

**INTERAGENCY AGREEMENT
BETWEEN
STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES
AND
INTERCITY TRANSIT**

THIS AGREEMENT is made and entered into by and between the Department of Enterprise Services, Division of Engineering and Architectural Services hereinafter referred to as "DES" and **Intercity Transit**, hereinafter referred to as "AGENCY" pursuant to the authority granted by Chapter 39.34 RCW.

It is the purpose of this Agreement to provide **Intercity Transit** with Project Management building design services for the **Pattison Maintenance, Operations and Administrative (MOA) Facility Expansion & Rehabilitation Project** under DES project number 1001233.

Now, therefore, in consideration of the terms and conditions contained herein, or attached and incorporated by reference and made a part hereof, the above named parties mutually agree as follows:

1. Statement of Work

DES shall furnish all necessary personnel and services for performance of the Project Management services.

Project Management services shall include, but are not limited to the following:

- A. Manage the Architect/Engineer (A/E) agreement(s) and activities associated with performance of the services of such agreement(s), including:
 - 1. Manage selection of A/E and other project consultants.
 - 2. Manage negotiation and preparation of A/E and other consultant agreement(s) and associated amendments.
 - 3. Manage the scheduling of project meetings.
 - 4. Ensure compliance with the A/E agreement(s).
 - 5. Prepare and issue amendments to the A/E and other consultant agreements upon approval by AGENCY.
 - 6. Review and approve A/E and other consultant invoices for final approval and payment by AGENCY.

- B. Manage the construction contracts, including:
 - 1. Prepare bids and manage the bidding process for construction contracts in coordination with AGENCY.
 - 2. Attend, and when necessary, conduct public bid openings, administer bidder responsibility evaluation process, and provide recommendations to AGENCY regarding award of contracts.
 - 3. Manage the scheduling of construction progress meetings.
 - 4. Manage the change order process and validate price reasonableness.
 - 5. Coordinate and facilitate communications with Contractor, and AGENCY.
 - 6. Review and approve construction invoices for final approval and payment by the AGENCY.

C. Managing Compliance with State and Federal Law in coordination with AGENCY.

DES will require compliance with applicable state and federal statutes, requirements, state policies in all project agreements, and contracts including, but not limited to the following:

- a. RCW Title 39 and 43
 - b. ADA Requirements
 - c. Buy America
 - d. Davis-Bacon
 - e. Prevailing Wage
 - f. DBE Participation
 - g. Apprentice Participation
2. All record keeping and monitoring required by the funding source shall remain the responsibility of the AGENCY. DES will collect and provide the weekly certified payroll to the AGENCY.

All federal verification, investigation, survey, reporting and enforcement requirements when there is a possible violation shall remain the responsibility of the federal grant recipient (AGENCY) unless negotiated by DES and added by Amendment to this Agreement. When DES becomes aware of a possible violation, it will notify the AGENCY.

D. Provide engineering and architectural expertise to assist AGENCY.

E. Administer project close-out consistent with all legal requirements including, without limitation, RCW.

AGENCY agrees to the following:

- A. Will conform to the protocols of DES Conditions and the Agreement and guidelines for communications between the AGENCY, DES and consultants through the design, bidding, construction and post-construction phases.
- B. Will conform to the protocols of DES General Conditions for Washington State Facility Construction and guidelines for communications between the AGENCY, DES, consultants and contractors during construction.
- C. Ensure conformance to the requirements of the DES Conditions of the Agreement and the needs of the projects for timely processing and approval of consultant agreement(s) and amendment(s) to agreements involving cost, and for payment, the AGENCY will provide timely commitment of funding for, and payment on, approved agreement(s) and amendment(s) involving additional costs.
- D. Ensure conformance to the requirements of the General Conditions for timely processing and approval of agreed upon changes to construction contract(s) involving cost, and for payment, the AGENCY will provide timely commitment of funding for, and payment on, agreed upon contract changes involving additional cost.

