

RESOLUTION NO. 2270

A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE MAYOR TO SIGN COOPERATIVE IMPROVEMENT AGREEMENT No. 24,958 BY AND BETWEEN THE CITY AND THE STATE OF OREGON, ACTING THROUGH ITS DEPARTMENT OF TRANSPORTATION (ODOT), FOR CONSTRUCTION OF THE IMPROVEMENTS ENTITLED: 95TH AT BOONES FERRY ROAD SIGNAL IMPROVEMENTS (CAPITAL IMPROVEMENT PROJECT #4041).

WHEREAS, Resolution No. 2242 approved the Fiscal Year 2010-11 budget for the City of Wilsonville; and

WHEREAS, the 95th at Boones Ferry Road (Project #4041) is an approved capital projects within the Fiscal Year 2010-11 budget; and

WHEREAS, the City of Wilsonville is required to enter into Intergovernmental Agreements with the Oregon Department of Transportation (ODOT) to receive a permit to construct improvement within ODOT's right of way; and

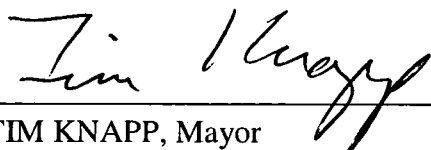
WHEREAS, the City of Wilsonville is authorized to enter into intergovernmental agreements (IGA) with ODOT pursuant to ORS 190.110, 366.572, and 366.576; and

WHEREAS, the IGA has a four year building window and the City has the necessary system development funds for construction of the improvements and entering into this Agreement will allow the City of Wilsonville to move forward with construction of this project.

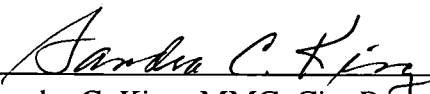
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The above recitals are incorporated herein as findings and conclusions of the City Council.
2. The City Council does hereby approve and authorize the Mayor to sign Intergovernmental Agreement No. 24,958 to construct improvement for the project known as 95th at Boones Ferry Road Signal Improvements (Capital Improvement Project #4041), by and between the City of Wilsonville and the State of Oregon, acting by and through its Department of Transportation. A copy of Local Agency Agreement No. 24,958, marked Exhibit "A" is attached hereto and incorporated herein.
3. This Resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 7th day of February, 2011, and filed with the Wilsonville City Recorder this date.


TIM KNAPP, Mayor

ATTEST:


Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	Yes
Councilor Núñez	Yes
Councilor Hurst	Yes
Councilor Goddard	Yes
Councilor Starr	Yes

List of Exhibits

Exhibit A – Local Agency Agreement No. 24,958

AGREEMENT SUMMARY

DATE: June 4, 2010

WRITTEN BY: Devorah Hannah

AGREEMENT No.: 24,958

PARTIES TO THE AGREEMENT: City of Wilsonville and ODOT

PROJECT: I-5: 95th at Boones Ferry Road Signal Improvements

AGREEMENT TYPE: Cooperative Improvement Agreement

FUNDING SOURCE: City

RESPONSIBLE ODOT PARTY: Sam Hunaidi

SUMMARY: The Parties to the agreement agree to City improvements to the signalized intersection of BFR and 95th Avenue/Commerce Circle and to the roadway on BFR approaching the I-5 interchange ramps, approximately from mile point (M.P.) 12.610 to M.P. 12.725 to improve and enhance safety and capacity in the intersection area. The Project shall be constructed by CITY or its contractors. The Project consists of improvements to the signalized intersection of BFR and SW 95th Avenue including widening, addition of turn lanes, improvements to the existing traffic signal, roadway drainage, pedestrian walkways and bikeway, and landscaping. It also concludes a relinquishment of R/W from ODOT to the City that should have been completed with an ODOT Project in 1995.

