

# FINANCIAL IMPACT STATEMENT For Council Action Items

184200

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Willie Rotich		2. Telephone No. 503-823-7679	3. Bureau/Office/Dept. PBOT/BTSM/SSL
5a. To be filed (hearing date): November 3, 2010	5b. Calendar (Check One) Regular <input type="checkbox"/> Consent <input checked="" type="checkbox"/> 4/5ths <input type="checkbox"/>		4. Date Submitted to Commissioner's office and FPD Budget Analyst: October 22, 2010

**1) Legislation Title:**

\*Call for bids and to authorize contract for construction of US 26 Adaptive Signal System Safety Improvements project (Ordinance)

**2) Purpose of the Proposed Legislation:** To authorize the Purchasing Agent to call for bids and the Mayor and Auditor to execute a contract for construction of this project.

**Revenue and/or Expense:**

Is ALL the Revenue and/or Expense a part of the current year's budget? Yes X No \_\_\_\_\_  
If YES, identify SAP COST OBJECT No(s): T00184.19 then go to Step #5.  
If NO, complete Steps 3 & 4. For modifications to budgets, identify/discuss only the changes to the budget.

**3) Revenue:**

Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated please identify the source.

**4) Expense:**

What are the costs to the City as a result of this legislation? What is the source of funding for the expense?

The projected cost of this construction project will be \$517,370; the City in-kind match is \$32,000 in donated equipment (controllers, communication equipment, etc.) and also \$45,000 worth of staff time. The level of confidence for this estimate is high.

**Staffing Requirements:**

**5) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?**  
No

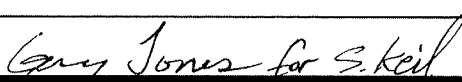
**6) Will positions be created or eliminated in future years as a result of this legislation?** No

Complete the following section only if an amendment to the budget is proposed.

**7) Change in Appropriations** (If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Center Code column if new center needs to be created. Use additional space if needed.)

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Amount

KK 10-21-10



APPROPRIATION UNIT HEAD SUSAN D. KEIL, Director, Bureau of Transportation

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Misc. Contracts & Agreements No. 25,404  
Cross Ref. Master Certification Agreement No. 21,492

Oregon Department of Transportation  
LOCAL AGENCY CERTIFICATION PROGRAM  
Supplemental Project Agreement No. 25,404

US 26: Adaptive Signal System

**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", hereinafter individually referred to as the "Party" or collectively referred to as the "Parties."

**RECITALS**

1. By the authority granted in Local Agency Certification Program Agreement No. 21,492 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 that are not on the National Highway System.
2. US 26 (Mount Hood Highway/Powell Boulevard) is part of the state highway system, with portions of the facility routed over city street right of way, and under the jurisdiction and control of the Oregon Transportation Commission.
3. The Project in this Supplemental Project Agreement is one of the required test projects that constitute conditional certification described in Local Agency Certification Program (Certification Program) Agreement No. 21,492.

**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 Agency agree that Agency shall design and implement an Adaptive Traffic Signal System on US 26 (Mount Hood Highway/Powell Boulevard) between the Ross Island Bridge and S.E. 82<sup>nd</sup> Avenue. The Adaptive Traffic Signal System will include an adaptive signal control system, purchase and installation of adaptive signal system software, vehicle detection, traffic monitoring cameras, blue tooth travel time technology, and communications infrastructure. The Sydney Coordinated Adaptive Traffic System (SCATS) has been selected by a steering committee with members representing transportation agencies in the Portland Metropolitan Area. This system and these devices shall connect to Agency's

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central traffic signal system server in Portland, hereinafter referred to as "Project". The location of the Project is shown on the sketch map attached hereto, marked "Exhibit A", and by this reference made a part hereof.

