

Misc. Contracts and Agreements No. 29764  
Cross Ref. Master Certification Agreement 30890

**AMENDMENT NUMBER 01  
LOCAL AGENCY CERTIFICATION PROGRAM  
SUPPLEMENTAL PROJECT AGREEMENT  
Springwater Trail Gap: SE Umatilla to SE 13<sup>th</sup> Ave**

This is Amendment No. 01 to the Agreement between the **State of Oregon**, acting by and through its Department of Transportation, hereinafter referred to as "State," and **City of Portland**, acting by and through its elected officials, hereinafter referred to as "Agency," entered into on June 30, 2014.

It has now been determined by State and Agency that the Agreement referenced above shall be amended to increase federal funding and update standard language.

1. **Effective Date.** This Amendment shall become effective on the date it is fully executed and approved as required by applicable law.

2. **Amendment to Agreement.**

**Insert new Exhibit B, Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting, attached hereto and by this reference made a part hereof.**

**TERMS OF AGREEMENT Paragraphs 3-5, Page 1, which read:**

3. The total estimated cost of the Project is \$1,278,580, which is subject to change.

4. The Project shall be conducted as a part of the Congestion Mitigation and Air Quality (CMAQ) Program under Title 23, United States Code. The CMAQ funds for this Project shall be limited to \$1,147,270. The Project will be financed with CMAQ funds at the maximum allowable federal participating amount, with City providing the match and any non-participating costs, including all costs in excess of the available federal funds.

5. City shall have a current Indirect Cost Allocation Plan and an approved indirect rate from its federal cognizant agency prior to invoicing indirect costs. A copy of the current approved rate from the federal cognizant agency or State must be attached to invoices with indirect costs. If City does not have a current approved rate, it can apply directly to its federal cognizant agency for an Indirect Cost Rate. If the City has no federal cognizant agency, it can submit an indirect Cost Rate proposal to State for review and approval for State invoices. Without an approved Indirect Cost Rate State will only pay City for Direct Costs.

**Shall be deleted in its entirety and replaced with the following:**

3. The total Project cost is estimated at \$1,838,580, which is subject to change. Federal funds for this Project shall be limited to \$1,491,634. Agency shall be 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 federal or state funds. Any unused

federal or state funds will be retained by State, and will not be available for use by Agency for this Agreement or any other projects. "Total Project Cost" means the estimated cost to complete the entire Project, and includes any federal funds, state funds, local matching funds, and any other funds. Agency will report the final cost of each phase of the Project at the completion of each phase, as well as the Total Project Cost at the end of the Project, to the State's Regional Local Agency Liaison.

4. Federal funds under this Agreement are provided under Title 23, United States Code.

5. Information required by 2 Code of Federal Regulation (CFR) 200.331(a)(1) shall be contained in the USDOT FHWA Federal Aid Project Agreement for this Project, a copy of which shall be provided by ODOT to Agency with the Notice to Proceed.

6. Indirect Cost Rate:

a. As required by 2 CFR 200.331(a)(4), the indirect cost rate for this Project at the time the Agreement is written is 46.44%. This rate may change during the term of this Agreement upon notice to State and State's subsequent written approval.

b. If the approved rate changes during the term of this Agreement, Agency shall invoice State using the current indirect cost rates on file with State at the time the work is performed. If Agency does not have approved indirect cost rates on file with State at the time the work is performed, Agency shall invoice State using a zero percent (0%) rate.

**TERMS OF AGREEMENT, Paragraphs 6 through 22, shall be hereinafter re-numbered as Paragraphs 7 through 23.**

**Insert new TERMS OF AGREEMENT, Paragraphs 24-26 to read as follows:**

24. By signing this Agreement, Agency agrees to comply with the provisions of the Federal Funding Accountability and Transparency Act (FFATA) and is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>. If, in the preceding fiscal year, Agency received more than 80% of its gross revenues from the federal government, those federal funds exceed \$25,000,000 annually, and the public does not have access to information about the compensation of executives through reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986, Agency shall report the total compensation and names of its top five executives to State. Agency shall report said information to State within 14 calendar days of execution of this Agreement and annually thereafter, utilizing the FFATA form attached hereto as Exhibit "B".

25. Agency shall ensure compliance with the Cargo Preference Act and implementing regulations (46 CFR Part 381) for use of United States flag ocean vessels transporting materials or equipment acquired specifically for the Project. Strict compliance is required, including but not limited to the clauses in 46 CFR 381.7(a) and (b) which are

incorporated by reference. Agency shall also include this requirement in all contracts and ensure that contractors include the requirement in their subcontracts.

26. Agency shall require its contractor(s) and subcontractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Oregon Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260 (Claims), to the extent such Claims are caused, or alleged to be caused by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor. It is the specific intention of the Parties that State shall, in all instances, except to the extent Claims arise solely from the negligent or willful acts or omissions of State, be indemnified from and against all Claims caused or alleged to be caused by the contractor or subcontractor.