REGION UNITS IMPACTED BY AGREEMENT:

UNIT	IMPACT	REVIEWED BY
R/W	Review and relinquishment	Darlene Rose and Wayne Kwong
District 2A	Review	Steve Schalk & Sam Hunaidi
Traffic	Review	Merle Hill

REVIEWED AND APPROVED BY CONTRACTS AND AGREEMENTS UNIT:

Michelle L. Smith

**COOPERATIVE IMPROVEMENT AGREEMENT
I-5: 95th at Boones Ferry Road Signal Improvements**

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 "ODOT"; and the City of Wilsonville, 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. I-5, Pacific Highway, and the Beaverton-Tualatin Highway, also designated as Boones Ferry Road (BFR) within the jurisdiction of CITY, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). SW 95th Avenue and SW Commerce Circle are part of the city street system under the jurisdiction and control of CITY.
2. By the authority granted in ORS 190.110, 366.572 and 366.576, ODOT may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. By the authority granted in ORS 810.210, ODOT 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 ODOT 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 ODOT, except with its written approval. Traffic signal work on this Project will conform to the current ODOT standards and specifications.
4. By the authority granted in ORS 366.425, ODOT 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 ODOT. When said money or a letter of credit is deposited, ODOT shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.
5. In April of 1995, ODOT constructed a project called "Boones Ferry Rd. - Commerce Circle (Wilsonville) Section". As part of that project, ODOT acquired right of way for improvements to SW 95th Avenue and SW Commerce Circle. Both SW 95th Avenue and SW Commerce Circle currently function as part of the CITY's street system and it was the intention of ODOT, upon completion of the 1995 project, to relinquish the constructed portions and associated rights of way, including agreed upon easements, of SW 95th Avenue and SW Commerce Circle to CITY's jurisdiction and control. It has been found, however, that this relinquishment did not occur. ODOT is currently in the process of rectifying the oversight by relinquishment of said right of way to CITY for use in its street system.

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, ODOT and CITY agree to improvements to the signalized intersection of BFR and 95th Avenue/Commerce Circle, hereinafter referred to as "95th Avenue" and to the roadway improvements on BFR approaching the I-5 interchange ramps, approximately from mile point (M.P.) 12.610 to M.P. 12.725 to improve and enhance safety and capacity in the intersection area, hereinafter referred to as "Project". The Project shall be constructed by CITY or its contractors. The Project consists of improvements to the signalized intersection of BFR and SW 95th Avenue including widening, addition of turn lanes, improvements to the existing traffic signal, roadway drainage, pedestrian walkways and bikeway, and landscaping. 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.
2. The Project will be financed at an estimated cost of \$1,700,000 in CITY funds. The estimate for the total Project cost is subject to change. CITY shall be responsible for any Project costs beyond the estimate.
3. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance and power responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed within four calendar years following the date of final execution of this Agreement by both Parties.

CITY OBLIGATIONS

1. This Agreement is conditioned upon CITY obtaining a permit to "Occupy or Perform Operations upon a State Highway" from the assigned ODOT District 2A Project Manager as well as any required land use permits, building permits, and engineering design review approval. CITY agrees to comply with all provisions of said permits, and shall require its developers, contractors, subcontractors, or consultants performing such work to comply with such provisions.
2. Unless otherwise set forth herein or as the Parties may otherwise mutually agree upon in this Agreement or amendments to this Agreement, CITY shall be responsible for all costs associated with construction and installation of the Project.
3. CITY or its consultant, shall conduct the necessary field surveys, environmental studies, traffic investigations, preliminary engineering and design work required to produce and provide final plans, specifications and cost estimates for the Project; identify and obtain all required permits; perform all construction engineering; prepare all bid and contract documents; advertise for construction bid proposals; award all contracts; pay all contractor costs, provide project management services and other necessary functions for sole administration of the construction contract entered into for this Project.
4. City, or its consultant's, electrical inspectors shall possess a current State Certified Traffic Signal

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Inspector certificate, in order to inspect electrical installations on state highways. The ODOT District Permitting Office shall verify compliance with this requirement prior to construction.

