

Misc. Contracts & Agreements
No. 27034

INTERGOVERNMENTAL AGREEMENT
I-5: NE Holladay Street - Marquam Bridge
Detour Traffic Control Design Review and Monitoring Assistance

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

RECITALS

1. By the authority granted in ORS 190.110, 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. Pacific Highway, Interstate 5 (I-5) is part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). The State has a preservation project on a portion of I-5 from NE Holladay Street to the Marquam Bridge, hereinafter referred to as "Highway," to restore the quality of the overlay of the existing continuously reinforced concrete pavement. Bridge #S8588E on Highway, between the Steel and Burnside bridges, will have joints replaced and will include a structural deck overlay. Due to the high volumes of traffic use for this portion of Highway, Agency and State are working to mitigate disruption of traffic flow detoured on and off the I-5 freeway. In order to mitigate disruption, there will need to be a detour traffic control design review along I-5 and NE Holladay Street.

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 wishes to retain the services of Agency to provide traffic control related consultation and traffic control plan review; attend planning meetings for freeway closure, provide on-site traffic signal staff freeway closures; reset the signal timing to pre-existing condition after freeway opening; and to provide one traffic engineer to determine traffic signal timing and adjustment along the congested detour routes due to freeway closures, hereinafter referred to as "Project." The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof. The scope, schedule, and budget for said Project services is shown on Exhibit B, attached hereto and by this reference made a part hereof. Payment for said services shall not exceed a maximum amount of \$36,120.00 in federal funds.
2. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate on December 31, 2012.

Agency/State
Agreement No. 27034

AGENCY OBLIGATIONS

1. Agency shall perform the work in accord with Project's scheduled needs as described in Exhibit B.
2. Agency shall present invoices for 100 percent of actual costs incurred by Agency on behalf of the Project directly to State's Project manager for review and approval. Such invoices shall be in a form identifying the Project and Agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not less than one month duration, based on actual expenses incurred. Under no conditions shall State's obligations exceed \$36,120.00, including all expenses, without an executed amendment approved by both Parties to this Agreement. Travel expenses shall not be reimbursed.
3. Agency shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from State.
4. Agency 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, Agency 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. Agency shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its 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.
6. All employers, including Agency, 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. Agency shall ensure that each of its subcontractors complies with these requirements.
7. Agency certifies and represents that the individual(s) signing this Agreement 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.

Agency/State
Agreement No. 27034

8. Agency's Project Manager for this Project is Winston Sandino, City of Portland Transportation, 1120 SW 5th, Room 800, Portland OR 97204, Phone: 503.823.5767, Winston.Sandino@portlandoregon.gov or assigned designee upon individuals absence. State's Project Manager shall be notified in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

1. In consideration for the services performed, State agrees to pay Agency within forty-five (45) days of receipt by State of the Project invoice for actual costs, not to exceed a maximum amount of \$36,120.00, unless an executed amendment to this Agreement is approved by both Parties to this Agreement. Said maximum amount shall include reimbursement for all expenses. Travel expenses shall not be reimbursed.
2. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
3. State's Project Manager for this Agreement is Robyn Bassett, 123 NW Flanders Street, Portland, OR 97209, Phone: 503-731-8469, Robyn.Bassett@odot.state.or.us or assigned designee upon individuals absence. Agency'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 mutual written consent of both Parties.
2. 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 State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable

Agency/State
Agreement No. 27034

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. 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. Agency's total liability shall not exceed the tort claims limits provided in Oregon Tort Claims Act, ORS 30.260 to 30.300, for 'local public bodies'.
5. 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 agency/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.
6. Agency acknowledges and agrees that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
7. 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.
8. 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,

Agency/State
Agreement No. 27034

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.

IN WITNESS WHEREOF, the Parties hereto have set their hands as of the day and year hereinafter written.

This Project is in the 2006-2009 Statewide Transportation Improvement Program, (Key #15140) that was approved by the Oregon Transportation Commission on August 17, 2005 (or subsequently approved by amendment to the STIP).

