

**WAC 468-600-720 Terms to be negotiated between the parties.** Any final agreement must contain terms that address at least the following issues:

(1) At what point in the transportation project public and private sector partners will enter the project and which partners will assume responsibility for specific project elements;

(2) How the partners will share management of the risks of the project;

(3) How the partners will share the costs of development of the project;

(4) How the partners will allocate financial responsibility for cost overruns;

(5) The consequences for nonperformance;

(6) The incentives for performance;

(7) The invoicing and payment procedures and schedules to be followed to the extent that the department or state is to pay for the work, and the accounting and auditing standards to be used to evaluate work on the project; and

(8) An agreement for the construction of a public improvement as part of an eligible project shall provide and be approved for bonding, financial guarantees, deposits or the posting of other security to secure the payment of laborers, subcontractors and suppliers who perform work or provide materials as part of the project. Furthermore, the department shall determine that adequate security exists to address any default or nonperformance by the private sector partner or other contractual claims of the department against the proposer; and

(9) For projects that revert to public ownership, responsibilities for reconstruction or renovation that bring the facility up to government standards before reversion to the state.

[Statutory Authority: RCW 47.29.030. WSR 07-04-095, § 468-600-720, filed 2/6/07, effective 3/9/07.]