

**Oregon Department of Transportation  
LOCAL AGENCY CERTIFICATION PROGRAM  
Supplemental Project Agreement No. 30517  
N/NE Columbia Blvd Traffic/Transit Signal Upgrade**

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

### RECITALS

1. By the authority granted in Local Agency Certification Program Agreement No. 30890 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.
2. The Pacific Highway (I-5) ramp terminals are a part of the State highway system under the jurisdiction and control of the Oregon Transportation Commission. The following identified Agency Streets are a part of the Agency's street system under the jurisdiction and control of Agency: a) NE Columbia Blvd at NE Martin Luther King Jr. Blvd; b) NE Columbia Blvd at N Vancouver Ave; c) N Columbia Blvd at NB I-5 Exit Ramp and SB I-5 Entrance Ramp; d) N Columbia Blvd at N Interstate Pl and N Argyle St; e) N Columbia Blvd at N Tyndall Ave; f) N Columbia Blvd at Peninsular Ave; g) N Columbia Blvd at Chautauqua Blvd; h) N Columbia Blvd at Portsmouth Ave; i) N Columbia Blvd at N Olympia Ave; j) N Columbia at Macrum Ave; k) N Columbia Blvd at Upland Dr.; l) N Columbia Blvd at Burgard Rd; m) N Marine Dr. at N Leadbetter Rd; n) N Marine Dr. at N Portland Rd; and o) N Marine Dr. at N Force Ave.

**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, Agency plans and proposes to improve the reliability and safety of the regional freight system and transit by reducing freight vehicle delay and transit delay, hereinafter referred to as "Project". The project consists of two Phases. Phase 1 shall be completed using State's Two Tier Consultant Selection Process to hire a consultant to (a) Identify and evaluate ITS alternatives, including an exploration of emerging data from private sector to determine whether there are new techniques that can be used to deliver freight and transit priority at signalized intersections (b) Managing uncertainty and risk for ITS, (c) Design quality ITS, and (d) Handle ITS program management issues. Phase 2 is project implementation which includes design, advertising, bid and award construction contract administration. Phase 2 will construct and implement ITS infrastructure along N/NE Columbia Boulevard. The project will install electronic message signs, CCTV cameras, traffic monitoring stations, fiber communications, and integrate these devices with the Agency's, ODOT's and Tri-Met's Transportation Operations Centers. The location of the Project is

shown on the sketch map attached hereto, marked "Exhibit A – Project Location Map" and by this reference made a part hereof.

2. The total estimated cost of the Project is \$557,227.00 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. STP Urban (STP-U) funds for this Project shall be estimated at \$500,000.00. The Project will be financed with STP-U funds at the maximum allowable federal participating amount, with Agency providing the match and any non-participating costs, including all costs in excess of the available federal funds.
4. If State performs work throughout the duration of the Project, State will provide a preliminary estimate of State costs for said work to Agency. Prior to the start of each Project phase State will provide an updated estimate of State costs from that phase to Agency. Such phases generally consist of Preliminary Engineering, Right of Way, Utility, and Construction. Agency understands that State's costs are estimates only and agrees to reimburse State for actual cost incurred per the Terms of this Agreement.
5. 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. Failure of Agency to make such payments to State may result in withholding of Agency's proportional allocation of State Highway Trust Funds until such costs are paid. Agency understands that State's costs are estimates only and agrees to reimburse State for the actual amount expended.
6. Information required by [2 CFR 200.331\(a\)](#), except for (xiii) Indirect cost rate, 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.
  - a. The indirect cost rate for this project at the time the agreement is written is 79.27% and may change upon notice to State and State's subsequent written approval. Agency may have other indirect cost rates for departments and or disciplines that have been approved for use by its cognizant agency and State and these rates may be used on the Project, as applicable.
7. Agency shall design (excluding bridge design), advertise, bid, award the construction contract, and perform construction administration. Agency to comply with all of the terms and conditions found in Certification Program Agreement No. 30890.
8. State will submit the requests for federal funding to FHWA. 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.

