

INTERGOVERNMENTAL AGREEMENT
US 20/Oregon Route 228 Region 2 ADA Curb Ramps (Sweet Home)
City of Sweet Home

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 SWEET HOME, 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 Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. US 20 and Oregon Route 228 (OR 228) are part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC).
3. State, by ORS [366.220](#), is vested with complete jurisdiction and control over the roadways of other jurisdictions taken for state highway purposes. By the authority granted by ORS 373.020, the jurisdiction extends from curb to curb, or, if there is no regular established curb, then control extends over such portion of the right of way as may be utilized by State for highway purposes. Responsibility for and jurisdiction over all other portions of a city street remains with the Agency.
4. 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.
5. Traffic control devices that are a part of the Project will conform to current State standards and specifications, including but not limited to the Manual on Uniform Traffic Control Devices (MUTCD).

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 to State shall design and construct Americans with Disabilities Act (ADA) compliant ramp improvements at various locations along US 20 and OR 228, hereinafter referred to as "Project." The Project

includes improvement and replacement of existing ADA ramps to meet current guidelines at locations within the limits on the map marked Exhibit A, and specifically at the locations listed on the table marked Exhibit A, Pages 2 and 3, all by this reference made a part hereof.

2. The Project will be financed at an estimated cost of \$7,393,000.00 in state and federal funds. The estimate for the total Project cost is subject to change. State shall be responsible for any nonparticipating costs, and Project costs beyond the estimate. State and Agency understand any additional funding identified for the Project will require an amendment to this Agreement.
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 if applicable) 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 two (2) calendar years following the date of final execution of this Agreement by both Parties.

AGENCY OBLIGATIONS

1. Agency grants State the right to enter onto Agency's right of way for the performance of duties as set forth in this Agreement.
2. Agency shall contact State's District 4 Permits Office seven (7) working days prior to the commencement of construction or maintenance activities that impact travel lanes of US 20 and OR 228. No lane restrictions, including the bicycle lane, are permitted unless prior approval from State's District 4 Manager, or designee, is provided and as follows:
 - a. No lane restrictions including reduction of travel or bicycle lanes between the hours of 6:00 AM to 9:00 AM and 4:00 PM to 7:00 PM Monday through Friday. No closures on state recognized holidays.

Any deviations from lane restrictions must be requested and approved by State's District 4 Manager. More restrictions to work times may be added if State observes traffic congestion or conditions warrant a change.

3. Agency shall be responsible for and agrees to maintain the Rectangular Rapid Flashing Beacons (RRFBs), median island, signs, pavement markings, and push buttons with its own forces and at its own expense.
4. Agency shall be responsible for 100 percent of power costs associated with the RRFBs installed as a part of this Project. Agency shall require the power company to send invoices directly to Agency.
5. Agency agrees to State acquiring all right of way needed for construction of the Project. Agency shall, upon Project completion, accept jurisdiction and control over Project elements constructed within Agency right of way.

6. Agency, by execution of this Agreement, gives its consent as required by ORS 373.030(2) and ORS 105.760 to any and all changes of grade within Agency limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any, arising out of the Project covered by the Agreement.
7. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
8. Agency's Project Manager for this Project is Ray Towry, City Manager, City of Sweet Home, 3225 Main Street, Sweet Home, Oregon, 97386; telephone: (541) 367-8969; email: rtowry@sweethome-or.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.

STATE OBLIGATIONS

1. State shall construct ADA compliant ramp improvements at various locations along US 20 and OR 228 as shown in Exhibit A, and listed in Exhibit A, Pages 2 and 3.
2. State 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, including all required materials testing and quality documentation; prepare all bid and contract documents; advertise for construction bid proposals; award all contracts; pay all contractor costs, provide technical inspection, project management services and other necessary functions for sole administration of the construction contract entered into for this Project.
3. State shall be responsible for the costs associated with construction and installation of the Project identified in the Statewide Transportation Improvement Program, as shown in Terms of Agreement, Paragraph 2. Should additional funds become available, State and Agency understand an amendment to this Agreement will be necessary.
4. State shall conduct all right of way activities in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35, Federal-Aid Policy Guide, Code of Federal Regulations (CFR) and the ODOT Right of Way Manual, and Title 23 CFR Part 710 and Title 49 CFR Part 24.
5. Upon Project completion, State shall transfer to Agency any ownership interests State may have obtained along Agency's facilities. The method of conveyance will

be determined by the Parties at the time of transfer and will be coordinated by the State's Region 2 Right of Way Manager.

6. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
7. State's Project Manager for this Project is Brennan Burbank, Resident Engineer for Consultant Projects, 455 Airport Road SE, Building B, Salem, Oregon 97301; telephone: (971) 701-3342; email: Brennan.burbank@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.

