

**ATTACHMENT TO TRANSMITTAL LETTER  
FOR THE PROPOSED ORDINANCE FOR RYERSON BASE**

**COMPENSATION AGREEMENT**

AGREEMENT GCA 6062

SR 519/I-90 to SR 99 INTERMODAL ACCESS PROJECT – I/C  
IMPROVEMENTS

REIMBURSEMENT FOR COMPENSATION TO KING COUNTY FOR  
MITIGATION OF IMPACTS TO METRO OPERATIONS

This Agreement (“Agreement”) is entered into by and between the State of Washington, Department of Transportation, hereinafter the “STATE,” and King County, a home rule charter county of the State of Washington, through its Department of Transportation, Metro Transit Division, hereinafter the “COUNTY,” hereinafter collectively the “Parties” and individually the “Party.”

WHEREAS, the STATE and the COUNTY have a shared interest in long-term mobility enhancements such as a comprehensive package of access improvements for the South Downtown/Duwamish area, the East Marginal Way Grade Separation, the Alaskan Way Viaduct, Spokane Street Viaduct, and transportation operational improvements; and

WHEREAS, the STATE, the various stakeholders including the COUNTY have agreed to a design for SR 519/I-90 to SR 99 Intermodal Access Project – I/C Improvements, hereinafter the “PROJECT:” and

WHEREAS, the PROJECT is in the second phase of improvements whereby the STATE will improve east-west traffic flow between the Seattle waterfront and the I-5/I-90 freeway system. The PROJECT includes three components:

- A new off-ramp from I-90 to South Atlantic Street;
  - A new South Royal Brougham Way overpass above the Burlington Northern Santa Fe Railroad tracks west of Third Avenue South;
  - Roadway widening along South Atlantic Street east of First Avenue South and improvements to the intersection of First Avenue South and South Atlantic Street;
- and

WHEREAS, the STATE is the lead agency in the design and construction of the PROJECT and the STATE is using the design-build method of project delivery; and

WHEREAS, the COUNTY and the STATE own property at 1200 4<sup>th</sup> Avenue South, Seattle, Washington, upon which the COUNTY currently operates the King County Metro Ryerson Bus Base, a bus storage, maintenance and dispatch center, hereinafter the “PROPERTY” and which is located within the PROJECT limits; and

WHEREAS, the STATE will, by separate conveyances acquire rights to a portion of the PROPERTY from the COUNTY by a fee acquisition, including an aerial airspace

corridor, a permanent access easement, and a temporary construction easement for durations specified by those separate documents; and

WHEREAS, the STATE has immediate need for use of the PROPERTY for construction purposes; and

WHEREAS, the STATE's use of the PROPERTY will result in some impacts to and displacement of the COUNTY's bus base operations, and

NOW, THEREFORE, by virtue of RWC 47.28.140 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:

### **1.0 GENERAL**

1.1 In recognition of impacts to the COUNTY's operations, the STATE enters into this Agreement to provide the terms of compensation to the COUNTY for mitigation of impacts to the COUNTY's bus base operations.

### **2.0 DUTIES**

2.1 The COUNTY will incur additional costs for maintenance and operations due to the displacement and relocation of buses from the PROPERTY.

2.2 The STATE will reimburse the COUNTY for the additional costs related to such displacement and relocation and will coordinate the PROJECT construction activities to minimize the impacts to the COUNTY's bus base operations.

2.3 The County and the State agree that a reasonable estimate of the amount of additional costs related to the displacement and relocation is \$83,333.00 per month.

### **3.0 CONSIDERATION**

3.1 Except as provided below, the STATE agrees to reimburse the COUNTY for such impacts as provided herein, not to exceed a maximum amount of Five Hundred Thousand Dollars (\$500,000.00).

3.2 Payments shall be made by the STATE for each month the STATE is performing work on the PROJECT at the Ryerson Base North, upon invoice from the COUNTY, to cover costs associated with impacts to operations. These payments are not to be more frequent than one (1) per month. The STATE agrees to make payment within thirty (30) calendar days from receipt of billing from the COUNTY.

3.3 Payments shall be made in the amount of Eighty-three Thousand, Three Hundred Dollars (\$83,333.00) per month for each full or partial calendar month that the STATE is

performing work on the PROJECT at the PROPERTY, and absent an amendment as provided below, is not expected to exceed six (6) calendar months.