9. State considers Agency a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is [20.205](#), Highway Planning and Construction.
10. The summary of Phase 1 and Phase 2 is attached hereto, marked "Exhibit B – Phase 1 and Phase 2 Summaries" and by this reference made a part hereof.
11. Guidelines are currently in the process of being developed in order to comply with Federal funding regulations for ITS related projects. Both Parties agree that a follow up amendment may be necessary in order to comply with Federal standards and regulations.
12. Local Agency Certification Program Agreement No. 30890 was fully executed on September 18, 2015. This Agreement is subject to the terms and provisions of the Local Agency Certification Program Agreement.
13. 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.
14. Agency shall contact the State's District 2C 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 road approach permits from the State District Office 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.
15. 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.
16. Agency, or its contractor's, electrical inspectors shall possess a current State Certified Traffic Signal Inspector certificate, in order to inspect electrical installations on State highways. The State District Permitting Office shall verify compliance with this requirement prior to construction. The permit fee should also cover the State electrician's supplemental inspection.
17. State shall, at project expense, perform the signal equipment environmental testing. State Signal Technicians shall, at project expense, perform the signal field testing, and turn-on Traffic signal timing shall be the responsibility of State, unless there is an agreement that specifically allows Agency to perform that function. 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 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 Agency 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*.

18. 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.
- 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, subcontractors, or agents under the resulting contract.
- c. Commercial General Liability. Contractor shall obtain, at contractor's expense, and keep in effect during the term of the resulting 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 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 one million dollars (\$1,000,000) for each job site or location. Each annual aggregate limit shall not be less than two million dollars (\$2,000,000).
- d. Automobile Liability. Contractor shall obtain, at contractor's expense, and keep in effect during the term of the resulting 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 one million dollars (\$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 resulting 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 the resulting 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 the resulting contract and shall be grounds for immediate termination of the resulting contract and this Agreement.
- g. Agency shall require its contractor(s) and subcontractor(s) as appropriate to acquire construction and performance bonding covering public interest. Where project

construction affects State property, State will be included as either a dual obligee or a named additional obligee under the performance bond. Proof of said bonding will be provided to State's Regional Local Agency Liaison 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 Agency's proportional share of Highway Trust Fund distribution necessary to reimburse State for those costs.

19. Traffic signal, illumination poles and foundations installed on state highways shall conform to State's standards, pursuant to State's Traffic Structures Design Manual and Geotechnical Design Manual.
20. Agency shall be responsible for any behind the curb improvements including areas located within highway right of way except as provided in a Supplemental Project Agreement. Such improvements shall be maintained at the same level as are similar facilities owned by State. Agency may require the adjacent property owners to fund or perform maintenance of the behind the curb improvements. Agency shall remain responsible for compliance with the terms of this Agreement, and for the performance of such work, even when maintenance is performed by Agency contractors or property owners, or if right of way behind the curb is partly or entirely on state right of way.
21. Agency shall be responsible for the cost of decorative embellishment on any signal or separate illumination poles and shall be responsible for any decorative embellishment maintenance on such poles upon completion of Agency projects. Any decorative lighting shall be the responsibility of Agency for both power costs and maintenance. Such illumination shall be served by a separate system from the signal system. Any such additional illumination on the highway must be reviewed by the office of the State Traffic Engineer. State District Office shall coordinate all such reviews. Decorative poles and foundations installed on state highways must conform to State's standards, pursuant to Technical Bulletin TR07-06(B).
22. 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.
23. This Agreement may be terminated by mutual written consent of both Parties.
24. 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.

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- 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.
25. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
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, 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](#), caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Agency's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of State, be indemnified by the contractor and subcontractor from and against any and all Claims.
27. Any such indemnification shall also provide that neither Agency's contractor and subcontractor nor any attorney engaged by Agency's contractor and subcontractor shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at any time at its election assume its own defense and settlement in the event that it determines that Agency's contractor is prohibited from defending the State of Oregon, or that Agency's contractor is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against Agency's contractor if the State of Oregon elects to assume its own defense.
28. 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.
29. State and Agency hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain

the particular term or provision held to be invalid. Agency certifies and represents that the individual(s) signing this Agreement have (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.

