

RESOLUTION NO. 42-97

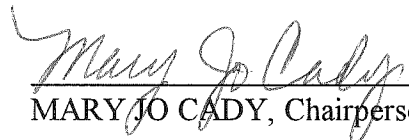
WHEREAS, in compliance with the terms and conditions set forth in Title 23 US Code Highways; and,


WHEREAS, the attached Local Agency Agreement ("Attachment A") has been submitted to the Board of County Commissioners for review.

NOW THEREFORE, BE IT RESOLVED by the Board of Mason County Commissioners, that the aforementioned Local Agency Agreement is hereby approved and the Chairperson is authorized to execute said document.

ADOPTED this 22nd day of April, 1997.

BOARD OF COMMISSIONERS  
MASON COUNTY, WASHINGTON

  
MARY JO CADY, Chairperson

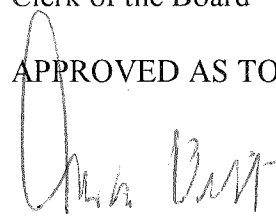
  
CYNTHIA D. OLSEN, Commissioner

  
JOHN A. BOLENDER, Commissioner

ATTEST:

  
REBECCA S. ROGERS  
Clerk of the Board

APPROVED AS TO FORM:

  
MICHAEL CLIFT  
Deputy Prosecuting Attorney



# Local Agency Agreement

Agency Mason County Public Works

Project No. \_\_\_\_\_

Address P.O. Box 1850

Agreement No. \_\_\_\_\_

Shelton, Washington 98584

**For Headquarters WSDOT use only.**

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) Office of Management and Budget Circulars A-102 and A-128, (4) the policies and procedures promulgated by the Washington State Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line s, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

**Project Description**

Name Brockdale Road Overlay Length 1.24 miles

Termini Island Lake Drive to Jensen Road

**Description of Work**

Project will consist of 2" ACP overlay and minor widening of shoulder to 5 feet on each side through the length of the project.

Type of Work		Estimate of Funding			
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds	
PE	a. Agency work	3,000	450	2,550	
	b. Other _____				
	c. State services	500	75	425	
	d. Total PE cost estimate (a+b+c)	3,500	525	2,975	
Right of Way	e. Agency work				
	f. Other _____				
	g. State services				
	h. Total R/W cost estimate (e+f+g)	N/A	N/A	N/A	
Construction	i. Contract				
	j. Other <u>Agency Force</u>	140,000	21,000	119,000	
	k. Other _____				
	l. Other _____				
	m. Total contract costs (i+j+k+l)	140,000	21,000	119,000	
	<i>Construction Engineering</i>				
	n. Agency	2,382	357	2,025	
	o. Other _____	0	0	0	
	p. State forces	1,176	176	1,000	
	q. Total construction engineering (n+o+p)	3,558	533	3,025	
	r. Total construction cost Estimate (m+q)	143,558	21,533	122,025	
s. Total cost estimate of the project (d+h+r)	147,058	22,058	125,000		

\*Federal participation in construction engineering (q) is limited to 15 percent of the total contract costs (line m, column 3).

The federal aid participation rate in this project will be determined by the Federal Government. The parties expect that it will be 85 percent; however, it is understood that the rate may vary. The Local Agency agrees that this agreement is entered into without relying upon any representation by the state made outside of this contract, or contained herein, as to what the federal participation rate will be. It further agrees that it will not condition any future actions with respect to the project covered by this agreement upon past, current, or future representations as to the federal participation rate. The dollar amount of federal participation cannot exceed the amount shown in line s, column 3. All costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

# Construction Method of Financing

(check method selected)

## State Ad and Award

- Method A — Advance Payment — Agency share of total construction cost (based on contract award)
- Method B — Withhold from gas tax the Agency's share of total construction cost (line 4, column 2) in the amount of \$ \_\_\_\_\_ at \$ \_\_\_\_\_ per month for \_\_\_\_\_ months

## Local Force or Local Ad and Award

- Method C — Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on April 22, 1997, Resolution/Ordinance No. 42-97.