5. CITY shall, prior to its advertisement for construction bid proposals, provide the Project preliminary and final plans and specifications to ODOT's District 2A Project Manager for review and written concurrence. The plans must be approved by ODOT Office of the State Traffic Engineer. ODOT District 2A Project Manager shall coordinate all such review.
6. CITY has provided an advance deposit in the amount of \$15,000 to ODOT. The advance deposit is for plan review, technical services, inspections and signal turn-on, as further described in ODOT Obligations, Paragraphs 4, 5 and 6. CITY agrees to make additional deposits as needed upon request from ODOT.
7. Upon completion of the Project and receipt from ODOT of an itemized statement of the actual total cost of ODOT's participation for the Project, CITY shall pay any amount which, when added to CITY's advance deposit, will equal 100 percent of actual total ODOT costs incurred for the Project. Any portion of said advance deposit which is in excess of ODOT's total costs will be refunded or released to CITY.
8. CITY agrees to recognize ODOT access control and management within the influence area of the I-5 interchanges pursuant to the ODOT OAR 734-51 Access Management Spacing Standards, unless proposed changes are agreed to by ODOT under the provisions of OAR 734-51.
9. CITY shall cause to be relocated or reconstructed, all privately or publicly owned utility conduits, lines, poles, mains, pipes, and all other such facilities of every kind and nature where such relocation or reconstruction is made necessary by the plans of the Project in order to ensure the utilities and other facilities conform with the plans and the ultimate requirements of Project. Relocation or reconstruction shall not include pre-existing private facilities unaffected by the proposed improvements. All utility relocations shall be at the sole expense of CITY.
10. Any Project utility installations or relocations located in CITY right of way shall be accessible to ODOT at all times for maintenance purposes. Removal or demolition of CITY owned improvements as a result of work done by ODOT, after Project completion, shall be replaced by ODOT, at its expense, to CITY standards. CITY shall grant a Public Works permit to ODOT, without fees, for said maintenance or improvements, once all required contractor licenses, bonds and insurance meeting CITY requirements are provided and approved.
11. CITY agrees that all right of way activities on Project will be in compliance with Public Law 91-646, the Uniform Relocation and Assistance & Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the ODOT Right of Way Manual. In the event the Project requires any right of way acquisition be performed by ODOT or if federal funds are involved in acquisition, or if oversight of right of way acquisition by ODOT is required, or if

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acquisition of right of way will impact an ODOT facility, CITY shall advise ODOT and a right of way services agreement shall be created by ODOT's Region 1 Right of Way office setting forth the responsibilities and activities to be accomplished by each Party. CITY agrees to contact and coordinate with ODOT's Region 1 Right of Way Manager on all right of way activities.

12. All employers, including CITY, 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. CITY shall ensure that each of its subcontractors complies with these requirements.
13. CITY, and any contractors, shall perform the work as an independent contractor and will be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
14. CITY acknowledges and agrees that ODOT, 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 CITY 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 (or completion of Project -- if applicable.) Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.
15. CITY 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 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, CITY 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.
16. CITY shall construct the Project in accordance with the requirements of ORS 276.071 including the public contracting laws within ORS Chapters 279A, 279B and 279C.
17. If CITY chooses to assign its contracting responsibilities to a consultant or contractor, CITY shall inform the consultant or contractor of the requirements of ORS 276.071, to ensure that the public contracting laws within ORS Chapters 279A, 279B and 279C are followed.
18. The Special Provisions for the construction contract work for this Project shall include the following stipulations:
 - a. Contractor shall name ODOT and CITY as third party beneficiaries of the resulting

contract.

