

**Misc. Contract and Agreement  
No. 26,712**

**Draft: 20 April, 2009**

**INTERGOVERNMENTAL AGREEMENT  
I-5 Rose Quarter Facilitation  
City of Portland**

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 "City," collectively hereinafter referred to as the "Parties."

***RECITALS***

1. By the authority granted in Oregon Revised Statutes 190.110, 366.572, and 366.576 state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.
3. Pacific Highway No. 1 (I-5) is part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC).

***BACKGROUND***

1. The Metro 2040 Growth Concept Plan identified the Central City area of Portland as an "area of regional and state concern for commercial, economic, cultural, tourism, government, and transportation functions". State, regional, and local policy and public investments should continue to recognize this special significance.
2. The Growth Concept Plan, local plans, and development strategies are in place to emphasize economic development in Portland's Downtown, Lloyd District, and River District. Improving access to these areas along with other Central City subdistricts, including the-Rose Quarter, the Central Eastside and Lower Albina, will be important to sustain continued economic growth that have state, regional, and local benefits.
3. The Portland-Vancouver I-5 Transportation and Trade Partnership Task Force's I-5 Strategic Plan of 2002 recommended a future study of the I-5/I-405 Freeway Loop.

4. In July 2005, a Freeway Loop Study was completed, and found that the Freeway Loop should remain, even if major design changes are made to accommodate increased travel demand and other community objectives. The Freeway Loop Study identified a number of features that would provide benefit and could be done mostly within the existing right of way.
5. In 2007, State and the City developed the I-5/I-84 to I-405 Report. This effort assisted the City and State in identifying mutually beneficial project direction for the Rose Quarter area. The report was not intended to develop a preferred alternative; it was intended to identify feasible alternatives that could be studied in a next step phase which would include refinement planning and a public involvement process.
6. State and City have jointly agreed to participate in a planning process to develop planning level, project development agreements for the I-5 Broadway/Wiedler Interchange. The agreements will address existing and future traffic safety and operational problems and will identify feasible improvements, considering funding limits and other factors, to I-5/I-84 that address safety and operational problems.
7. This Agreement will address how City and State will collaborate on combining the Central NE Quadrant Plan with the I-5 Freeway/Rose Quarter study to seek to identify both near-term and long-term land use, urban design, and transportation needs in the area.

**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. Under such authority, State and City agree that State shall hire a Contractor to conduct project meeting facilitation and coordination associated with combining the Central NE Quadrant Plan with the I-5 Freeway/Rose Quarter study, hereinafter referred to as "Project". The location of the Project focus and study areas are approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof. The statement of work, (tasks, deliverables, and budget) for the Project are detailed in the attached Exhibit B, incorporated hereto and by this reference made a part hereof.
2. The Project shall not exceed the estimated cost of \$150,000. State shall provide a not to exceed amount of \$120,000 in State funds, and City shall provide a not to exceed amount \$30,000 in City funds. If it is determined that additional funds are required to continue the Project, the Parties will decide how to reduce the scope of the Project to fit the budget, or the Parties shall pay their proportional share based on the estimate of \$150,000. This will be accomplished by amendment to this Agreement stating the funding obligations of both Parties prior to proceeding with the Project. All work conducted by State and City staff during this Project shall not be considered as part of the Project costs; and shall be financed separately by the employing Party.

3. 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.

### **STATE OBLIGATIONS**

1. State, shall, at its own expense and at no cost to the Project, prepare all bid documents; advertise and award all contracts; provide Project management services; pay all Contractor costs at Project expense; and all other necessary functions for administration of the contract.
2. State shall, at no cost to the Project, jointly work with City to select the Contractor.
3. State shall, upon execution of the Agreement, forward to City a letter of request for an advance deposit or irrevocable letter of credit in the amount of \$30,000 for City's payment toward the Project. State agrees to refund any unused portion of City's advance deposit upon completion of the Project.
4. State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from City.
5. State certifies and represents that the individual signing this Agreement has been authorized to enter into and execute this Agreement on behalf of State, under the direction or approval of its governing body, commission, board, officers, members, or representatives, and to legally bind State.
6. State's Project Manager for this Project is Timothy J. Wilson, Senior Major Project Planner, ODOT Region 1, 123 NW Flanders Street, Portland, OR 97209-4037, phone: (503-731-8534, email: timothy.j.wilson@odot.state.or.us, or assigned designee upon individual's absence. City's Project Manager shall be notified in writing of any contact information changes during the term of this Agreement.