Agency Official

By Mary Jo Cady  
MARY JO CADY Chairperson  
Board of Mason County Commissioners

Washington State Department of Transportation

By \_\_\_\_\_  
 Assistant Secretary for TransAid

Date Executed \_\_\_\_\_

## Provisions

### I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

### II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

### III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

### IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with procedures prescribed by the Division of Municipal Corporations of the State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final

payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

### V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering up to and including approval.
2. Preparation of plans, specifications, and estimates.
3. Right of way acquisition.
4. Project construction.

In the event that right of way acquisition, or actual construction of the road, for which preliminary engineering is undertaken is not started by the closing of the tenth fiscal year following the fiscal year in which the agreement is executed, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section VIII).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

### VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accord with the Intermodal Surface Transportation Efficiency Act 1991, Title 23, United States Code, as amended, and Office of Management and Budget circulars A-102 and A-128. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

#### I. Preliminary Engineering, Right of Way Acquisition, and Audit Costs

The Agency will pay for Agency incurred costs on the project. Following such payments, vouchers shall be submitted to the State in the format prescribed by the State, in quadruplicate, not more than one per month. The State will reimburse the Agency up to the



# Local Agency Environmental Classification Summary

Part 1 Project Description				
Summary Type <input type="checkbox"/> Preliminary <input type="checkbox"/> Final		Date Created	Date Revised	Revision Number
Federal Aid Project Number	Route	( )	Local Agency Project Number	
Agency <b>Mason County</b>		Federal Program Title <input type="checkbox"/> 20.204 <input checked="" type="checkbox"/> 20.205 <input type="checkbox"/> 20.206 <input type="checkbox"/> 20.209 <input type="checkbox"/> Other		
Project Title <b>Brockdale Road Overlay</b>				
Begin MP <b>1.98</b>	End MP <b>3.22</b>	Miles <b>1.24</b>	Township <b>20 &amp; 21</b>	
KP	KP	KM	Range <b>4</b>	
County <b>Mason</b>		Water Resource Inventory Area (WRIA) No. & Name		Within Puget Sound Basin? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Part 2 Permits and Approvals Required					
Yes	No	Permit or Approval	Yes	No	Permit or Approval
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Corps of Engineers <input type="checkbox"/> Sec. 10 <input type="checkbox"/> Sec. 404 <input type="checkbox"/> Nationwide Type _____ <input type="checkbox"/> Individual Permit No. _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Shoreline Permit
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Coast Guard	<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Waste Discharge Permit
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Coastal Zone Management Certification	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temp. Modification of Water Quality Standards
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Critical Area Ordinance (CAO) Permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Section 4(f)/6(f): Wildlife Refuges, Recreation Areas, Historic Properties
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Flood Plain Development Permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Water Rights Permit
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Forest Practice Act Permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Water Quality Certification - Sec. 401 Issued by _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Hydraulic Project Approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Tribal Permit(s), (If any) _____ _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Local Building or Site Development Permits			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Local Clearing and Grading			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Natl. Historic Preservation Act - Section 106			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	(NPDES) Municipal Stormwater Discharge	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other Permits, including GMA (List): _____ _____ _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	National Pollutant Discharge Elimination System (NPDES) Baseline General for Construction <input checked="" type="checkbox"/> Stormwater Site Plan <input checked="" type="checkbox"/> Temp. Erosion Sediment Control Plan (TESC)			

Part 3 Environmental Classification	
<b>NEPA</b>	<b>SEPA</b>
<input type="checkbox"/> Class I - Environmental Impact Statement (EIS) <input checked="" type="checkbox"/> Class II - Categorical Excluded (CE) <input type="checkbox"/> Projects Not Requiring Documentation for FHWA Approval (LAG 24.22(a)) <input checked="" type="checkbox"/> Projects Requiring Documentation Without Further FHWA Approval (LAG 24.22(b)) <input type="checkbox"/> Projects Requiring Documentation and FHWA Approval (Documented CE) (LAG 24.22(c)) <input type="checkbox"/> Class III - Environmental Assessment (EA) <input type="checkbox"/> Supplemental EIS (SEIS)	<input checked="" type="checkbox"/> Categorically exempt per WAC 197-11-800 <input type="checkbox"/> Determination of Non-Significance (DNS) <input type="checkbox"/> Environmental Impact Statement (EIS) <input type="checkbox"/> Other Actions: <input type="checkbox"/> Adoption <input type="checkbox"/> Addendum