2. The total estimated cost of the Project is \$1,564,677, which is subject to change.
3. The Project shall be conducted as a part of the Federal-Aid Surface Transportation Program (STP) under Title 23, United States Code. The STP funds for this Project shall be limited to \$1,403,985. The Project will be financed with STP funds at the maximum allowable federal participating amount. Agency shall be responsible for any non-participating costs, including all costs in excess of the available federal funds. State shall provide the match for the STP funds.
4. Agency shall make all payments for work performed on the Project, including all construction costs, and invoice State for 100 percent of its costs. State shall reimburse Agency invoices at the pro-rated federal share. All costs beyond the federal and state reimbursement, any deposited local funds, and any non-participating costs will be the responsibility of the Agency. State shall perform work in the estimated amount of \$20,000. State shall send monthly invoices to Agency's Project Manager. Agency understands that State's costs are estimates only and agrees to reimburse State for the actual amount expended.
5. Agency shall select consultants, design, advertise, bid, award the construction contract, and provide construction administration. Agency understands that this Project is a test project and agrees to comply with all of the terms and conditions found in Certification Program Agreement No. 21,492.
6. The federal funding for this Project is contingent upon approval by the 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 with a written notice to proceed when FHWA approval has been secured and funds are available for expenditure on this Project.
7. The Catalog of Federal Domestic Assistance (CFDA) number for this Project is 20.205, title Highway Planning and Construction.
8. State considers Agency a sub-recipient of the federal funds under this Agreement.
9. In the event that Agency elects to engage the services of a personal services consultant to perform any work covered under this Agreement, Agency and Consultant shall enter into a Personal Services Contract approved by State's Office of Procurement Manager or designee (Salem). Said contract must be reviewed and approved by the Office of Procurement Manager or designee prior to beginning any

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work. This review includes, but is not limited to the Request for Proposal, Statement of Work, advertisement and all contract documents. This review and approval is required to ensure federal reimbursement.

10. State may make available State's On-Call PE, Design and Construction Engineering Services consultant for Local Agency Projects upon written request. If Agency chooses to use said services, they agree to manage the work done by the consultant and make funds available to the State for payment of those services. All eligible work shall be a federally participating cost and included as part of the total cost of the Project.
11. Agency shall contact the State's District 2B Office prior to commencement of work to determine if any permits are needed to occupy State right-of-way. Agency agrees to comply with all provisions of any State issued permits to "Occupy or Perform Operations Upon a State Highway" and to also obtain Highway Approach Permits from State's District 2B Office for all public roads and private properties adjacent to the highway, if they are needed, according to OAR 734, Division 51. Agency agrees to comply with all provisions of required permits, and shall require its developers, contractors, subcontractors, or consultants performing such work to comply with such provisions. State and Agency grant each other authority to enter onto the other's right of way for the performance of this Project.
12. 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.
13. Local Agency Certification Program Agreement No. 21,492 was fully executed on November 1, 2005. This Agreement is subject to the terms and provisions of the Local Agency Certification Program Agreement.
14. This Agreement may be terminated by mutual written consent of both Parties.
15. If Agency fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.
16. Pursuant to OAR 734-020-0430, Agency shall obtain the approval of the State Traffic Engineer prior to the design and construction of any traffic signal, or illumination to be installed on a State Highway.
17. State's Traffic Signal Services (TSSU) shall, at Project expense, perform the signal equipment environmental testing.

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18. Traffic signal timing shall be the responsibility of State. The Agency may perform signal timing on this Project. State shall retain the right of review of the traffic signal timing for signals on state highways, or those which State maintains, and shall reserve the right to request adjustments when needed. In cases where the Agency modifies timing to add railroad or emergency vehicle preemption, bus priority, or other changes that affect vehicle or pedestrian clearances, or operation of the state highway, such modifications shall be reported to State's Region Traffic Engineer. State's Region Traffic Engineer will notify the local jurisdiction whenever timing changes that affect the operation of local street connections to the state highway are scheduled. All modifications shall follow guidelines set forth in the current Manual on Uniform Traffic Control Devices, and the current ODOT Traffic Signal Policy and Guidelines.
19. Agency shall, upon completion of the Project and at its own expense, maintain the pavement surrounding the vehicle detector loops installed in the city streets/roads in such a manner as to provide adequate protection for said detector loops. Failure to do so may result in State requiring Agency to repair or replace the damaged loops at Agency expense. Future Agency roadwork activities involving the detector loops may also result in the same State requirements. Agency shall also adequately maintain the pavement markings and signing installed in accordance with the approved signal plan sheets for the signal installation or current MUTCD standards.
20. Agency shall include the following stipulations in the Special Provisions for construction contract work for any project where Agency is contracting work on a State highway:
  - a. Contractor shall name State as a third party beneficiary of the resulting contract. Contractor shall obtain and keep in effect during the term of the contract Comprehensive or Commercial General Liability Insurance covering bodily injury and property damage. This insurance shall include personal injury coverage contractual liability coverage for the indemnity provided under this Agreement and products/completed operations liability.
  - b. Contractor shall indemnify, defend and hold harmless Agency, State and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, sub-contractors, or agents under this Contract.
  - c. Commercial General Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to State and Agency. This insurance shall include

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personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage shall be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence shall not be less than \$ 1,000,000 for each job site or location. Each annual aggregate limit shall not be less than \$ 2,000,000.