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.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 2, in which day-to-day authority is delegated to the Region Managers; Technical Services Manager/Chief Engineer which includes the authority to approve and sign agreements up to \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program, other system plans approved by the Oregon Transportation Commission such as the Traffic Safety Performance Plan, or in a line item in the biennial budget approved by the Director.

SIGNATURE PAGE TO FOLLOW

Agency/State
Agreement No. 27034

CITY OF PORTLAND, by and through its
elected officials

By _____
Mayor

Date _____

By _____
Auditor

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

APPROVED AS TO FORM

By *Paula Wenger*
Counsel

CITY ATTORNEY
Date 8/17/10

Agency Contact:
Winston Sandino
City of Portland Transportation
1120 SW 5th, Room 800
Portland, OR 97204
503.823.5767
Winston.Sandino@portlandoregon.gov

STATE OF OREGON, by and through
its Department of Transportation

By *[Signature]*
Region 1 Manager

Date 8/6/10

APPROVAL RECOMMENDED

By _____
Technical Services Manager/Chief Engineer

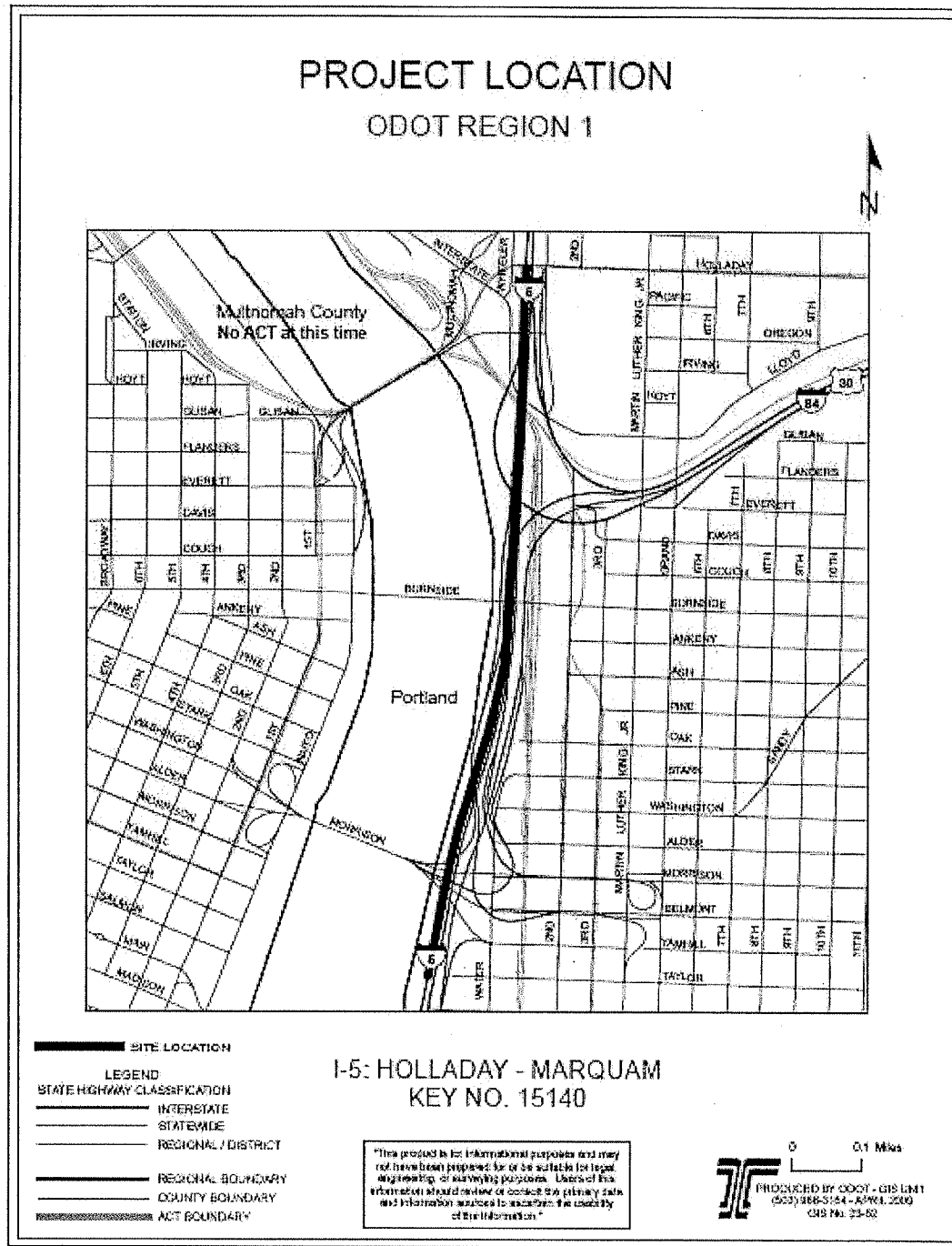
Date _____

By _____
District 2B Manager

Date _____

State Contact:
Robyn Bassett
ODOT, Project Leader
123 NW Flanders Street
Portland, OR 97209
503.731.8469
Robyn.bassett@odot.state.or.us

EXHIBIT A – PROJECT LOCATION MAP
Misc. Contracts & Agreements - No. 27034



Key # 15140

EXHIBIT B - SCOPE, SCHEDULE AND BUDGET
Misc. Contracts & Agreements - No. 27034
Page 1 of 2

**I-5: Holladay-Marquam (Pavement Preservation and Joint Replacement Project
K#15140)**

**Scope, Schedule and Budget: Traffic Control Design Review, and Monitoring
Assistance Provided by the City of Portland**

Task 1: Provide traffic control related consultation and traffic control plan review during project design and during construction as needed.

Task Schedule: This task is to happen during project design and construction.

Task Cost: Task cost to total no more than \$5,320. This amount is estimated as follow:
15 meetings (design + TC meeting) x 2 staff x 2 hours/person x \$70/hour = 4,200 Traffic
engineering review: 8 reviews x 1 staff x 2 hours x \$70/hour = \$1120.

Task 2: Attend pre freeway closure meeting for up to 15 meetings by traffic supervisory personnel(s) in charge of the traffic signal timing and adjustment.

