

## EXHIBIT A

### **INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WILSONVILLE AND CLACKAMAS COUNTY RELATED TO THE CLACKAMAS COUNTY REGIONAL ADVANCED TRANSPORTATION CONTROLLER (ATC) AND SIGNAL OPTIMIZATION PROJECT**

This agreement (the "Agreement") is made on the date all required signatures have been obtained, between the City of Wilsonville ("CITY"), a municipal corporation of the State of Oregon, and Clackamas County ("COUNTY"), a political subdivision of the State of Oregon, pursuant to ORS Chapter 190 (Intergovernmental Cooperation), collectively referred to as the "PARTIES" and each a "PARTY."

#### **RECITALS**

WHEREAS, ORS Chapter 190 authorizes local governments to enter into intergovernmental agreements for the performance of any or all functions and activities that a local government, its officers or agencies, have the authority to perform;

WHEREAS, the County applied for, and was awarded, federal funding through the Federal Transportation System Management and Operations ("TSMO") to install and program advanced transportation controller ("ATC") signal controllers at 99 intersections across the County in those locations generally depicted in Exhibit "A" which is attached hereto and incorporated herein. This project to install the ATC signal controllers at 99 intersections is referred to as the Clackamas County Regional ATC and Signal Optimization Project ("Project");

WHEREAS, the 99 intersections that will be impacted by this Project are spread across various jurisdictions in the County. The total cost of the Project and the portion of Project work attributable to each individual jurisdiction is set forth in Exhibit "C" which is attached hereto and incorporated herein;

WHEREAS, the County is administering the Project pursuant to Oregon Department of Transportation Agreement No. 34925/73000-00004353;

WHEREAS, a portion of the work to be completed under the Project includes the replacement of twenty two (22) existing traffic signals at intersections on roadways under the City's jurisdiction with upgraded ATC equipment. Along with the controller, local software, and central signal system upgrade, intersection signal timing will be optimized for all users. The portion of the work to be completed under the Project at intersections on roadways under the City's jurisdiction shall be referred to herein as the "City Project." The locations which are part of the City Project are shown on the map attached hereto, marked "Exhibit A," and specifically listed in "Exhibit B"; and

WHEREAS, the Parties desire to define their respective obligations with regards to the City Project described herein, with the City primarily responsible for contributing funds to cover certain cost associated with the City Project, and with the County primarily responsible for completing and delivering the City Project as herein described.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Term.** This Agreement becomes effective as of the last date of signature by a Party indicated below. Unless terminated earlier pursuant to Section 4 of this Agreement, this Agreement will expire by December 31, 2024 or upon the completion of the City Project by the County and the final payment by the City pursuant to the terms of this Agreement, whichever is sooner.
2. **City Responsibilities.**
  - A. The City agrees to the scope of work set forth in Exhibit “D” which is attached hereto and incorporated herein.
  - B. The City agrees to allow the County and its employees, contractors and agents access to the right of way and intersection signal equipment for purposes of completing the scope of work set forth in Exhibit “D.”
  - C. Within 30 days of full execution of this Agreement, the City agrees to transfer to the County the sum of \$18,716.57, which represents the City’s proportional share of the County’s match of eligible costs related to the entire Clackamas County Regional ATC and Signal Optimization Project, as set forth in Oregon Department of Transportation Agreement No. 34925/73000-00004353. The proportional share calculation of all jurisdictions involved in the entire Clackamas County Regional ATC and Signal Optimization Project is set forth in Exhibit “C”.
  - D. The City shall have the ultimate responsibility to approve the plans in writing for signal phasing, timing, and coordination. The County, or its consultants, shall provide a recommendation to the City, and the City shall not unreasonably withhold such written approval so long as the recommendation conforms to International Municipal Signal Association (IMSA) and Institute of Transportation Engineers (ITE) industry standards, as well as the State of Oregon guidelines and specifications.
  - E. Within 30 days of receiving the County’s notice of completion, the City agrees to promptly contact the County if any signal issues related to the City Project are witnessed or reported to ensure timely repairs can be made. After such 30 day period, the City shall be obligated to remedy any and all signal issues moving forward.
3. **County Responsibilities.**
  - A. The County agrees to the scope of work set forth in Exhibit “D” which is attached hereto and incorporated herein.
  - B. Work shall be performed to IMSA and ITE industry standards, as well as the State of Oregon guidelines and specifications. IMSA Certified Technicians shall perform the traffic signal controller installation, configuration, and setup of the City’s signal system. Certification level shall be commensurate with the task performed in accordance with IMSA specifications.

- C. After execution of this Agreement and payment in the amount specified in Section 2.C, the County agrees to complete the City Project on or before June 30, 2024. Upon completion, the County shall provide the City a written notice of completion.
- D. The County, or its consultants, shall provide a recommendation to the City for signal phasing, timing, and coordination. Any such recommendation shall conform to International Municipal Signal Association (IMSA) and Institute of Transportation Engineers (ITE) industry standards, as well as the State of Oregon guidelines and specifications.
- E. The County will include the City as an additional insured and third-party beneficiary in the contract(s) between County and third-parties of any work performed by others on the City Project.
- F. Within 30 days of providing the City the notice of completion, the County agrees to promptly respond to any signal issues related to the City Project that are identified by the City and that the County is made aware of. Costs to remedy any such issues shall be the responsibility of the County.