3. **Counterparts.** This Amendment may be executed in two or more counterparts (by facsimile or otherwise) each of which is an original and all of which when taken together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
4. **Original Agreement.** Except as expressly amended above, all other terms and conditions of the original Agreement are still in full force and effect. Agency certifies that the representations, warranties and certifications in the original Agreement are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

**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 2018-2021 Statewide Transportation Improvement Program (STIP), (Key #18416) that was adopted by the Oregon Transportation Commission on July 20, 2017 (or subsequently approved by amendment to the STIP).

**SIGNATURE PAGE TO FOLLOW**

**CITY OF PORTLAND**, by and through  
its elected officials

By \_\_\_\_\_  
Commissioner-in-Charge

Date \_\_\_\_\_

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

By \_\_\_\_\_  
Highway Division Administrator

Date \_\_\_\_\_

**LEGAL REVIEW APPROVAL (If  
required in Agency's process)**

By \_\_\_\_\_  
City Legal Counsel

Date \_\_\_\_\_

**Agency Contact:**

George Lozovoy  
1001 SW 5<sup>th</sup> Ave., Suite 2200  
Portland, OR 97204  
503-825-5595  
George.lozovoy@portlandoregon.gov

**State Contact:**

Reem Khaki  
123 NW Flanders Street  
Portland, OR 97209  
503-731-8501  
Reem.d.khaki@odot.state.or.us

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Region 1 Manager

Date \_\_\_\_\_

By \_\_\_\_\_  
Certification Program Manager

Date \_\_\_\_\_

By \_\_\_\_\_  
Region 1 Project Services Manager

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By Bonnie Heitsch  
Assistant Attorney General

Date: via email dated February 16, 2018

**Exhibit B****Federal Funding Accountability and Transparency Act (FFATA)  
Subaward Reporting**

(For purposes of this Exhibit, references to "your organization" shall mean "Agency" and references to "ODOT" shall mean "State.")

The Oregon Department of Transportation (ODOT) is required to fulfill a federal requirement for contracting under the Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS). FFATA reporting is a requirement for subawards (also known as subrecipients) of federal awards in excess of \$25,000,000. Your organization will enter into an agreement with ODOT where the funding source is a federal grant with a subrecipient relationship. Your organization is required to submit the information below to the Oregon Department of Transportation within fourteen calendar days of execution of the Agreement and annually thereafter, if applicable. (See the following page for further details.)

**Legal entity name:**

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**Data Universal Number System (DUNS) number:**

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**Executive compensation**

Executive compensation information is also required to determine whether or not the following information must be reported in FSRS:

- a. In your organization's previous fiscal year, did your organization receive 80% or more of its annual gross revenue and \$25,000,000 or more in federal procurement contracts, subcontracts, loans, grants, subgrants, cooperative agreements and federal financial assistance awards subject to the Transparency Act? (Include parent organization, all branches, and all affiliates worldwide.)

☐ Yes ☐ No If "yes," proceed to b. If "no," no further action is required and submittal of this form is not required.

- b. Does the public have access to information about the compensation of the senior executives in your organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities and Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

☐ Yes ☐ No If "yes," provide a link to the SEC: <http://www.sec.gov> where this information is located and return form to the ODOT contact shown at the bottom of this form.

Provide link here:

If "no," provide compensation information below.

**Names and annual compensation amounts of the five most highly compensated executives:**

1.	\$
2.	\$
3.	\$
4.	\$
5.	\$

**Business entity contact information (person completing form):**

Type name	Title	Date
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**Return completed form to: Jeff Flowers, Program and Funding Services Manager; Oregon Department of Transportation; 555 13<sup>th</sup> Street NE; Salem, OR 97301; [Jeffrey.A.FLOWERS@odot.state.or.us](mailto:Jeffrey.A.FLOWERS@odot.state.or.us)**

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**Background on FFATA requirements**

The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent of the Act is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is [www.USASpending.gov](http://www.USASpending.gov).

**Definition of compensation**

Your organization is considered a subrecipient of federal funds. Unless your organization is exempt, FFATA requires you to report total compensation for each of your five most highly compensated executives for the preceding completed year. Total compensation means the cash and non-cash dollar value earned by the executive during the subrecipient's preceding fiscal year and includes the following: salary and bonus; awards of stock, stock options, and stock appropriation rights; earnings for services under non-equity incentive plans; change in pension value; above-market earnings on deferred compensation which is not tax-qualified; and other compensation as defined in 2 CFR Part 170, Section 170.330(b)(5)(vi).

More detailed information about the FFATA can be found at:  
<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>

**If you have any questions, contact:**

Jeff Flowers  
Program and Funding Services Manager  
Oregon Department of Transportation  
555 13th Street NE  
Salem, OR 97301  
[Jeffrey.A.FLOWERS@odot.state.or.us](mailto:Jeffrey.A.FLOWERS@odot.state.or.us)  
Telephone: 503-986-4453