Task Schedule: This task will happen one or two weeks prior to full freeway closures that are expected to happen in the summer of 2012. Exact date, time, and place of the meeting are to be determined by project contractor. The duration of the meeting is estimated to be no longer than two (2) hours per meeting, up to four (4) meetings.

Task Cost: Task cost to total no more than \$2,800. This amount is estimated as follow:
10 meetings x 2 staff x 2 hours/person x \$70/hour = \$2,800

Task 3: During freeway closures, provide two (2) traffic signal staffs on site during the first 24 hours of freeway closure of up to four (4) closure occurrences to assist with traffic control monitoring, recommendation, and adjust signal timing as needed based on actual traffic flow condition along the detour routes. Also, reset the signal timing back to pre-existing condition after the freeway reopened.

Task Schedule: This task will happen up to four (4) weekends in the summer of 2012. Exact dates and time are to be determined by project contractor. Each weekend closure is expected to begin at 10:00 pm on Friday evening and end by 5:00 am the following Monday morning.

Task Cost: Task cost to total no more than \$16,800. It is estimated as follow: 24 hours/weekend x 4 weekends x 2 staff x \$70/ hour = \$13,440. Reset signal timing: 12 hours x 4 weekends x 1 staff x \$70/hour = \$3,360.

Agency/State
Agreement No. 27034

Task 4: Provide one traffic engineering staff to determine traffic signal timing and adjustment along the congested detour routes due to freeway closures and field observation. This task can be required prior to the closure and during the closure as needed.

Task Schedule: This task can happen prior to freeway closure or during the closure weekends of summer 2012. Traffic engineering time requires to determining signal timing adjustment for this task depends on actual traffic flow condition as observed along the detour routes.

Task Cost: Task cost to total no more than \$11,200. This amount is estimated as follow:
 $160 \text{ hours} \times 1 \text{ staff} \times \$70/\text{hour} = \$11,200$.

Total cost for traffic control design review, traffic monitoring assistance, and signal timing adjustment during construction provided by the City of Portland is estimated at:

Task 1:	\$5,320
Task 2:	\$2,800
Task 3:	\$16,800
Task 4 :	\$11,200

➔ **Total** not to exceed \$36,120 for labor hours of approximately 516 hours.