”

WHEREAS, the ORGANIZATION is a COUNTY established under chapter 36.04 RCW, and

WHEREAS, the STATE and the ORGANIZATION recognize the need for the transportation planning project described above (“Project”), and

WHEREAS, it is deemed in the best interest of the STATE to participate in funding the Project for the mutual benefit of local and state roadway planning in the area of the Project, and

WHEREAS, the STATE and the ORGANIZATION now wish to define responsibility for preparation of the Project,

NOW, THEREFORE, pursuant to RCW47.80.050(3), the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, and performances contained herein, and Exhibit A attached hereto and incorporated herein,

IT IS MUTUALLY AGREED as follows:

1. Scope of Work

1.1 The ORGANIZATION shall undertake the Project which shall include the tasks set forth in Exhibit A.

2. Schedule

2.1 The Project period shall commence upon execution of this Agreement and shall last until the Agreement End Date listed above, unless terminated pursuant to Section 7.

3. Payment

3.1 The STATE, in consideration of the faithful performance of the Project work, agrees to reimburse the ORGANIZATION’s actual direct and related indirect costs of the Project. The maximum amount that the STATE shall reimburse the ORGANIZATION shall not exceed the “Total Amount Authorized” listed above. Payment by task shall be made as set forth in Exhibit A.

3.2 The ORGANIZATION shall submit to the STATE requests for funds as they are expended on the Project, but not to exceed one such request every month. Such requests for reimbursement shall document the amount of funds that have been expended during the period for the total Project, as well as for the current billing period. The STATE shall review and approve each request for payment and shall make payment within thirty (30) calendar days after approval of the payment request.

3.3 A payment will not constitute agreement as to the appropriateness of any item. At the time of the final invoice, the Parties will resolve any discrepancies.

4. Party Conferences and Reports

4.1 The ORGANIZATION shall confer with the STATE on the Project when the ORGANIZATION deems it necessary or when requested to do so by the STATE.

4.2 The ORGANIZATION shall prepare a final report, documenting the Project work showing all documentation of all technical data and its analysis. . The ORGANIZATION shall submit the final report to the STATE for its review and acceptance within thirty (30) calendar days after the Agreement End Date or termination date.

5. Modifications

5.1 Either Party may request modifications to this Agreement. Such modifications which are mutually agreed upon shall be incorporated as written amendments 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.

6. Audits, Inspection, and Retention of Records

6.1 All Project records for the work in support of all costs incurred shall be maintained by the ORGANIZATION for a period of six (6) years. The STATE shall have full access to and right to examine said records, during normal business hours and as often as it deems necessary. Should the STATE require copies of any records, it agrees to pay the costs thereof. The Parties agree that the Work performed herein is subject to audit by either or both Parties and/or their designated representatives, and/or state of Washington and/or the federal government.

7. Termination

7.1 If the STATE determines that it is in the best interests of the STATE, the STATE may terminate this Agreement upon giving ten (10) calendar days' written notice to the ORGANIZATION. If this Agreement is so terminated prior to fulfillment of the terms stated herein, the ORGANIZATION shall be reimbursed only for the actual direct and related indirect costs and non-cancelable obligations, incurred prior to the date of termination.

8. Indemnification

8.1 The ORGANIZATION shall protect, defend, indemnify, and hold harmless the STATE and its employees, authorized agents, and/or contractors, 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, the ORGANIZATION's obligations to be performed pursuant to the provisions of this Agreement.

The ORGANIZATION shall not be required to indemnify, defend, or hold harmless the STATE 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 STATE; provided that, if such claims, suits, or actions result from the concurrent negligence of (a) the STATE, its employees, authorized agents, or contractors and (b) the ORGANIZATION, its employees, authorized agents, and/or contractors, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of each Party, its employees, authorized agents, and/or contractors.