**Part 4 Environmental Considerations**

**Will the project involve work in or affect any of the following? Identify proposed mitigation. Attach additional pages or supplemental information of necessary.**

**1. Air Quality** Identify any anticipated air quality issues.

Is the project included in Metropolitan Transportation Plan?

Yes  No

Is the project located in an Air Quality Non-Attainment Area (for carbon monoxide, ozone, or PM10)?

Yes  No

Is the project exempt from Air Quality conformity requirements?

Yes  No

**2. Critical/Sensitive Areas**

Identify any known Critical or Sensitive Areas as designated by local Growth Management Act ordinances.

a. Aquifer Recharge Area, Wellhead Protection Area, or Sole Source Aquifer.

**Project will not affect such properties or areas.**

b. Geologically Hazardous Area

**None exist on project.**

c. Habitat. List known species:

(1) Threatened/Endangered Species or Priority Habitat or Species. Indicate state or federal listing.

**No impacts anticipated.**

(2) General fish and wildlife habitat

**None exist on project (no water bodies)**

d. Wetlands. Estimate impacted categories and acreage:

(1) Are wetlands present?  Yes  No

(2) Estimated area impacted: \_\_\_\_\_ Acres

**3. Cultural Resources/Historic Structures**

Identify any historic or archaeological resources.

**Project does not affect any such resources or structures.**

**4. Flood Plains or Ways**

Is the project located in a 100-year flood plain?

Yes  No

If yes, is the project located in a 100-year floodway?

Yes  No

Will the project impact a 100-year flood plain?

Yes  No

**Part 4 Environmental Considerations - Continued**

**10. Tribal Lands** Identify.

None

**11. Visual Quality**

Will the project impact roadside classification or visual aspects?

Yes  No

**12. Water Quality/Storm Water**

Is the project likely to increase runoff or affect water quality?

Yes  No

Will the project include water quality/quantity treatment for the new pavement?

Yes  No

Will the project include water quality/quantity treatment for existing pavement?

Yes  No

Has a NPDES municipal general permit been issued for this WRIA?

Yes  No

**13. Previous Environmental Commitments**

Have previous environmental commitments been made in the project area?

Yes  No

Identify

**14. Long-Term Maintenance Commitments**

Are long-term maintenance commitments necessary for this project?

Yes  No

Identify

**Part 5 Approval Signatures**

Local Agency Approving Authority

Date

*Jerry W. Hawth* 2/7/97

Regional TransAid Engineer  
/ Asst. Secretary - TransAid

Date

Federal Highway Administration

Date

Completed By

Telephone \_\_\_\_\_

Fax \_\_\_\_\_

**Part 4 Environmental Considerations - Continued**

**5. Hazardous and Problem Waste** Identify potential sources and type.

Is the project likely to involve site clean-up?  Yes  No

**6. Noise** Identify potential sensitive receptors or previous mitigation commitments.

Development of adjacent land is minimal; therefore, no significant noise impact is expected.

**7. Parks, Recreation Areas, Wildlife Refuges, Historic Properties, or Scenic Rivers/Byways, 4(f)/6(f) Lands.** Identify.

Project does not abut any such properties or lands.

**8. Resource Lands** Identify areas of impact.

a. Agricultural

None affected

b. Forest/Timber

Project will improve corridor for use as haul routes.

c. Mineral

None affected.

**9. Rivers, Streams (Continuous, Intermittent), or Tidal Waters**

a. Identify by name, proximity to project and Washington Stream Catalog Number.