### **CITY OBLIGATIONS**

1. City shall, upon receipt of a fully executed copy of this Agreement and upon a subsequent letter of request from State, forward to State an advance deposit or irrevocable letter of credit equal to \$30,000.
2. City certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance \$30,000 toward the costs of this Agreement within City's current appropriation or limitation of the current biennial budget.
3. City shall, at no cost to the Project, jointly work with State to select the Contractor.
4. City certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of City, under the direction or approval of

its governing body, commission, board, officers, members or representatives, and to legally bind City.

5. City's Project Manager for this Project is Stephen Iwata, Supervising District Planner, Bureau of Planning and Sustainability, City of Portland, 1900 SW Fourth Avenue, Suite 7100; Portland, OR 97201-5350, (503) 823-9904, [steve.iwata@portlandoregon.gov](mailto:steve.iwata@portlandoregon.gov), or assigned designee upon individual's absence. State's Project Manager shall be notified in writing of any contact information changes during the term of this Agreement.

#### **GENERAL PROVISIONS**

1. This Agreement may be terminated by either party upon thirty (30) days' notice, in writing and delivered by certified mail or in person.
2. State may terminate this Agreement effective upon delivery of written notice to City, or at such later date as may be established by State, under any of the following conditions:
  - a. If City fails to perform the 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.
  - b. If City fails to provide payment of its share of the cost of the Project.
  - c. 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.
  - d. 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.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. The Parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, the Parties expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

5. Both Parties acknowledge and agree that each Party, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of each Party which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment or completion of Project. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by the requesting Party.
6. Both Parties shall perform the service under this Agreement as independent contractors and shall be exclusively responsible for all costs and expenses related to their employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers' compensation, unemployment taxes, and state and federal income tax withholdings.
7. The Parties agree that all employers that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. The Parties shall ensure that each of their subcontractors complies with these requirements.
8. Both Parties shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless each other, their officers and employees from any and all claims, suits, and liabilities which may occur in their respective performance of this Project. Parties total liabilities shall not exceed the tort claims limits provided in Oregon Tort Claims Act, ORS 30.260 to 30.300, for 'local public bodies'.
9. Notwithstanding the foregoing defense obligations under the paragraph above, neither Party nor any attorney engaged by either Party shall defend any claim in the name of the other Party or any City/department/division of such other Party, nor purport to act as legal representative of the other Party or any of its agencies/departments/divisions, without the prior written consent of the legal counsel of such other Party. Each Party may, at anytime at its election assume its own defense and settlement in the event that it determines that the other Party is prohibited from defending it, or that other Party is not adequately defending its interests, or that an important governmental principle is at issue or that it is in the best interests of the party to do so. Each party reserves all rights to pursue any claims it may have against the other if it elects to assume its own defense.
10. This Agreement and 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.

11. 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.

**IN WITNESS WHEREOF**, the Parties, by execution of this Agreement, hereby individually acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

SIGNATURE PAGE TO FOLLOW

On August 2, 2005, the Director, Deputy Director, Highways and Chief Engineer approved Subdelegation Order No. 5, in which the Director, Deputy Director, Highways and Chief Engineer delegate authority to the Region Managers to approve and sign intergovernmental

agreements over \$75,000 up to a maximum of \$500,000 when the work is related to a project included in the Statewide Transportation Improvement Program (STIP) or in other system plans approved by the Oregon Transportation Commission or in a line item in the legislatively adopted biennial budget.