- b. Contractor shall indemnify, defend and hold harmless CITY and ODOT 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 ODOT and CITY. 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 \$ 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 ODOT and CITY 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 ODOT and CITY. 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.
19. CITY shall lay out and paint the necessary pavement markings, and erect the required directional and traffic control signing for the Project.
20. CITY shall be responsible for 100 percent of the electrical energy costs for the Project traffic signals and attached illumination. CITY shall request that the power company shall send power bills directly to CITY.

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21. CITY shall install video detection equipment for the signal, for phase 4 only, at the intersection of BFR and 95th Avenue. CITY shall be responsible for all maintenance, operation and electrical costs for the video detection equipment. CITY shall request that the power company send power bills directly to CITY.
22. CITY shall, upon completion of the Project and at its own expense, maintain the pavement surrounding the vehicle detector loops installed in city streets in such a manner as to provide adequate protection for said detector loops. Failure to do so may result in ODOT requiring CITY to repair or replace the damaged pavement and loops at CITY expense. Future CITY roadwork activities involving the detector loops may also result in the same ODOT requirements. CITY shall also adequately maintain the pavement markings and signing installed in city streets in accordance with current ODOT standards.
23. CITY shall be responsible for a two year establishment period for relocated or replacement landscape plantings for the Project.
24. CITY shall, upon successful completion of each portion of Project and acceptance of each portion of the Project by ODOT, relinquish to ODOT all physical improvements made as part of the Project which are within ODOT jurisdictional limits. After the expiration of the contractor's warranty period, CITY will turn over to ODOT and ODOT will accept all maintenance responsibility for improvements made within the limits of ODOT jurisdiction. Design drawings, manufacturer or contractor's warranties, guarantees, operation manuals or similar items necessary to operate or maintain the physical improvements shall be provided to ODOT at the time of relinquishment.
25. CITY is responsible for and ensures that all survey monuments recorded with a county and within or adjacent to the highway right of way shall be preserved in accordance with ORS 209.140 and 209.150. Any such monumentation that is damaged or removed during the course of the Project by CITY, its contractor or consultant, must be replaced in compliance with ORS Chapter 209 stipulations, the ODOT Right of Way Monumentation Policy and at CITY's own expense. Damage or removal caused by the direct actions of ODOT, its contractors or consultants in the course of the Project shall be replaced at ODOT expense.
26. Unless caused by the direct actions of ODOT in the course of the Project, CITY is responsible, at its own expense, for replacement of any additional state or federal government survey marks or other monumentation not recorded with a county that may be damaged or removed during the course of the Project. In the event of such replacement, CITY shall contact ODOT's Geometrics Unit for replacement procedures. ODOT shall provide locations of such additional survey marks or other monumentation, known to ODOT but not recorded with a county, on the Project plans during plan review and prior to drafting of final construction plans. However, CITY, its contractors and consultants shall have final responsibility to locate and preserve all survey marks and monumentation within the Project area.
27. If additional right of way must be acquired for state highway purposes as a result of the Project,

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this Agreement will be amended to address who acquires such right of way, under what conditions and who pays for the costs of the right of way acquisition.

28. 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.
29. CITY certifies, at the time this Agreement is executed, that sufficient funds are available for the Project and are subject to annual appropriation under local budget law in accordance with applicable Oregon Revised Statutes and authorized for expenditure to finance costs of this Agreement within CITY's current appropriation or limitation of current annual budget.
30. Upon completion of the Project, CITY shall submit three (3) sets of "As Constructed" drawings to Sam Hunaidi at the ODOT District 2A Maintenance Office. One set shall be half size 11"x17" mylars, the remaining sets shall be half size (11"x 17") prints.
31. CITY's Project Manager for this Project is Gerald Fisher, PE, Capital Projects, City of Wilsonville, 29799 SW Town Center Loop East, Wilsonville, OR 97070, Phone 503-570-1546, or assigned designee upon individuals absence. ODOT's Project Manager shall be notified in writing of any contact information changes during the term of this Agreement.