Fisheries WA Stream No. \_\_\_\_\_ Ecology 305b Report No. \_\_\_\_\_

Project does not cross any water bodies or streams.

b. Identify stream crossing structures by type.



Prefix	Route	( )	Date
Federal Aid Project Number			
Local Agency Project Number	970LAY1		Federal Employer Tax ID Number

Agency <b>Mason County Department of Public Works</b>	Federal Program Title <input type="checkbox"/> 20.204 <input checked="" type="checkbox"/> 20.205 <input type="checkbox"/> 20.206 <input type="checkbox"/> 20.209 <input type="checkbox"/> Other			
Project Title <b>Brockdale Road ACP Overlay</b>				
Project Termini From <b>Island Lake Road</b>	To <b>Jensen Road</b>			
From: <b>MP 1.98</b> To: <b>MP 3.22</b> Length of Project <b>1.24 miles</b>	Award Type <input checked="" type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad			
Federal Agency <input checked="" type="checkbox"/> FHWA <input type="checkbox"/> Others	City Number <b>NA</b>	County Number <b>23</b>	County Name <b>Mason</b>	WSDOT Region <b>Olympic</b>
Congressional District <b>6</b>	Legislative Districts <b>35</b>	Urban Area Number <b>N/A</b>	TMA / MPO / RTPO <b>Peninsula</b>	

Phase	Total Estimated Cost (Nearest Dollar)	Local Agency Funding (Nearest Dollar)	Federal Funds (Nearest Dollar)	Percent Federal Funds	Obligation Date Month Year
P.E.	3,500	525	2,975	85%	7/97
R/W	---	---	---	---	
Const.	3,558	553	122,025	85%	7/97
Total	7,058	22,058	125,000	85%	

**Description of Existing Facility (Existing Design and Present Condition)**

Roadway Width <b>26 feet to 34 feet</b>	Number of Lanes <b>2</b>
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Current alignment consists of two 12 foot lanes with shoulder widths ranging from 1 foot to 5 feet along length of project.

**Description of Proposed Work**

<input type="checkbox"/> New Construction <input type="checkbox"/> 3-R <input checked="" type="checkbox"/> 2-R	Roadway Width <b>34</b>	Number of Lanes <b>2</b>
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Project will consist of 2" ACP overlay and minor widening of shoulders to 5 feet on each side through the length of the project.

Local Agency Contact Person <b>William Bullock</b>	Title <b>Transportation Engineer</b>	Phone <b>427-9670, ext. 458</b>
Mailing Address <b>P.O. Box 1850</b>	City <b>Shelton</b>	State <b>WA</b>
		Zip Code <b>98584</b>

Design Approval (CA Agencies Only)

By *Jerry W. Haut*  
**JERRY W. HAUT**  
Title **County Engineer** Approving Authority

Date **April 22, 1997**



Agency <b>Mason</b>	Project Title <b>Brockdale Road ACP Overlay</b>	Date
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Geometric Design Data		
Description	Through Route	Crossroad
<b>Federal Functional Classification</b>	<input type="checkbox"/> Urban <input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector	<input type="checkbox"/> Urban <input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector
	<input type="checkbox"/> Rural <input checked="" type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Access Street/Road	<input type="checkbox"/> Rural <input type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Access Street/Road
Terrain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain
Posted Speed	<b>45</b>	
Design Speed	<b>45</b>	
Existing ADT	<b>5000</b>	
Design Year ADT	<b>7000</b>	
Design Year	<b>2013</b>	
Design Hourly Volume (DHFV)	<b>700</b>	

Accident - 3 Year Experience						
Year	Property Damage Accidents	Injury Accidents		Fatal Accidents		Total Number of Accidents
		Number of Accidents	Number of Injuries	Number of Accidents	Number of Fatalities	
1994	4	3	7	2	2	9
1995		4	6			4
1996	1	1	1			2
	5	8	14	2	2	15
<b>Total Number of Accidents Attributable to Lack of having the Proposed Improvement</b>						
	5	8	14	2	2	15