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

By \_\_\_\_\_  
Mayor

Date \_\_\_\_\_

By \_\_\_\_\_  
Auditor

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By \_\_\_\_\_  
Counsel

Date \_\_\_\_\_

**City Contact:**

Name/Title: Stephen Iwata  
Address: City of Portland, Bureau of Planning  
and Sustainability,  
1900 SW 4<sup>th</sup> Avenue, Suite 7100,  
Portland, OR 97201-5350  
Phone: 503-823-9904  
Email: [steve.iwata@portlandoregon.gov](mailto:steve.iwata@portlandoregon.gov)

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

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

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Region 1 Major Projects Manager

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

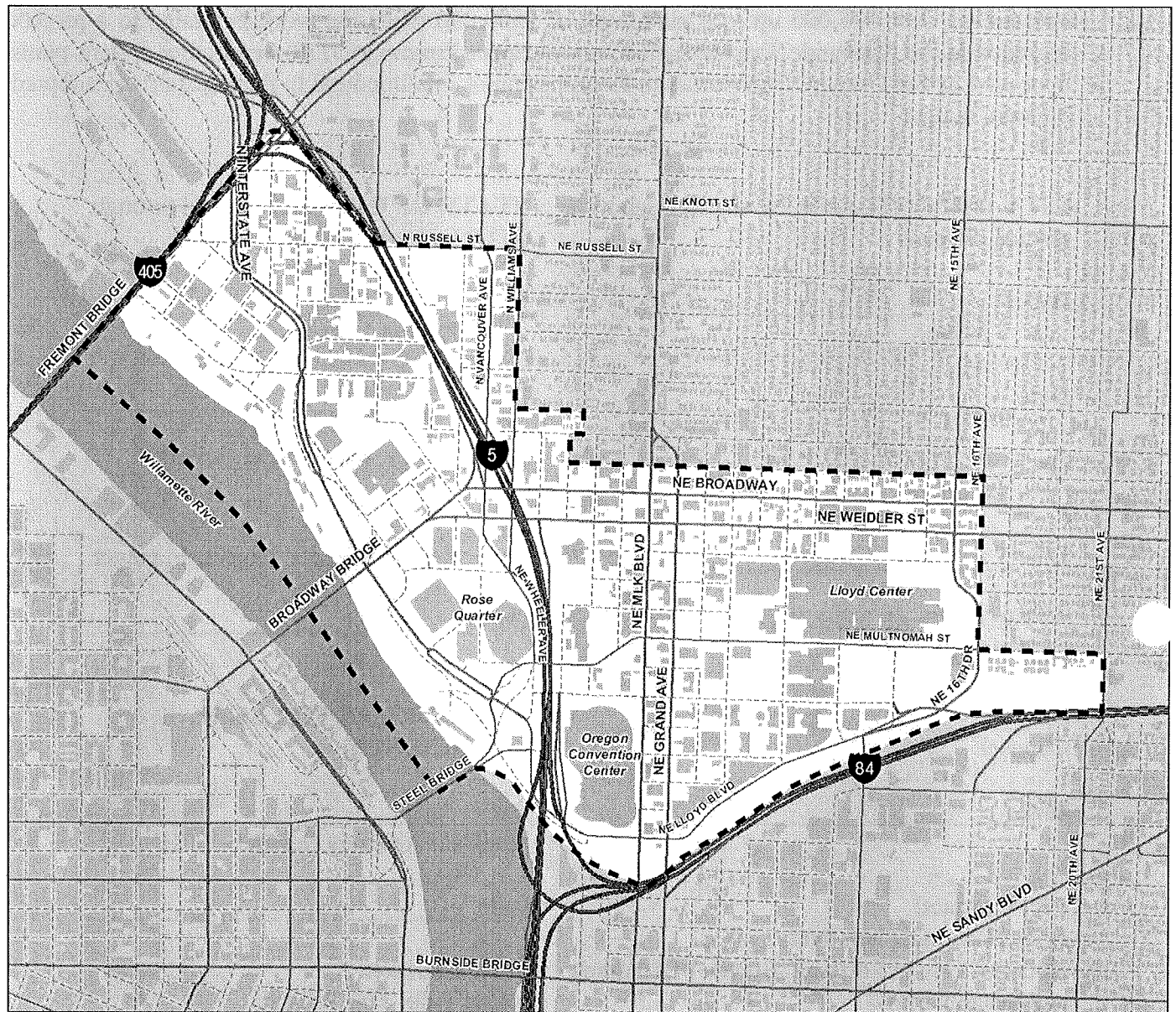
By \_\_\_\_\_  
Assistant Attorney General