30. 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.
31. This Agreement and the Local Agency Certification Program (Certification Program) Agreement No. 30890, 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.
32. State's Project Liaison for the Agreement is Bret Richards, Local Agency Liaison, 123 NW Flanders St., Portland, OR 97209, (503) 731-8288, [bret.n.richards@odot.state.or.us](mailto:bret.n.richards@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.
33. Agency's Project Liaison for this Agreement is Willie Rotich, ITS Engineer, 1120 SW 5<sup>th</sup> Avenue, Rm. 800, Portland, OR 97204, (503) 823-7679, [willie.rotich@portlandoregon.gov](mailto:willie.rotich@portlandoregon.gov), or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

**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 #18308) that was adopted by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

**SIGNATURE PAGE TO FOLLOW**

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

By \_\_\_\_\_  
Commissioner-in-charge

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By \_\_\_\_\_  
Agency Legal Counsel

Date \_\_\_\_\_  
CITY ATTORNEY 12/8/15

**Agency Contact:**  
Willie Rotich, ITS Engineer  
1120 SW 5<sup>th</sup> Avenue, Rm. 800  
Portland, OR 97209  
(503) 823-7679  
[willie.rotich@portlandoregon.gov](mailto:willie.rotich@portlandoregon.gov)

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

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

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

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

Date \_\_\_\_\_

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

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

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

Date \_\_\_\_\_

**State Contact:**  
Bret Richards, Local Agency Liaison  
123 NW Flanders St.  
Portland, OR 97209  
(503) 731-8288  
[bret.n.richards@odot.state.or.us](mailto:bret.n.richards@odot.state.or.us)



## EXHIBIT B

### Project Description

#### Phase 1:

Agency shall hire a consultant using the State's Tier 2 Consultant Selection process. ITS projects are required to follow 23 CFR Parts 655 & 940 and a process defined by the Federal Highway Administration (FHWA) at [http://ops.fhwa.dot.gov/int\\_its\\_deployment/sys\\_eng.htm](http://ops.fhwa.dot.gov/int_its_deployment/sys_eng.htm) which includes but not limited to: (a) Identifying and evaluating ITS alternatives, Exploration of emerging data from private sector to determine whether there are new techniques that can be used to better accommodate freight and transit movement at signalized intersections. (b) Managing uncertainty and risk for ITS. (c) Designing quality ITS, and (d) Handling ITS program management issues.

#### Phase 2:

Phase 2 is project implementation which includes design, advertising, bid and award construction contract administration.

The proposed project will construct and implement ITS infrastructure along N/NE Columbia Blvd. The project will install electronic message signs, CCTV cameras, traffic monitoring stations, fiber communications, and integrate these devices with the Agency's, ODOT's and Tri-Met's Transportation Operations Centers.

The following is a proposed list of ITS items and locations.

#### CCTV Locations:

1. Columbia at 41st
2. Columbia at MLK
3. Columbia at Vancouver
4. Columbia at Argyle
5. Columbia at I-5 Ramps
6. Columbia at Peninsular
7. Columbia at Macrum
8. Columbia at Chautauqua
9. Columbia/Lombard at Burgard

#### Bluetooth Locations:

1. Portland at Columbia
2. MLK at Columbia
3. 33rd at Columbia
4. NE Columbia at Lombard
5. Columbia/Lombard at Burgard

Truck Priority:

1. Columbia at Macrum
2. Columbia at I-5
3. Columbia at 41st

System Loops and Bike detectors:

1. Columbia at Chautauqua
2. Columbia/Lombard at Burgard
3. Columbia at 41st
4. Columbia at MLK

Traffic Controllers to be updated at the following locations:

1. Columbia/Lombard at Burgard
2. Columbia at Macrum
3. Columbia at Portland Ramp
4. Columbia/Columbia Way at Portland
5. Columbia at Portsmouth
6. Columbia at Chautauqua
7. Columbia at Peninsular
8. Columbia at Tyndall/Argyle
9. Columbia at Intestate Place
10. Columbia at I-5 Ramp
11. Columbia at Vancouver
12. Columbia at MLK