Performance of Work		
Preliminary Engineering Will Be Performed By <b>Mason County Department of Public Works</b>	Others	Agency
	%	<b>100</b> %
Construction Will Be Performed By <b>Mason County Department of Public Works</b>	Contract	Agency
	%	<b>100</b> %

Environmental Classification	
<input checked="" type="checkbox"/> Final <input type="checkbox"/> Preliminary	
<input type="checkbox"/> Class I - Environmental Impact Statement (EIS) <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement	<input checked="" type="checkbox"/> Class II - Categorically Excluded (CE) <input type="checkbox"/> Projects Not Requiring Documentation for FHWA Approval (23CFR 771.117(c))
<input type="checkbox"/> Class III - Environmental Assessment (EA) <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement	<input checked="" type="checkbox"/> Projects Requiring Documentation Without Further FHWA Approval (FHWA WSDOT MOU dated 2/90) <input type="checkbox"/> Projects that Require Documentation and FHWA Approval (Documented CE)

Environmental Considerations
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Agency <b>Mason County</b>	Project Title <b>Brockdale Road ACP Overlay</b>	Date
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Right of Way		
<input checked="" type="checkbox"/> No Right of Way Required * All construction required by the contract can be accomplished within the existing right of way.	<input type="checkbox"/> Right of Way Required <input type="checkbox"/> No Relocation	<input type="checkbox"/> Relocation Required

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

FAA Involvement  
 Is any airport located within 3.2 kilometers (2 miles) of the proposed project?     Yes     No

Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency Mason County

Date April 22, 1997

By *Mary Jo Cady*  
 Chairperson  
 Board of Mason County Commissioners



Prefix	Route	( )	Date
Federal Aid Project Number			Local Agency Project Number

Agency Mason County Public Works	Federal Program Title <input type="checkbox"/> 20.204 <input checked="" type="checkbox"/> 20.205 <input type="checkbox"/> 20.206 <input type="checkbox"/> 20.209 <input type="checkbox"/> Other				
Project Title Brockdale Road ACP Overlay					
Project Termini From Island Lake Road	To Jenson Road				
From: MP 1.98 To: MP 3.22 Length of Project 1.24 miles	Award Type <input checked="" type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad				
Federal Agency <input checked="" type="checkbox"/> FHWA <input type="checkbox"/> Others	City Number N/A	County Number 23	County Name Mason	DOT Region Olympic	
EIS <input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III	CE <input type="checkbox"/> EA <input type="checkbox"/> III	Congressional District	Legislative Districts 35	Urban Area Number N/A	TMA / MPO / RTPD Peninsula

Phase	Total Estimated Cost (Nearest Dollar)	Local Agency Funding (Nearest Dollar)	Federal Funds (Nearest Dollar)	Percent Federal Funds	Obligation Date Month Year
P.E.	3,500	500	3,000	85%	
R/W	----	---	----	---	
Const.	140,000	21,000	119,000	85%	
Total	143,500	21,500	122,000	85%	

Description of Existing Facility (Existing Design and Present Condition)	
Roadway Width 26 feet to 34 feet	Number of Lanes 2
Current alignment consists of two 12 foot lanes with shoulder widths ranging from 1 foot to 5 feet along length of project.	

Description of Proposed Work		
<input type="checkbox"/> New Construction <input type="checkbox"/> 3-R <input checked="" type="checkbox"/> 2-R	Roadway Width 34 feet	Number of Lanes 2
Project will consist of 2" ACP overlay and minor widening of shoulders to 5 feet on each side through the length of the project.		