- d. Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$1,000,000.
  - e. Additional Insured. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the Contract shall include State and Agency and its divisions, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.
  - f. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to State and Agency. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract.
  - g. Agency shall require its contractor(s) and/or subcontractor(s) as appropriate to acquire construction and performance bonding covering State's interests where Project construction affects State Property. State will be covered individually under the bonding arrangement, not as a party in a dual obligation bond. Proof of said bonding will be provided to State by the acquiring party. If Agency fails to meet the requirements of this paragraph or the underlying agreement conditions, including all incorporated State and federal laws, rules and regulations and costs are incurred by State because of it, State may withhold the Agency's proportional share of Highway Fund distribution necessary to reimburse State for those costs.
21. State may conduct periodic inspections during the life of Agency Certification Projects to verify that Projects are being properly maintained and continue to serve the purpose for which federal funds were provided.

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22. 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.
  - 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 if State is prohibited from paying for such work from the planned funding source.
23. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
24. 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.
25. This Agreement and the Local Agency Certification Program (Certification Program) Agreement No. 21,492, and all and the attached exhibits constitutes 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

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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.

26. State's Project Liaison for the Agreement is Mark Foster, 123 NW Flanders, Portland, OR 97209, phone 503-731-8288, or by an individual designated by the State's Region Manager in the event of the unavailability of the aforementioned individual.
27. Agency's Project Liaison for this Agreement is Willie Rotich, ITS Engineer, 1120 SW 5th Ave, Room 800, Portland, Oregon 97204, phone 503-823-7679, or an individual designated by the Agency in the event of the unavailability of the aforementioned individual.

**THE PARTIES**, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Project was approved by amendment number 08-11-68A on April 10, 2009 for inclusion into the 2008 - 2011 Statewide Transportation Improvement Program, Key No. 16377.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways; Deputy Director, Central Services and the Chief of Staff, to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

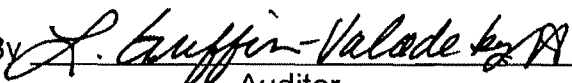


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**CITY OF PORTLAND**, acting by and  
through its elected officials

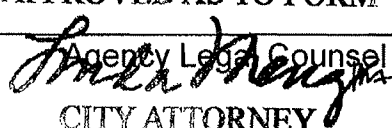
By   
Mayor

Date 9/9/09

By   
Auditor

Date 9/10/09

**APPROVED AS TO LEGAL  
SUFFICIENCY**

**APPROVED AS TO FORM**  
By   
Agency Legal Counsel  
Date CITY ATTORNEY 6/25/09

Agency Contact:  
Willie Rotich  
1120SW 5<sup>th</sup> Ave., Room 800  
Portland, Oregon 97204  
Phone: 503-823-7679  
willie.rotich@pdxtrans.org

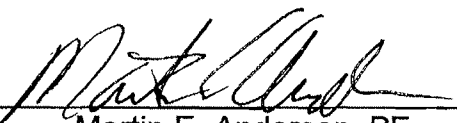
State Contact:  
Mark Foster  
123 NW Flanders  
Portland, OR 97209  
Phone: 503-731-8288  
[mark.a.foster@odot.state.or.us](mailto:mark.a.foster@odot.state.or.us)

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

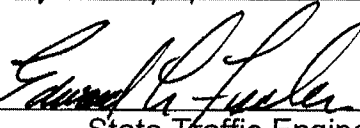
By   
Deputy Director, Highways

Date 19 OCT 09

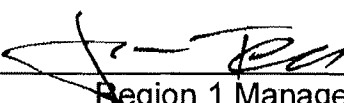
**APPROVAL RECOMMENDED**

By   
Martin E. Andersen, PE  
Local Government Section Manager

Date 10-19-09

By   
State Traffic Engineer

Date 10/19/09

By   
Region 1 Manager

Date 6/17/09

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By   
Assistant Attorney General

Date 9/23/09

(NO SCALE)

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SE 82ND AVE

SE 71ST AVE

SE 72ND AVE

SE 69TH AVE

SE 65TH AVE

SE POWELL BLVD

SE 62ND AVE

SE 60TH AVE

SE 48RD AVE

SE 4ND AVE

SE 69TH AVE

SE 63RD AVE

SE 26TH AVE

SE 21ST AVE

SE POWELL BLVD

SE MILWAUKEE AVE

SE MCLOUGHLIN BLVD

SE GRAND AVE

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Project Study Area

LEGEND