Date \_\_\_\_\_

**State Contact:**

Name/Title: Tim Wilson,  
Address: ODOT Region 1,  
123 NW Flanders Street,  
Portland, OR 97209-4037  
Phone: 503-731-4663  
Email: [timothy.j.wilson@odot.state.or.us](mailto:timothy.j.wilson@odot.state.or.us)

M. C. & A. No. 26712 – Exhibit A  
State/City of Portland





*M. C. & A. No. 26,712 – Exhibit B*  
*State/City of Portland*

## **EXHIBIT B**

### **I-5 Rose Quarter Facilitation**

#### **PHASE TWO**

#### **CONTRACTOR RESPONSIBILITIES AND DELIVERABLES**

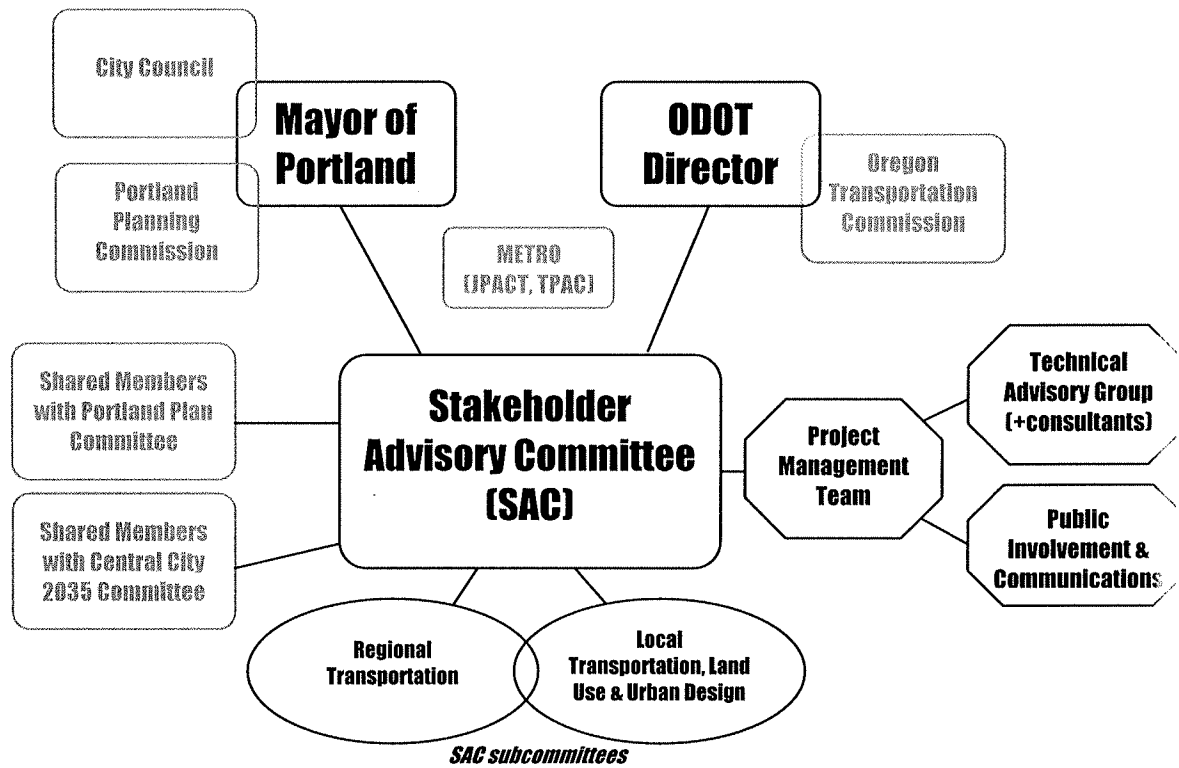
#### **BACKGROUND INFORMATION**

1. City and State have a unique opportunity to collaborate on land use and transportation problems in the northeast quadrant of the central city. This opportunity has surfaced due to concurrent interest on the part of both entities to develop a plan to address long-standing problems in this area.
2. City will be updating their 1980 Comprehensive Plan and their 1988 Central City Plan. The first phase of the Comprehensive Plan is the Portland Plan, which will be a strategic plan to guide the city for the next twenty five (25) years. The Comprehensive Plan will be part of the overall Portland Plan. The updated Central City Plan will be part of the Central City 2035 Plan.
3. The planning process will include the seven (7) Central City Subdistricts. The Lloyd District and Lower Albina will be consolidated into the Central Northeast Quadrant Plan and integrated into a singular Central City 2035 Plan. Additionally, the Portland Bureau of Transportation (PBOT) will update the Central City Transportation Management Plan (CCTMP), which is part of the Portland Transportation System Plan (TSP), as part of this planning effort. This process will identify and plan for future changes in the Central City and NE Quadrant.
4. State has identified the need to make improvements to I-5 Corridor. In late 1980's, State developed for the Rose Quarter area freeway, design recommendations to address capacity, operational, and safety issues are key concerns. However, previous freeway plans have not received public support to advance planning and engineering studies for this freeway segment. As part of the I-5 Partnership Plan, State with the Washington DOT examined longer-term I-5 needs from the Rose Quarter to SR500 in Clark County. The segment south of the Fremont Bridge was separated from the I-5 Partnership because of issues related to the I-5/405 Freeway Loop.
5. State with the City completed the I-5/405 Freeway Loop Study in 2005. This study recognized both near-term and long-term issues for this facility. Near-term issues included addressing the bottleneck at the I-5/I-84 interchange.

*M. C. & A. No. 26,712 – Exhibit B*  
*State/City of Portland*

6. In 2007, State and the City developed the I5:I84 to I-405 Report. This effort assisted the City and State in identifying mutually beneficial Project direction for the Rose Quarter area. The report was not intended to develop a preferred alternative; it was intended to create feasible alternatives that could be studied in a next step phase, which would include refinement planning or public involvement process.