3.4 The COUNTY agrees to submit a final billing to the STATE within forty-five (45) calendar days after construction has concluded and PROJECT staff and equipment have vacated the PROPERTY. Except as provided above, the final billing for six (6) calendar months of STATE use combined with previous billings will not exceed Five Hundred Thousand Dollars (\$500,000.00).

#### 4.0 AMENDMENT

4.1 Either Party may request changes to the provisions contained in this Agreement. Such changes shall be mutually agreed upon and incorporated by written amendment 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 hereto.

4.2 If necessary, the COUNTY will, by executed amendment to this Agreement, allow the STATE an additional three (3) calendar months of access and use for additional payment of Eighty-three Thousand, Three Hundred Dollars (\$83,300.00) per month.

#### 5.0 NOTIFICATION

5.1 Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the following addresses unless otherwise indicated by the Parties to this Agreement:

To the STATE: Project Engineer, SR 519/I-90 to SR 99 Intermodal Access Project  
Washington State Dept. of Transportation  
999 Third Avenue, Suite 2424  
Seattle, WA 98104

To the COUNTY: KING COUNTY Transit Division  
King County Department of Transportation  
Attn: Randy Witt  
201 South Jackson Street  
KSC-TR-0431  
Seattle, Washington 98104-3856

#### 6. RECORDS RETENTION AND AUDIT

6.1 During the progress of the work and for a period not less than six (6) years from

the date of final payment to the STATE, the records and accounts pertaining to the PROJECT and accounting thereof are to be kept available for inspection and audit by the COUNTY, and the federal government and copies of all records, accounts, documents, or other data pertaining to the PROJECT will be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the 3-year retention period.

## **7.0 DISPUTES**

7.1 The designated representatives identified herein under Section 5, NOTIFICATION, shall use their best efforts to resolve any disputes which may arise between the Parties. If these individuals are unable to resolve a dispute, the responsible project directors of each Party shall review the matter and attempt to resolve it. If they are unable to resolve the dispute, the matter shall be reviewed by the department directors of each Party or his or her designee. The Parties agree to exhaust each of these procedural steps before seeking to resolve disputes in a court of law or any other forum.

## **8.0 EFFECTIVENESS AND DURATION**

8.1 This Agreement is effective upon execution by both Parties and will remain in effect until fully performed, unless otherwise amended or terminated.

## **9.0 INDEMNIFICATION AND HOLD HARMLESS**

9.1 Each of the Parties, shall protect, defend, indemnify, and save harmless the other Party, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, each of the Party's own negligent acts or omissions related to or arising out of this Agreement. Neither Party will be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a Party's own negligence.

9.2 Each of the Parties agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents related to or arising out of this Agreement. For this purpose, each of the Parties, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provision of Title 51 RCW.

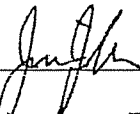
9.3 The indemnification, hold harmless, and/or waiver obligation described in this section shall survive the termination of this Agreement.

#### 10.0 VENUE

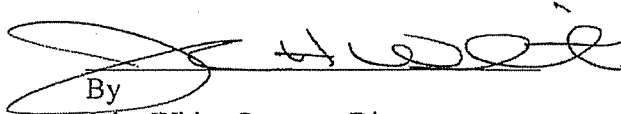
10.1 This Agreement shall be deemed to be made in the County of King, State of Washington, and the legal rights and obligations of the STATE and COUNTY shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the County of Thurston, State of Washington.

[PROCEED TO NEXT PAGE FOR SIGNATURES]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the latest date written below.

  
By  
Jim Jacobson, Deputy Director  
King County Department of  
Transportation

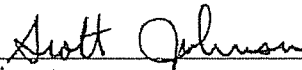
Date: 5-29-09

  
By  
John White, Program Director  
Alaskan Way Viaduct and Seawall  
Replacement Program

Date: 5/29/09

APPROVED AS TO FORM:

Scott Johnson  
By (print)

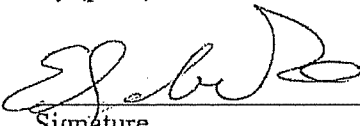
  
Signature

Sr. Deputy Pres. Atty  
Title

Date: May 29, 2009

APPROVED AS TO FORM:

Elizabeth Lagerberg  
By (print)

  
Signature

AAO  
Title

Date: 6-1-09