2. Terms and Conditions

All rights and obligations of the parties to this Agreement shall be subject to and governed by the terms and conditions contained in the text of this Agreement.

3. Period of Performance

Subject to its other provisions, the period of performance of this Agreement shall commence when this Agreement is properly signed and be completed on **June 30, 2021**, unless terminated sooner or extended, as provided herein.

4. Consideration

AGENCY shall pay DES an amount not to exceed **\$282,850.60** for the performance of all services necessary, or incidental to, the work set forth in the Statement of Work of this Agreement. Total costs shall not be increased except by an Amendment to this Agreement.

DES shall provide Project Management Services based on a percentage fee applied to the total project amount of \$16,200,000. These sources may include federal, local, operating, or COP funds. DES determines the fee % based on total project cost, including state capital funds (Formula 1). The fee % is applied only to non-capital budget funds (Formula 2).

Formula 1: DES Fee % = (Total Project Costs, including state capital funds (TC), ^{-0.65} x 100) + 0.016

Formula 2: DES Fee \$ = DES Fee % x Total Project Costs, not including capital funds (TN)

DES Project Number 1001233, **Intercity Transit, Pattison Maintenance, Operations and Administrative (MOA) Facility Expansion & Rehabilitation Project** is estimated to have a total project cost of \$16,200,000 (including direct and soft costs). The DES project management fee is calculated per formulas in ATTACHMENT A.

5. Billing Procedure

DES shall submit invoices to the AGENCY as shown in the Invoicing Schedule in ATTACHMENT A. The invoices will clearly indicate that it is for services rendered in performance under this to Agreement and shall reflect the Agreement number.

The invoices shall be forwarded to the following:

Intercity Transit
Attn: Steve Krueger
526 Pattison Street, SE
Olympia, WA 98501

6. Payment Procedure

AGENCY shall pay all invoices received from DES within 30 days of receipt of properly executed invoice.

Compensation for services provided by Consultant/Contractor shall be paid directly to the Consultant/Contractor by the AGENCY, after DES has reviewed, approved and forwarded the

invoices to the AGENCY for payment.

7. Non-Discrimination

In the performance of this Agreement, DES shall comply with the provisions of Title VI of the Civil Rights Act of 1964 (42 UC 200d), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and Chapter 49.60 RCW, as now or hereafter amended.

8. Records Maintenance

The parties to this Agreement shall each maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review, or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

9. Contract Management

A. AGENCY representative on this Agreement shall be:

Steve Krueger
Intercity Transit
526 Pattison Street SE
Olympia, WA 98501
Phone: 360-705-5833
skrueger@intercitytransit.com

AGENCY representative shall be the contact person for all communications regarding conduct of work under this Agreement.

B. DES's representative on this Agreement shall be:

Janet Jansen, Program Manager
Engineering and Architectural Services
Department of Enterprise Services,
PO Box 41476
Olympia, WA 98504-1476
Phone: (360) 407-8265

Email: janet.jansen@des.wa.gov

DES's representative shall be the contact person for all communications regarding conduct of work under this Agreement. DES's representative shall be responsible for monitoring the performance of this Agreement, fulfilling DES's responsibilities as addressed herein.

10. Hold Harmless

Each party to this Agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this Agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this Agreement.

11. Agreement Alterations and Amendments

This Agreement may be changed, modified or amended by written agreement executed by both parties.

12. Termination

Except as otherwise provided in this Agreement, either party may terminate this Agreement upon thirty (30) days written notification. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

13. Funding

If funding from state, federal, local or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, either party may terminate the contract under the "Termination" clause, subject to renegotiation under those new funding limitations and conditions.

14. Disputes

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall evaluate the facts, Agreement terms, applicable statutes and rules, and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on both parties.

15. Order of Precedence

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a) Applicable state and federal statutes and rules;
- b) Terms and Conditions;
- c) Statement of Work, and

d) Any other provisions of the Agreement, including materials incorporated by reference.

