

**Oregon Department of Transportation
LOCAL AGENCY CERTIFICATION PROGRAM
Supplemental Project Agreement No. 29636
*Twenties Bikeway: NE Lombard – SE Crystal Springs***

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," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Local Agency Certification Program Agreement No. 26586 incorporated herein and by this reference made a part hereof, State may enter into this Supplemental Project Agreement with City 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. NE Lombard Street (Northeast Portland Highway), the I-84 crossing structure (NE 28th Avenue) and SE Powell Boulevard are a part of the State highway system under the jurisdiction and control of the Oregon Transportation Commission. NE/SE 26th Avenue to NE/SE 32nd Avenue and its subsidiary streets/roads, and SE Crystal Springs Boulevard are a part of the city street system under the jurisdiction and control of City.
3. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic signal work on this Project will conform to the current State standards and specifications.

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, the Parties agree to City providing bike and pedestrian improvements along NE/SE 26th to 32nd Avenues from NE Lombard to SE Crystal Springs Boulevard, hereinafter referred to as "Project". The Project consists of bicycle lanes which will be added to the southern segment where right of way allows. In the northern segment, traffic calming improvements such as curb extensions and high intensity pedestrian activated crosswalk (HAWK) style signalization at arterial intersections will be added to improve safety. 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 \$2,338,000, 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. State Urban funds for this Project shall be limited to \$2,097,888. The Project will be financed with State Urban STP 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.
4. City shall make all payments for work performed on the Project, including all construction costs, and invoice State for one-hundred (100) percent of its costs. State shall reimburse City 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 City. State shall perform work in the estimated amount of \$20,000. State shall simultaneously invoice FHWA and City for State's Project costs, and City 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 City to make such payments to State may result in withholding of City's proportional allocation of State Highway Trust Funds until such costs are paid. City understands that State's costs are estimates only and agrees to reimburse State for the actual amount expended.
5. City shall design, advertise, bid, award the construction contract, and perform construction administration. City agrees to comply with all of the terms and conditions found in Certification Program Agreement No. 26586.
6. City shall coordinate the signalized crossing at SE 28th Avenue with the rest of the system on SE Powell Boulevard. The operation of the Powell Boulevard adaptive signal system, will favor vehicle progression during peak hours. The City shall install vehicle detection between 26th and 28th Avenues to detect westbound vehicle queues from 26th Avenue to be used in signal operations. ODOT shall approve signal timing at 26th and 28th Avenues. City shall submit in writing, in advance using ODOT Forms, any proposed modifications to signal timing at these intersections.
7. 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 City expense. State's Regional Local Agency Liaison or designee will provide City with a written notice to proceed when FHWA approval has been secured and funds are available for expenditure on this Project.
8. City 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. City 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 Oregon Administrative Rule (OAR) 734, Division 51. City 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.

9. 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.
10. Local Agency Certification Program Agreement No. 26586 was fully executed on September 6, 2012. This Agreement is subject to the terms and provisions of the Local Agency Certification Program Agreement.
11. This Agreement shall supersede and replace Agreement No. 29014 and its supplements in its entirety. Agreement No. 29014 is terminated upon execution of this Agreement. Bills for preliminary engineering work incurred prior to the replacement of Agreement No. 29014 can be invoiced by City and paid for by State under this Agreement.
12. If City fails to meet the requirements of this Agreement or the underlying federal regulations, State may withhold the City's proportional share of Highway Fund distribution necessary to reimburse State for costs incurred by such City breach.
13. State and/or its consultants shall, at Project's expense, conduct any Archeological, Biological, and Historical clearances required on the City's behalf.
14. City grants State the right to enter onto City's right of way for the performance of duties as set forth in this Agreement.
15. This Agreement may be terminated by mutual written consent of both Parties.
16. 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 provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If City 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 City 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.
- 17. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
- 18. City, as a recipient of federal funds, pursuant to this Agreement with State, shall assume sole liability for City's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon City'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 City, 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.
- 19. 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.
- 20. This Agreement and the Local Agency Certification Program (Certification Program) Agreement No. 26586, as amended and all 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 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.
- 21. State's Project Liaison for the Agreement is Reem Khaki, Local Agency Liaison, 123 NW Flanders Street, Portland, OR 97209, 503-731-8501, reem.d.khaki@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.
- 22. City's Project Liaison for this Agreement is Rich Newlands, Portland Bureau of Transportation, 1120 SW 5th Ave., Suite 800, Portland, OR 97204-1971, 503-823-7780, rich.newlands@portlandoregon.gov, or assigned designee upon individual's absence. City shall notify the other Party in writing of any contact information changes during the term of this Agreement.

City/State
Agreement No. 29636

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 2012-2015 Statewide Transportation Improvement Program, (Key #17267) that was adopted by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

CITY OF PORTLAND, acting by and through its elected officials

By _____
Commissioner-in-Charge

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**
APPROVED AS TO FORM

By _____
City Legal Counsel

Date _____ **CITY ATTORNEY** 3/13/15

City Contact:

Rich Newlands, Project Manager
Portland Bureau of Transportation
1120 SW 5th Ave., Suite 800
Portland, OR 97204-1971
(503) 823-7780
rich.newlands@portlandoregon.gov

State Contact:

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

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

By _____
Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____
State Traffic Engineer

Date _____

By _____
Certification Program Manager

Date _____

By _____
Region 1 Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____ 1/29/2015

May 2014

May 2014

20's Bikeway Project

This map illustrates the proposed 20's Bikeway Project in Portland, Oregon. The project area is highlighted in a light gray color, showing a route that runs north-south along NE Broadway and NE Sandy Blvd. The map includes a grid of streets, with major roads like NE Broadway, NE Sandy Blvd, NE Portland Hwy, and NE Killingsworth Rd clearly labeled. The project area is bounded by NE Broadway to the north and NE Sandy Blvd to the south. The map also shows the location of the Crystal Springs Blvd and NE Broadway intersection, and the NE Broadway and NE Sandy Blvd intersection. The map is dated May 2014.