GENERAL PROVISIONS

1. Americans with Disabilities Act Compliance:

- a. When the Project scope includes work on sidewalks, curb ramps, or pedestrian-activated signals or triggers an obligation to address curb ramps or pedestrian signals, the Parties shall:
 - i. Utilize ODOT standards to assess and ensure Project compliance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended (together, "ADA"), including ensuring that all sidewalks, curb ramps, and pedestrian-activated signals meet current ODOT Highway Design Manual standards;
 - ii. Follow ODOT's processes for design, construction, or alteration of sidewalks, curb ramps, and pedestrian-activated signals, including using the ODOT Highway Design Manual, ODOT Design Exception process, ODOT Standard Drawings, ODOT Construction Specifications, providing a temporary pedestrian accessible route plan and current ODOT Curb Ramp Inspection form;
 - iii. At Project completion, send a completed ODOT Curb Ramp Inspection Form 734-5020 to the address on the form as well as to State's Project Manager for each curb ramp constructed or altered as part of the Project. The completed form is the documentation required to show that each curb ramp meets ODOT standards and is ADA compliant. ODOT's fillable Curb Ramp Inspection Form and instructions are available at the following address:
<https://www.oregon.gov/ODOT/Engineering/Pages/Accessibility.aspx>
- b. Agency shall ensure that any portions of the Project under Agency's maintenance jurisdiction are maintained in compliance with the ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:

- i. Pedestrian access is maintained as required by the ADA,
 - ii. Any complaints received by Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety or access issues are promptly evaluated and addressed,
 - iii. Agency, or abutting property owner, pursuant to local code provisions, performs any repair or removal of obstructions needed to maintain the facility in compliance with the ADA requirements that were in effect at the time the facility was constructed or altered,
 - iv. Any future alteration work on Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - v. Applicable permitting and regulatory actions are consistent with ADA requirements.
 - c. Maintenance obligations in this section shall survive termination of this Agreement.
2. This Agreement may be terminated by mutual written consent of both Parties.
3. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
4. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

5. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
6. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
7. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
8. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

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 State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision. Notwithstanding this provision, the Parties may enter into a Right of Way Services Agreement in furtherance of the Project.

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.

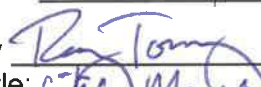
This Project is in the 2021-2024 Statewide Transportation Improvement Program (STIP), (Key #22391) that was adopted by the Oregon Transportation Commission on July 15, 2020 (or subsequently by amendment to the STIP).

Signature Page Follows

CITY OF SWEET HOME, by and through
its elected officials


By 
Title: _____

Date 10/2/21

By 
Title: City Manager

Date 02 Nov 2021

**LEGAL REVIEW APPROVAL (If required
in Agency's process)**

By 
Agency's Counsel

Date November 2, 2021

Agency Contact:

Ray Towry
City Manager
City of Sweet Home
3225 Main Street
Sweet Home, Oregon 97386
(541) 367-8969
rtowry@sweethomeor.gov

STATE OF OREGON, by and through
its Department of Transportation

By 
Delivery and Operations Division
Administrator

Date 11/18/2021

APPROVAL RECOMMENDED

By Sonny P.A. Chickering Digitally signed by Sonny P.A. Chickering
Date: 2021.11.05 12:20:23 -07'00'
Region 2 Manager

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By Herb Lovejoy, via email
Assistant Attorney General

Date 10/28/21, email retained in file

State Contact:

Brennan Burbank
Resident Engineer
455 Airport Road SE
Salem, Oregon 97301
(971) 701-3342
Brennan.burbank@odot.state.or.us