16. All Writings Contained Herein

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

17. Assignment

This Agreement may not be assigned or otherwise transferred by either party hereto, nor will the DES delegate, nor hire additional persons to perform services and duties under this Agreement, without the written consent of the AGENCY.

18. Wage and Hours of Compliance

DES shall comply with all applicable provisions of the Fair Labor Standards Act ("FLSA") and all other legislation affecting its employees and the rules and regulations issued there under insofar as applicable to its employees.

19. Social Security and Other Taxes

DES assumes full responsibility for the payment of payroll taxes, use, sales, income or other forms of taxes, fees, licenses, excises, or payments required by city, county, federal or state legislation which is now or may during the term of the Agreement be enacted as to all persons employed by DES.

20. Severability

If one or more of the Agreement clauses is found to be unenforceable, illegal or contrary to public policy, the Agreement will remain in full force and effect except for the clauses that are unenforceable, illegal or contrary to public policy.

IN WITNESS WHEREOF, the parties have executed this Agreement.

**Department of Enterprise Services,
Division of Engineering &
Architectural Services**

William J. Frare, P.E.,
Assistant Director

Date

Intercity Transit



Ann Freeman-Manzanares,
General Manager

2/8/18
Date

ATTACHMENT A: DETERMINATION OF DES E&S FEES
Design/Construction Projects

Prepared by: Roland Orr
Date: 2/5/2018

InterCity Transit
Pattison Expansion Rehabilitation Project

1. Select Complexity of Project

Select Project Complexity Factor: **B** NOTE: A (High- 1.20); B (Normal-1.00); and C (Low- 0.80)

2. Determine DES Fee Percentage of Total Project Costs

Formula 1: DES Fee % = $(T_c^{-0.65} * 100) + 0.016$, where T_c includes both state capital and client agency funds

Total Project Costs (T_c) = \$ **16,200,000**
DES Fee % = **1.81%**

3. Determine Full DES Fee Amount based on Client Agency Funding (T_{CA})

Formula 2: DES Fee Amount = Complexity Factor x T_{AGENCY} x DES Fee Percentage, where T_{AGENCY} excludes state capital funds

Total Project Costs (T_c) = \$ 16,200,000
Total Capital Funds (T_{CAP}) = \$ - (NOTE: Enter State Capital Funding Amount)
Total Client Agency Project Costs (T_{AGENCY}) = \$ 16,200,000 (NOTE: Amount used to determine Full DES Fee)
Full DES Fee Amount = \$ **293,220.00** (NOTE: Determined based on Formula 2 above).

4. Determine Adjusted DES Fee Amount (Project Costs (T_c) > \$15M)

Full DES Fee (based on T_{AGENCY}) = \$ 293,220.00 (NOTE: Calculated per Step 3 above).
DES Full Fee for \$15M Project = \$ 272,481.19 (NOTE: Applied DES Fee Percentage is 2.57%)
Total Fee Difference = \$ 20,738.81
50% Fee Difference = \$ 10,369.41
Adjusted DES Fee Amount = \$ **282,850.60** (NOTE: DES Full Fee for \$15M Project plus 50% Fee Difference).

5. Determine Invoice Schedule for DES Fee Amount

Invoicing Schedule		
Month Invoiced	Amount	
May 2018	\$ 20,203.67	First Invoice Amount
August 2018	\$ 20,203.61	
November 2018	\$ 20,203.61	
February 2019	\$ 20,203.61	
May 2019	\$ 20,203.61	
August 2019	\$ 20,203.61	
November 2019	\$ 20,203.61	
February 2020	\$ 20,203.61	
May 2020	\$ 20,203.61	
August 2020	\$ 20,203.61	
November 2020	\$ 20,203.61	
February 2021	\$ 20,203.61	
May 2021	\$ 20,203.61	
August 2021	\$ 20,203.61	
Total Invoice Amount	\$ 282,850.60	

