

Exhibit A

Misc. Contracts and Agreements No. 31302
Cross Ref. Master Certification Agreement 30890

**Oregon Department of Transportation
LOCAL AGENCY CERTIFICATION PROGRAM
Supplemental Project Agreement No. 31302
N. Going to the Island Freight Project**

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State," and the CITY OF PORTLAND, acting by and through its elected officials, hereinafter referred to as "Agency," each herein referred to individually as a Party and collectively as the "Parties."

RECITALS

1. By the authority granted in Local Agency Certification Program Agreement No. 30890, incorporated herein and by this reference made a part hereof, State may enter into this Supplemental Project Agreement with Agency for the performance of work on this improvement project. The Certification Program allows State to certify a Local Agency's procedures and delegates authority to the certified Local Agency to administer federal-aid projects.
2. N Going Street, N Interstate Avenue, N Greely Avenue, N Basin Avenue, N Leverman Street, and N Lagoon Avenue are a part of the Agency's street system under the jurisdiction and control of Agency.
3. The project in this Supplemental Project Agreement is one of the required test projects Agency must perform in order to obtain conditional certification in the area of Formal consultant selection as described in Local Agency Certification Program (Certification Program) Agreement No. 30890.

NOW, THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Agency will design and construct improvements (the "Project") in the locations set forth on the sketch map attached marked "Exhibit A," attached hereto and by this reference made a part hereof. Subject to Project constraints and availability of funds, the Project includes, but is not limited to, the following elements:
 - a. Installation of electronic message signs, CCTV cameras, traffic monitoring stations, travel time devices, and fiber communications;
 - b. Integration of these devices into Agency's, State's, and other agencies' transportation operations centers.
2. The Project will be conducted as a part of the Federal-Aid Surface Transportation Program (STP) under Title 23, United States Code. The total Project cost is estimated at \$557,227, which is subject to change. STP urban funds for this Project

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are limited to \$500,000. Agency is responsible for all remaining costs, including the 10.27 percent match for all eligible costs, any non-participating costs, and all costs in excess of the available federal or state funds.

3. State will provide Agency with a preliminary estimate of the cost of State's work on the Project. Prior to the start of each Project phase, State will provide to Agency an updated estimate of State's costs from that phase. Such Project phases generally consist of Preliminary Engineering, Right of Way, Utility, and Construction. Agency understands that State's costs are estimates only and agrees to reimburse State for actual costs incurred as per the terms of this Agreement.
4. Agency shall make all payments for construction at one hundred percent (100%). State shall reimburse Agency invoices at the pro-rated federal share. All costs beyond the federal reimbursement and any non-participating costs will be the responsibility of the Agency. State shall simultaneously invoice FHWA and Agency for State's Project costs, and Agency agrees to reimburse State for the federal-aid matching state share and any non-participating costs as determined in accordance with paragraph number 3, above upon receipt of invoice. Failure of Agency to make such payments to State may result in withholding of Agency's proportional allocation of State Highway Trust Funds until such costs are paid. Agency understands that State's costs are estimates only and agrees to reimburse State for the actual amount expended.
5. Indirect cost rate:
 - a. Information required by 2 CFR 200.331(a), except for (xiii) Indirect cost rate, shall be contained in the USDOT FHWA Federal Aid Project Agreement for this Project, a copy of which shall be provided by State to Agency with the notice to proceed.
 - b. The indirect cost rate for this project at the time of this Agreement is the ten percent (10%) de minimis rate per 2 CFR 200.414.
6. Agency shall design, advertise, bid, award the construction contract, perform construction administration, and perform Formal consultant selection. Agency understands that this Project is a test project for Formal consultant selection. Agency will comply with all of the terms and conditions set forth in Certification Program Agreement Number 30890.
7. Agency may issue work for right of way and appraisals for this Project under Agency's Price Agreement RFP TRN109, dated July 1, 2014, until such Price Agreement's three-year term expires on July 1, 2017, or the maximum amount of \$800,000 has been used, whichever is sooner.
8. State will submit requests for federal funding to FHWA. The federal funding for this Project is contingent upon approval by FHWA. Any work performed prior to acceptance by FHWA will be considered nonparticipating and paid for at Agency expense. State's Regional Local Agency Liaison or designee will provide Agency

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- with a written notice to proceed when FHWA approval has been secured and funds are available for expenditure on this Project.
9. State considers Agency a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.
 10. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.
 11. Local Agency Certification Program Agreement No. 30890 was fully executed on September 18, 2015. This Agreement is subject to the terms and provisions of the Local Agency Certification Program Agreement.
 12. If Agency fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.
 13. Agency is responsible for all quality assurance testing on the Project and must comply with section 4(D) of State's Manual of Field Testing Procedures.
 14. State may conduct periodic inspections during the Project to verify that the Project is being properly maintained and continues to serve the purpose for which federal funds were provided.
 15. The useful life of this Project is twenty (20) years.
 16. This Agreement may be terminated by mutual written consent of both Parties.
 17. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof;
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and, after receipt of written notice from State, fails to correct such failures within ten (10) days, or such longer period as State may authorize;
 - c. If Agency fails to provide payment of its share of the cost of the Project;

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- d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement;
 - e. If Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source;
18. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
19. Agency, as a recipient of federal funds, pursuant to this Agreement with State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires State to return funds to the FHWA, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
20. State and Agency agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
21. Agency certifies and represents that the individual(s) signing this Agreement have (has) been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
22. This Agreement may be executed in several counterparts (facsimile or otherwise), all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
23. This Agreement, and Local Agency Certification Program (Certification Program) Agreement No. 30890, as amended, and all attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

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24. State's Local Agency Liaison for this Agreement is Justin Bernt, Region 1 Local Agency Liaison, 123 NW Flanders Street, Portland, OR 97209, 503-731-3016, justin.j.bernt@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.
25. Agency's Project Liaison for this Agreement is Willie Rotich, ITS Engineer, 1120 SW 5th Avenue, Portland, OR 97204, 503-823-7679, willie.rotich@portlandoregon.gov, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

SIGNATURE PAGE TO FOLLOW

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THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2015-2018 Statewide Transportation Improvement Program, (Key #19303) that was adopted by the Oregon Transportation Commission on December 18, 2014 (or subsequently approved by amendment to the STIP).

CITY OF PORTLAND, acting by and through its elected officials

By _____

Title _____

Date _____

By _____

Title _____

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Agency Legal Counsel

Date _____
CITY ATTORNEY 2/16/17

Agency Contact:

Willie Rotich, ITS Engineer
1120 SW 5th Avenue, Room 800
Portland, OR 97209
(503) 823-7679
willie.rotich@portlandoregon.gov

State Contact:

Justin Bernt, Local Agency Liaison
123 NW Flanders Street
Portland, OR 97209
(503) 731-3016
justin.j.bernt@odot.state.or.us

STATE OF OREGON, acting by and through its Department of Transportation

By _____

Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____

Certification Program Manager

Date _____

By _____

Region 1 Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____

Assistant Attorney General

Date _____

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Exhibit A – Project Location Map