7. City and State will collaborate on combining the Central NE Quadrant Plan with the I-5 Freeway/Rose Quarter study to seek to identify both near-term and long-term land use, urban design, and transportation needs in the area. This unique opportunity will integrate land use and urban design planning with freeway planning and engineering.
8. The Contractor will work with State and City on State's I-5: Broadway-Weilder Interchange Project and the City's Central NE Quadrant Plan. The Contractor's "Role" is to coordinate with the Project sponsors and participants to consult on and facilitate the process (per the following process diagram), facilitate Stakeholders Advisory Committee (SAC) and subcommittee meetings, assist with/facilitate "major events," assist with the completion of "major products," and assist with the creation of "deliverables," as noted in the Stage/Product/Event Deliverables/Completion Date/Budget table that follows the process diagram.

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Stage	Description	Major Products	Major Events	Deliverables	Completion	Budget
I. Admin- & Start-Up	Form Project team, establish work scope, and shared Project assumptions. Hire consultants. Form advisory groups. Ongoing Project management. See "Role" above.	Joint BPS/PBOT/State Project scope. Shared Project assumptions ("charter"). Consultant contracts. Public Involvement Plan. Committee rosters, and Collaborative Principles	Project sponsor chartering session  Kick-off meeting for Stakeholder Advisory Committee	Chartering Document Stakeholder Interviews Staff Meetings City Meeting Sponsor Meeting	5/31/10	REMINDER: PHASE ONE BUDGET \$15,000
II. Background & Existing Conditions	Gather, summarize, and analyze transportation, land use and urban design background data and existing conditions. Review relevant plans, policies and regulations. See "Role" above.	<i>Combined Technical Background Report.</i>  Includes: Subdistrict Profiles, urban design, land use and development maps, transportation asset inventory, traffic counts, transportation model, Environmental Baseline Report, etc.	Community Walks	Staff Meetings Prep Documents Facilitate SAC 1 and 2 Meeting Notes Facilitate Subcommittee Meetings Coordinate with Agencies and Other Processes Provide Process Advice Other Duties as Assigned	7/31/10	\$16,750
III. Issues, Opportunities & Constraints	Refine problem statement, purpose, and goals. Identify quadrant transportation, land use and urban design issues and problems. Identify major development opportunity sites and areas of potential change. Coordinate with draft Central City 2035 Framework and RQ/MC development process. See "Role" above.	<i>Issues, Opportunities and Constraints Analysis</i>  (includes problem statement, Project goals, no-future base-case analysis)	Workshop #1 (covers phases I and II products)	Staff Meetings Prep Documents Facilitate SAC 3, 4 and Workshop #1 Meeting Notes Facilitate Subcommittee Meetings Coordinate with Agencies and Other Processes Provide Process Advice	10/31/10	\$25,125