9. Subcontracting

9.1 The ORGANIZATION's Project work shall be directed by the Project Manager identified above. The ORGANIZATION shall not assign or transfer any of the Project work without the STATE's prior written approval. Should the STATE authorize some or all of the Project work to be done by a consultant, the STATE shall review and approve the ORGANIZATION's consultant agreement prior to execution. The ORGANIZATION shall comply with all federal, state laws and regulations governing the selection and employment of consultants. The STATE reserves the right to appoint a representative to serve on the consultant selection committee. Subcontracts greater than Ten Thousand Dollars (\$10,000.00) must contain all the STATE-required provisions of this Agreement.

10. Travel

10.1 Any out-of-state travel must have the STATE's prior written approval to be eligible for reimbursement. Current STATE travel regulations and rates shall apply to all in-state and out-of-state travel for which reimbursement is claimed under this Agreement.

11. Liability

11.1 No liability shall attach to the STATE or the ORGANIZATION by reason of entering into this Agreement except as expressly provided herein.

12. Independent Contractor

12.1 The ORGANIZATION shall be deemed an independent contractor for all purposes and the members of the ORGANIZATION or any of its contractors, subcontractors, and the employees thereof, shall not in any manner be deemed to be employees of the STATE.

13. Equal Employment Opportunity

13.1 The ORGANIZATION agrees to abide by all state and federal regulations with respect to employment. This includes, but is not limited to, equal opportunity employment, nondiscrimination assurances, Project record keeping, audits, inspection, and retention of records and will adhere to all of the nondiscrimination provisions set forth in Section 16.

14. Severability

14.1 If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform to the terms and requirements of applicable law and the intent of this Agreement.

15. Equipment

15.1 All equipment to be purchased under this Agreement shall be listed in Exhibit A.

16. Title 6, Civil Rights Act of 1964

During the performance of this Agreement, the ORGANIZATION, for itself, its assignees, and successors in interest, hereinafter referred to as the “Consultant under Section 16,” agree as follows:

16.1. Compliance With Regulations: The Consultant will comply with the Regulations of the United States Department of Transportation relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation, Title 49, Code of Federal Regulations, Part 21, hereinafter referred and made a part of this Agreement.

16.2 Nondiscrimination: The Consultant, with regard to the work performed by it after award and prior to completion of the Agreement work, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 8.4 of the Code of Federal Regulations, including employment practices when the Agreement covers a program set forth in Appendix A-11 of the Code of Federal Regulations.

16.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant’s obligations under this Agreement and the Code of Federal Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

16.4 Information and Reports: The Consultant will provide all information and reports required by the Code of Federal Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Transportation Department or the Federal Highway Administration to be pertinent to ascertain compliance with such regulations, orders, and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the State Transportation Department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

16.5 Sanctions for Noncompliance: In the event of the Consultant’s noncompliance with the nondiscrimination provisions of this contract, the State Transportation Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a. Withholding of payment to the Consultant under the Agreement until the Consultant complies, and/or
- b. Cancellation, termination, or suspension of the Agreement, in whole or in part.

16.6 Incorporation of Provisions: The Consultant will include the provisions of paragraphs (16.1) through (16.6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Code of Federal Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurements as the State Transportation Department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for

noncompliance. Provided, however, that in the event the Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the STATE to enter into such litigation to protect the interest of the United States.

17. Disputes

17.1 In the event that a dispute arises under this Agreement, it shall be resolved as follows: The STATE and the ORGANIZATION shall each appoint a member to a disputes board, these two members shall select a third board member not affiliated with either Party. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute. The Parties shall equally share in the cost of the third disputes board member; however, each Party shall be responsible for its own costs and fees.

18. Venue

18.1 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 agree that any such action or proceedings shall be brought in Thurston County Superior Court. Further, the Parties agree that each will be solely responsible for payment of its own attorney's fees, witness fees, and costs.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Party's date last signed below.

ORGANIZATION

STATE OF WASHINGTON

DEPARTMENT OF TRANSPORTATION

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM

By: Ann E. Salay
Printed Name: Ann E. Salay

Title: Senior Counsel

Date: 6-20-16