Local Agency Contact Person William Bullock	Title Transportation Engineer	Phone 427-9670, x458
Mailing Address P O Box 1850	City Shelton	WA Zip Code 98584

Location and Design Approval (CA Agencies Only)	By <i>Jerry W. Heath</i> Title COUNTY ENGINEER	Approving Authority Date 4-22-97
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Agency Mason	Project Title Brockdale Road ACP Overlay	Date
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Geometric Design Data		
Description	Through Route	Crossroad
Federal Functional Classification	<input type="checkbox"/> Urban	<input type="checkbox"/> Urban
	<input type="checkbox"/> Rural	<input type="checkbox"/> Rural
	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input checked="" type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Access Street/Road	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Access Street/Road
Terrain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain
Posted Speed	45	
Design Speed	45	
Existing ADT	5000	
Design Year ADT	7000	
Design Year	2013	
Design Hourly Volume (DHV)	700	

Accident - 3 Year Experience						
Year	Property Damage Accidents	Injury Accidents		Fatal Accidents		Total Number of Accidents
		Number of Accidents	Number of Injuries	Number of Accidents	Number of Fatalities	
94	4	3	7	2	2	9
95		4	6			4
96	1	1	1			2
	5	8	14	2	2	15
Total Number of Accidents Attributable to Lack of having the Proposed Improvement						

Performance of Work		
Preliminary Engineering Will Be Performed By Mason County Public Works	Others	Agency
	%	100 %
Construction Will Be Performed By Mason County Public Works	Contract	Agency
	%	100 %

Environmental Considerations

None

Check if No R/W Is acquired - (DOT Form 262-060 and Endorsement must be on file with the CA Agency; refer to Chapter 25 LAG manual)

Right of Way and Relocation

Water Area Involvement

None

Agency Mason County	Project Title Brockdale Road Overlay	Date
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Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

None

FAA Involvement

Is any airport located within 3.2 kilometers (2 miles) of the proposed project?  Yes  No

Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency Mary Jo Cady  
 Date 4.22.97 By Mason County Chair  
 Mayor/Chairperson



# Local Agency Agreement

Agency Mason County Public Works

Address P O Box 1850

Shelton WA 98584

Project No. \_\_\_\_\_

Agreement No. \_\_\_\_\_

For Headquarters WSDOT use only.

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) Office of Management and Budget Circulars A-102 and A-128, (4) the policies and procedures promulgated by the Washington State Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line s, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

**Project Description**

Name Brockdale Road Overlay Length 1.24 miles  
Termini Island Lake Drive to Jensen Road

**Description of Work**

Project will consist of 2" ACP overlay and minor widening of shoulder to 5 feet on each side through the length of the project.

Type of Work	Estimate of Funding		
	(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE			
a. Agency work	3,500	500	3,000
b. Other _____			
c. State services			
d. Total PE cost estimate (a+b+c)	3,500	500	3,000
Right of Way			
e. Agency work			
f. Other _____			
g. State services			
h. Total R/W cost estimate (e+f+g)	N/A	N/A	N/A
Construction			
i. Contract			
j. Other _____			
k. Other _____			
l. Other _____			
m. Total contract costs (i+j+k+l)	N/A	N/A	N/A
Construction Engineering			
n. Agency	140,000	21,000	119,000
o. Other _____	140,000	21,000	119,000
p. State forces	143,500	21,000	119,000
q. Total construction engineering (n+o+p)			
r. Total construction cost Estimate (m+q)			
s. Total cost estimate of the project (d+h+r)			

\*Federal participation in construction engineering (q) is limited to 15 percent of the total contract costs (line m, column 3).

The federal aid participation rate in this project will be determined by the Federal Government. The parties expect that it will be 85 percent; however, it is understood that the rate may vary. The Local Agency agrees that this agreement is entered into without relying upon any representation by the state made outside of this contract, or contained herein, as to what the federal participation rate will be. It further agrees that it will not condition any future actions with respect to the project covered by this agreement upon past, current, or future representations as to the federal participation rate. The dollar amount of federal participation cannot exceed the amount shown in line s, column 3. All costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

# Construction Method of Financing

(check method selected)

## State Ad and Award

- Method A — Advance Payment — Agency share of total construction cost (based on contract award)
- Method B — Withhold from gas tax the Agency's share of total construction cost (line 4, column 2) in the amount of \$ \_\_\_\_\_ at \$ \_\_\_\_\_ per month for \_\_\_\_\_ months

## Local Force or Local Ad and Award

- Method C — Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on April 22, 1997, Resolution/Ordinance No. 42-97.