				Other Duties as Assigned		
IV. Concept Alternatives	Develop alternative land use and urban design concepts to inform development of freeway improvement concepts. Develop freeway improvement and transportation system concepts. Develop alternatives evaluation criteria. See "Role" above.	Alternative Land Use, Urban Design and Transportation Concepts	Stakeholder Charrette	Staff Meetings Prep Documents Facilitate SAC 5, 6 and Workshop #2 Meeting Notes Facilitate Subcommittee Meetings	1/31/11	\$25,125
		(2-5 non-mutually exclusive options, w/ pros & cons)	Workshop #2	Coordinate with Agencies and Other Processes Provide Process Advice Other Duties as Assigned		
V. Preferred Concept & Recs.	Evaluate alternative concepts and select preferred combined land use, urban design, and transportation concept, including recommended freeway and transportation system improvements. See "Role" above.	Preferred Land Use, Urban Design and Transportation Concept and Policy Framework	Workshop #3	Staff Meetings Prep Documents Facilitate SAC 7, 8, 9 and Workshop #3 Meeting Notes Facilitate Subcommittee Meetings	5/30/11	\$33,500
		(includes preliminary freeway recommendations)		Coordinate with Agencies and Other Processes Provide Process Advice Other Duties as Assigned		

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State/City of Portland

VI. Quadrant Plan	Develop N/NE quadrant policy framework and proposed implementation measures/action items e.g. street plan, regulatory and zoning changes, freeway recommendations & phasing, etc. Coordinate and integrate with Central City 2035 and Portland Plan processes. See "Role" above.	<i>Proposed N/NE Quadrant Plan &amp; I-5 Rose Quarter Recommendations</i>	Open House	Staff Meetings Prep Documents Facilitate SAC 10, 11, and Open House Meeting Notes Facilitate Subcommittee Meetings Coordinate with Agencies and Other Processes Provide Process Advice Other Duties as Assigned	6/30/11	\$8375
VII. Formal Adoption	City of Portland adopt quadrant plan. Oregon Transportation Commission adopt facility plan. See "Role" above.	<i>Adopted N/NE Quadrant Plan &amp; I-5 Rose Quarter Recommendations</i>	City Council (and OTC?) hearings. (Beyond 18-month timeline?)	Staff Meetings Prep Documents Prep for and attend Approval Process Meetings Coordinate with Agencies and Other Processes Provide Process Advice Other Duties as Assigned	9/30/11	\$25,125
VIII. Implementing	Ongoing Implementation. See "Role" above.	<i>Follow-up processes, actions, etc.</i>	Will vary by task	As Assigned	9/30/11	\$1,000
PHASE TWO TOTAL: \$135,000						
GRAND TOTAL: \$150,000						

*M. C. & A. No. 26,712 – Exhibit B  
State/City of Portland*

***Total I-5 Rose Quarter Facilitation Budget:***

*Revenue:*

State Funds:	\$120,000	(Contractor)
City funds	<u>\$30,000</u>	(Contractor)
Total Revenue	\$150,000	

*Expenses:*

Contractor \$150,000 (\$120,000 State, \$30,000 City)  
Total Expenses: \$150,000

All work conducted by City and State staff during this Project shall be considered "in kind" work; and shall not be considered as part of the costs of work performed by the Contractor; and shall be financed separately by the staffs' employing agency.