

AGREEMENT
GCA-5094

THIS AGREEMENT is made and entered into this 17th day of December, 2006 between the STATE OF WASHINGTON Department of Transportation, hereinafter the "STATE," and Spokane Transit Authority, hereinafter the "STA," collectively both of which entities may be referred to hereinafter as "PARTIES" and individually the PARTY."

WHEREAS, the STATE is planning the construction of a project titled, US 395 & Hastings Rd. PCCP I/S Rehabilitation, hereinafter the "PROJECT," and

WHEREAS, the STATE and the STA have reached an understanding whereby the STA agrees to contribute, but not exceed, a sum in the amount of Eight Hundred Seventeen Thousand Nine Hundred Dollars (\$817,900.00) to the STATE's PROJECT,

NOW, THEREFORE, by virtue of chapter 39.34 RCW 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. GENERAL

1.1 The STATE will design and construct the PROJECT that will, in part, mutually benefit both PARTIES by replacing asphalt paving which is failing due to rutting from heavy vehicles with Portland Cement Concrete Paving. A plan sheet showing the PROJECT limits labeled Exhibit B is attached and by this reference is made part of this AGREEMENT

2. PAYMENT

2.1 The STATE agrees to submit a billing of \$94,300.00 to the STA before December 30, 2006 and a second billing of \$723,600.00 before April 1, 2007. A copy of the Cooperative Funding Interlocal Agreement labeled Exhibit A is attached and by this reference is made part of this AGREEMENT

2.2 The STA agrees to make payment within thirty (30) days from receipt of the billing from the STATE.

3. LEGAL RELATIONS

3.1 It is understood that this AGREEMENT is solely for the benefit of the PARTIES hereto and gives no right to any other party. No joint venture, agent-principal relationship or partnership is formed as result of this AGREEMENT. No employees or agents of one

PARTY or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees or agents of the other PARTY.

3.2 To the maximum extent permitted by law, the STATE shall defend, indemnify, and hold harmless the STA and its officials and employees from all claims, demands, suits, actions and liability of any kind, including injuries to persons or damages to property, that arise out of, are connected with, or are due to any negligent act or omission of the STATE or any of its officials or employees engaged in performing the work and responsibilities of this AGREEMENT; provided, however, that if (the provisions of RCW 4.24.115 apply and any such damages and injuries to persons or property are caused by or result from the concurrent negligence of both PARTIES to this AGREEMENT, or their officials and employees, then in such instance each PARTY's obligation hereunder applies only to the extent of the negligence of such PARTY or its officials and employees.

3.3 The provisions of this section shall survive any expiration or termination of this AGREEMENT.

4. RECORDS AND AUDIT

4.1 During the process of the design and construction of all improvements covered by this AGREEMENT and for a period not less than three (3) years from the date of completion of all improvements, records and accounts pertaining to the work of this AGREEMENT and accounting therefore are to be kept available for inspection and audit by representatives of the PARTIES. Copies of the records shall be furnished upon request and shall be maintained in accordance with a work order accounting procedure prescribed by the State Auditor's Office.

5. VENUE

5.1 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 proceedings shall be brought in the superior court situated in Thurston County, Washington.

6. TERMINATION

6.1 Either PARTY may terminate this AGREEMENT for cause in the event that the other PARTY fails to cure a material breach of this AGREEMENT within ten (10) days after written notice of such breach has been provided by the non-breaching PARTY, which notice shall be provided at least ten (10) days in advance of the effective date of the termination.

6.2 Failure by either PARTY to require full and timely performance of any provisions of this AGREEMENT at any time shall not waive or reduce the right to insist upon complete and timely performance of such provision or any other provision thereafter.

7. MODIFICATION

7.1 No modification of this AGREEMENT is valid unless evidenced in writing and signed by persons authorized to bind both PARTIES. No verbal agreement may supersede, replace or amend this section.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT as of the day and year first above written.

SPOKANE TRANSIT AUTHORITY

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

By: *D. Susan Meyer*

By: *J. C. Gray*

Title: CEO

Title: Region Administrator

Date: 12-18-2006

Date: 12/19/2006

APPROVED AS TO FORM

APPROVED AS TO FORM

By: *Jan Watson*

By: *Ann Soley*

Title: Clerk of Authority

Assistant Attorney General

Date: 12/15/06

Date: 12-7-06

Cooperative Funding Interlocal Agreement

- 1) Agency: Spokane County, WSDOT
- 2) Contact Person: Ross Kelley, County; Harold White, WSDOT
- 3) Telephone: 509 - 447-3600; 324-6025
- 4) Fax: 509 - xxx - xxxx
- 5) Address: xxxxxxxxxxxxxx
Spokane, WA 992xx
- 6) Project Description: US 395/Hastings Road Intersection Improvements

7) Project Costs:

PE:	<u>\$117,000</u>
RW:	<u>\$ 0</u>
CE:	<u>\$ 0</u>
Construction	<u>\$ 943,900</u>
Total Cost:	<u>\$1,060,900</u>

8) Project Revenues by Source:

<u>STA Cooperative Grant</u>	<u>\$817,900</u>
<u>Spokane County and WSDOT</u>	<u>\$243,000</u>

TOTAL REVENUE: \$1,060,900

9) Project Construction Year: 2006

10) Fund Demand:

Anticipated date(s) of reimbursement:

Request: <u>December 30, 2006</u>	Amount: <u>\$ 94,300</u>
<u>April 1, 2008</u>	<u>\$723,600</u>
_____	_____

STA will pay after the work has been completed and certified by the respective agency's engineer. Billing should be limited to a single reimbursement request or \$817,900 (total award) or may be requested for completion of each phase.

This agreement is entered into this 28th day of April, 2005

between Spokane Transit (STA) and Spokane County and WSDOT in an amount not to exceed \$817,900 or 77.1 percent of the project total, whichever is less. Spokane County and WSDOT agree to follow all local, state and federal requirements for the project and certify same to STA upon project closeout. All projects are subject to prior STA approval of final design and location.

By: *[Signature]*
 E Susan Meyer, Chief Executive Officer
 Date: 6.23.05

By: *[Signature]*
 Name: *[Signature]*
 Agency: SPOKANE COUNTY
 Its: COUNTY ENGINEER
 Date: MAY 20, 2005