ODOT OBLIGATIONS

1. ODOT hereby grants CITY or its contractor(s), the right to enter onto and occupy ODOT right of way upon issuance of ODOT required permits, for the performance of necessary preliminary engineering, construction, and maintenance of the Project.
2. ODOT shall, upon execution of this Agreement, forward to CITY a letter of request for any additional deposit or irrevocable letter of credit in excess of the existing \$15,000 already provided to ODOT. Said advance deposit is for plan review, technical services, inspections and signal turn-on as further described in ODOT Obligations, Paragraphs 4, 5 and 6. CITY agrees to make additional deposits as needed upon request from ODOT.
3. Upon completion of the Project, and the receipt from ODOT of an itemized statement of the actual total cost of ODOT's participation for the Project, ODOT shall either send CITY a bill for the amount which, when added to CITY's advance deposit, will equal 100 percent of the total costs incurred by ODOT or ODOT will refund to CITY any portion of said advance deposit which is in excess of the total ODOT costs for Project.
4. ODOT's District 2A Manager shall, at Project expense, assign a Project Manager for plan review; technical inspection to ensure ODOT standards are met, and to monitor and inspect the traffic signal and roadway work performed by CITY, or its contractors, within the boundaries of the ODOT right of way. ODOT's Project Manager shall provide general oversight of such roadwork, but CITY or its contractors shall perform all roadwork and contractor coordination.

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5. ODOT's District 2A Project Manager shall, at Project expense, issue the required permits, and coordinate the review and concurrence with the Project plans and specifications, conduct signal inspections, illumination testing inspections, signal turn-on and any additional technical expertise needed to complete the Project. ODOT must review and concur with the plans before the Project is advertised for a construction contract or before construction begins.
6. At Project expense, ODOT's Traffic Signal Services Unit shall perform the signal equipment environmental testing and ODOT's Region 1 Electrical Crew shall perform field testing and turn-on in accordance with the current ODOT procedures.
7. ODOT shall compile accurate cost accounting records. CITY may request a statement of costs to date at any time by submitting a written request.
8. Upon completion of the Project and satisfactory signal turn on, ODOT shall retain ownership and complete jurisdiction and control of the roadway improvements installed within ODOT right of way limits on BFR.
9. ODOT shall be responsible for the cost and performance of all maintenance for the traffic signals installed as part of Project.
10. ODOT shall maintain the asphaltic concrete pavement surrounding the vehicle detector loops installed in BFR in such a manner as to provide adequate protection for said detector loops.
11. Traffic signal timing for signals on or impacting the state highway shall remain the responsibility of ODOT.
12. ODOT shall retain all utility and access permit-issuing authority within the limits of the state highway.
13. ODOT's Project Manager for this Project is Sam Hunaidi, 6000 SW Raab Rd, Portland, OR 97221; phone: 503-229 5002, or assigned designee upon individuals absence. CITY'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. ODOT may terminate this Agreement effective upon delivery of written notice to CITY, or at such later date as may be established by ODOT, 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

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accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within ten (10) days or such longer period as ODOT may authorize.

- c. If CITY fails to provide payment of its share of the cost of the Project.
 - d. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, 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 ODOT is prohibited from paying for such work from the planned funding source.
3. CITY may terminate this Agreement effective upon delivery of written notice to ODOT, or at such later date as may be established by CITY, under any of the following conditions:
- a. If ODOT fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If ODOT 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 City fails to correct such failures within ten (10) days or such longer period as City may authorize.
4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
5. The Parties may mutually agree to amend the terms of this Agreement throughout the life of the Project or twenty years, whichever comes first.
6. 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'.
7. 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 it's

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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.

8. If CITY fails to maintain facilities in accordance with the terms of this Agreement, ODOT, at its option, may maintain the facility and bill CITY, seek an injunction to enforce the duties and obligations of this Agreement or take any other action allowed by law.
9. 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.
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 ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that its signing representatives 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.