EXHIBIT A

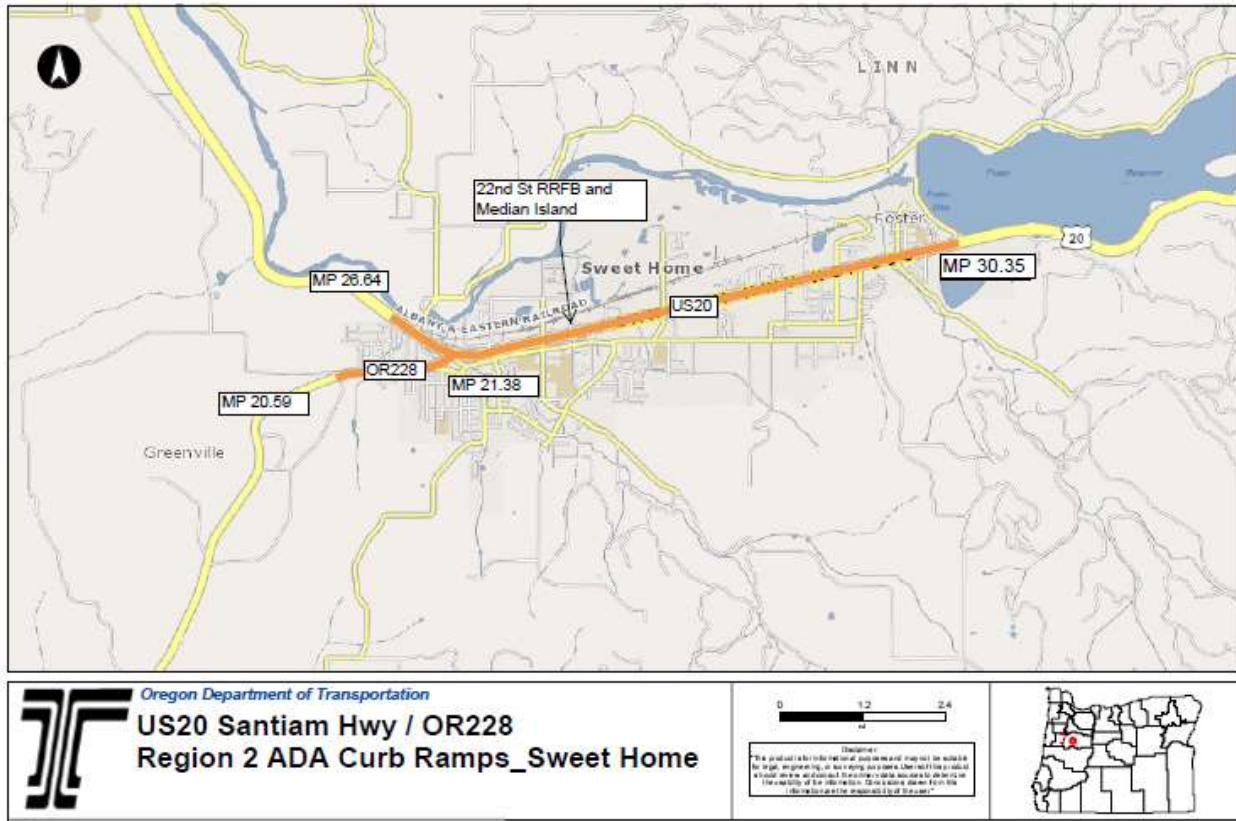


Exhibit A, Page 2 ADA Ramp Locations

Location	Corners
Highway: OR 228	
Fern Ridge Rd/Rowell Hill Rd, MP20.59	North East corner
Fern Ln, MP20.75	North West and North East corners
Evergreen Ln, MP20.80	North West and North East corners
Vista Ln, MP20.92	North West, North East and South East corner's
First Ave, MP21.04	All corners at intersection.
Second Ave, MP21.09	All corners at intersection.
Second Ave, MP21.11	All corners at intersection.
Third Ave, MP21.14	All corners at intersection.
Fourth Ave, MP21.19	All corners at intersection.
Oak Terrace, MP21.20	All corners at intersection.
Fourth Ave, MP21.24	North West and North East corners
Long St, MP21.38	All corners at intersection.
Highway US 20	
Osage St, MP26.66	All corners at intersection.
First Ave, MP26.71	All corners at intersection.
Pleasant Valley Ave, MP26.77	All corners at intersection.
Fourth Ave, MP26.87	All corners at intersection.
OR228, MP27.07	All corners at intersection.
Ninth Ave, MP27.17	All corners at intersection.
Tenth Ave, MP27.25	All corners at intersection.
Mid-block MP 27.30	North, South and Midblock ramps
12th Ave, MP27.35	All corners at intersection.
13th Ave, MP27.42	All corners at intersection.
Mid-block MP 27.47	North, South and Midblock ramps
15th Ave, MP27.53	All corners at intersection.
Mid-block MP 27.64	North and South ramps
18th Ave, MP27.72	All corners at intersection.
19th Ave, MP27.79	All corners at intersection.
22nd Ave, MP27.93	All corners at intersection.
23rd Ave, MP28.09	All corners at intersection.
24th Ave, MP28.18	All corners at intersection.
Clark Mill Rd, MP28.59	North East and South East corners
40th Ave, MP29.03	All corners at intersection.
42nd Ave, MP29.28	All corners at intersection.
43rd Ave, MP29.40	All corners at intersection.
44th Ave, MP29.47	All corners at intersection.
45th Ave, MP29.61	All corners at intersection.

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46th Ave, MP29.73	All corners at intersection.
47th Ave, MP29.84	All corners at intersection.
49th Ave, MP30.00	All corners at intersection.
53rd/Wiley Creek, MP30.29	All corners at intersection.
54th Ave, MP30.34	North West and North East corners