Agency Official

By

*Mary Jo Cody*

Washington State Department of Transportation

By

Assistant Secretary for TransAid

Date Executed \_\_\_\_\_

## Provisions

### I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

### II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

### III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

### IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with procedures prescribed by the Division of Municipal Corporations of the State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final

payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

### V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering up to and including approval.
2. Preparation of plans, specifications, and estimates.
3. Right of way acquisition.
4. Project construction.

In the event that right of way acquisition, or actual construction of the road, for which preliminary engineering is undertaken is not started by the closing of the tenth fiscal year following the fiscal year in which the agreement is executed, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section VIII).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

### VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accord with the Intermodal Surface Transportation Efficiency Act 1991, Title 23, United States Code, as amended, and Office of Management and Budget circulars A-102 and A-128. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

#### 1. Preliminary Engineering, Right of Way Acquisition, and Audit Costs

The Agency will pay for Agency incurred costs on the project. Following such payments, vouchers shall be submitted to the State in the format prescribed by the State, in quadruplicate, not more than one per month. The State will reimburse the Agency up to the

Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The contractor will include the provisions of this Section 11-2 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Agency, Washington State Department of Transportation, or Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor, he may request the United States to enter into such litigation to protect the interests of the United States.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

- (1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.
- (2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.
- (3) To refrain from entering into any contract or contract modification subject to Executive Order, 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.
- (4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

- (a) Cancel, terminate, or suspend this agreement in whole or in part;
- (b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and
- (c) Refer the case to the Department of Justice for appropriate legal proceedings.

## **XII. Liquidated Damages**

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 630, Subpart 305, as supplemented, relative

to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

## **XIII. Termination for Public Convenience**

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

- (1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.
- (2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.
- (3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.
- (4) The Secretary determines that such termination is in the best interests of the State.

## **XIV. Venue for Claims and/or Causes of Action**

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

## **XV. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying**

The approving authority certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
  - (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  - (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.
- This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **Additional Provisions**



amount shown on the face of this agreement for those costs eligible for federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for the establishment, maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section VIII).

## 2. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

**Method A** - The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

**Method B** - The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

**Method C** - The Agency may submit vouchers to the State in the format prescribed by the State, in quadruplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for the establishment, maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project.

The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section VIII).

## VII. Audit of Federal Aid Project

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Directive D27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and Office of Management and Budget Circular A-128.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section VIII).

## VIII. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal

participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Assistant Secretary for TransAid.

## IX. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

## X. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

No liability shall attach to the State or Federal Government except as expressly provided herein.

## XI. Nondiscrimination Provision

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

"DURING THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES AS FOLLOWS:"

(a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Agency advising the said labor union or workers' representative of the contractor's commitments under this Section 11-2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules and regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Federal Highway Administration and the Secretary of

amount shown on the face of this agreement for those costs eligible for federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for the establishment, maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section VIII).

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If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section VIII).

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participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Assistant Secretary for TransAid.

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## X. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution, performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project, PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

No liability shall attach to the State or Federal Government except as expressly provided herein.

## XI. Nondiscrimination Provision

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

"DURING THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES AS FOLLOWS:"

(a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Agency advising the said labor union or workers' representative of the contractor's commitments under this Section 11-2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules and regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Federal Highway Administration and the Secretary of

Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The contractor will include the provisions of this Section 11-2 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Agency, Washington State Department of Transportation, or Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor, he may request the United States to enter into such litigation to protect the interests of the United States.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

(1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.

(2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order, 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

(a) Cancel, terminate, or suspend this agreement in whole or in part;

(b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

## **XII. Liquidated Damages**

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 630, Subpart 305, as supplemented, relative

to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

## **XIII. Termination for Public Convenience**

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

(1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.

(2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.

(3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.

(4) The Secretary determines that such termination is in the best interests of the State.

## **XIV. Venue for Claims and/or Causes of Action**

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

## **XV. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying**

The approving authority certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **Additional Provisions**