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, to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission, or in a line item in the biennial budget approved by the Director.

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CITY OF WILSONVILLE, by and through
elected officials

By _____
Mayor

Date _____

By _____
Recorder

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
CITY Counsel

Date _____

STATE OF OREGON, by and through
its Department of Transportation

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
Technical Services Manager/Chief Engineer

Date _____

By _____
Region 1 Manager

Date _____

By _____
State Traffic Engineer

Date _____

By _____
District 2A Manager

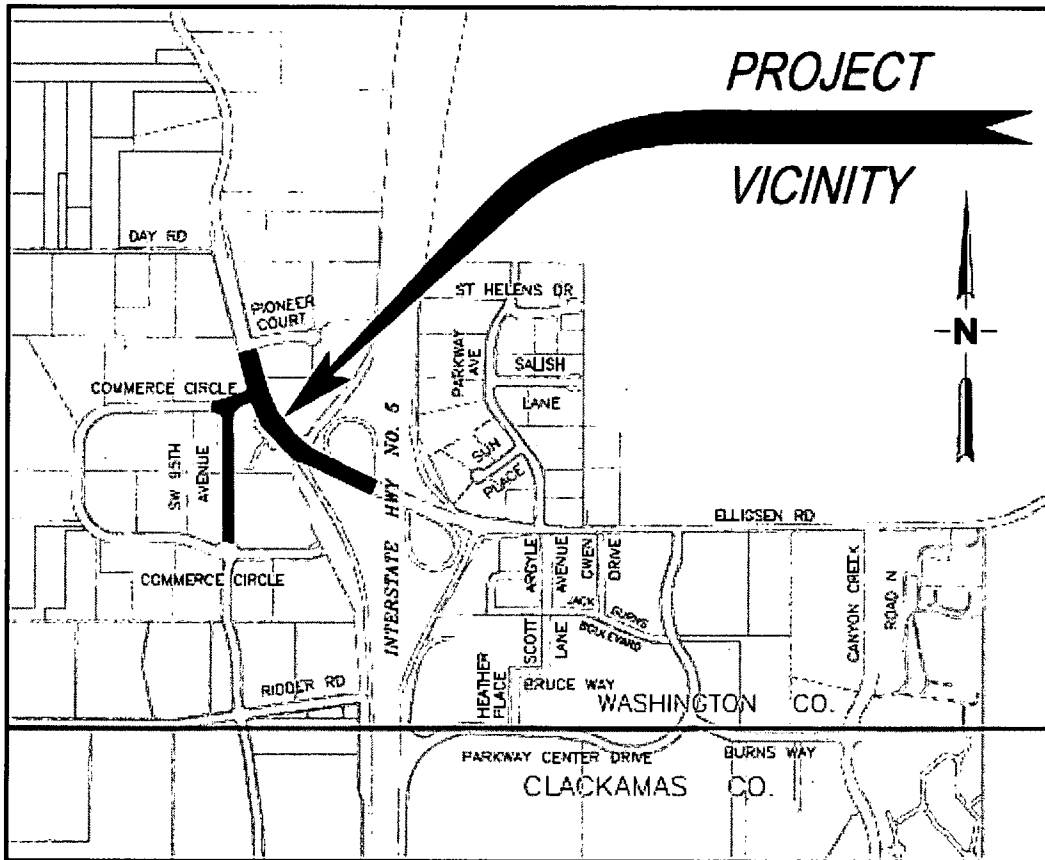
Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____
Assistant Attorney General

Date: _____

EXHIBIT A – PROJECT LOCATION MAP
M. C. & A. No. 24,958
I-5: 95th at Boones Ferry Road Signal Improvements



VICINITY MAP
NO SCALE

EXHIBIT A – PROJECT LOCATION MAP
M. C. & A. No. 24,958
I-5: 95th at Boones Ferry Road Signal Improvements