**4. Termination.**

- A. The County and the City, by mutual written agreement, may terminate this Agreement at any time.
- B. Either the County or the City may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
- C. The County or the City shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
- D. Nothing herein shall prevent the Parties from meeting to mutually discuss the Project. Each Party shall use best efforts to coordinate with the other to minimize conflicts.
- E. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

**5. Indemnification.**

- A. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the County agrees to indemnify, save harmless and defend the City, its

officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the County or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the County has a right to control.

- B. Subject to the limits of the Oregon Constitution and the Oregon Tort Claims Act or successor statute, the City agrees to indemnify, save harmless and defend the County, its officers, elected officials, agents and employees from and against all costs, losses, damages, claims or actions and all expenses incidental to the investigation and defense thereof (including legal and other professional fees) arising out of or based upon damages or injuries to persons or property caused by the negligent or willful acts of the City or its officers, elected officials, owners, employees, agents, or its subcontractors or anyone over which the City has a right to control.

## 6. General Provisions

- A. **Oregon Law and Forum.** This Agreement shall be construed according to the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- B. **Applicable Law.** The Parties hereto agree to comply in all ways with applicable local, state and federal ordinances, statutes, laws and regulations.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by the other Party.
- D. **Access to Records.** The Parties acknowledge and agree that each Party, the federal government, and their duly authorized representatives shall have access to each Party's books, documents, papers, and records which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. The cost of such inspection shall be borne by the inspecting Party.
- E. **Debt Limitation.** This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. 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 either Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.
- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of the other Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **No Third-Party Beneficiary.** Neither Party intends that this Agreement benefit, or create any right or cause of action in, or on behalf of, any person or entity other than the County or the City.
- K. **No Assignment.** No Party shall have the right to assign its interest in this Agreement (or any portion thereof) without the prior written consent of the other Party, which consent may be withheld for any reason. The benefits conferred by this Agreement, and the obligations assumed hereunder, shall inure to the benefit of and bind the successors of the Parties.
- L. **Counterparts.** This Agreement may be executed in any number of counterparts (electronic, 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.

M. **Authority.** Each Party represents that it has the authority to enter into this Agreement on its behalf and the individual signatory for a Party represents that it has been authorized by that Party to execute and deliver this Agreement.

N. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

**CLACKAMAS COUNTY**

**CITY OF WILSONVILLE**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Recording Secretary

Exhibit A

Clackamas County Regional ATC and Signal Optimization Project Map

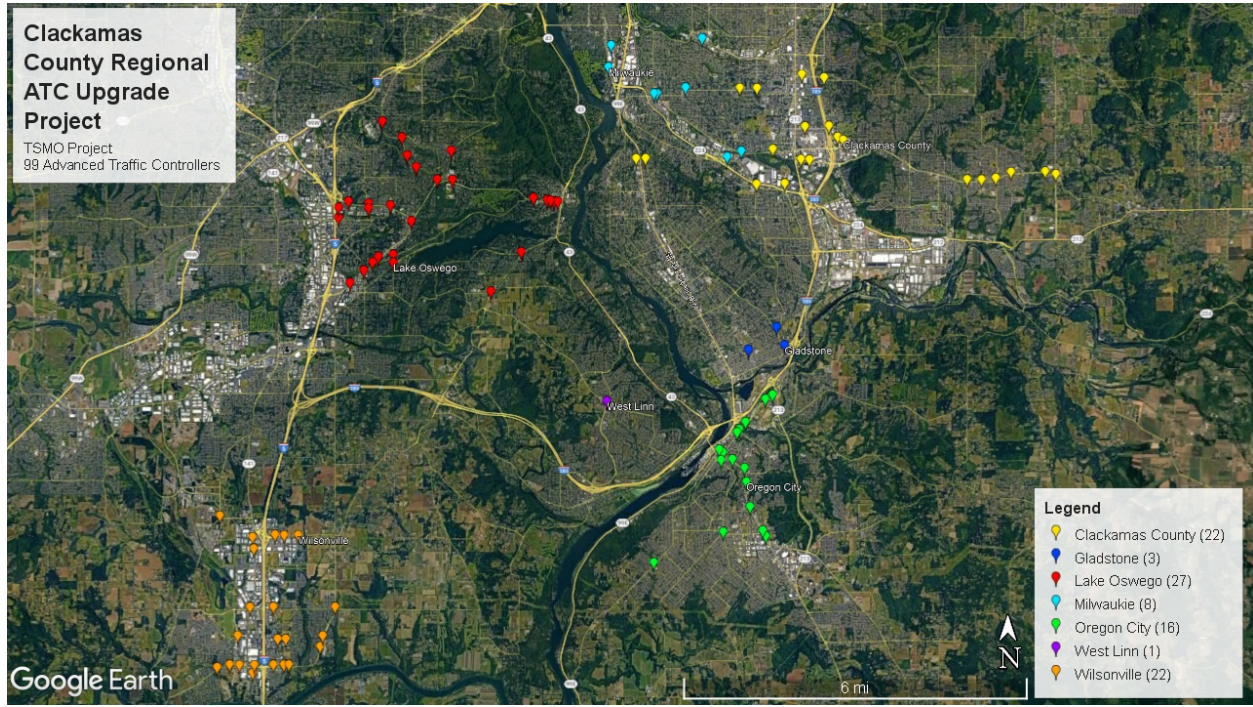


Exhibit B

City Project Specific Location List

<b>ID #</b>	<b>TC #</b>	<b>Dir</b>	<b>Major Street</b>	<b>Dir</b>	<b>Minor Street</b>
<b>7702</b>	TC-0000-05620	SW	Grahams Ferry	SW	Day St
<b>7707</b>	TC-0000-05605	SW	Elligson Rd	SW	Parkway Av - Argyle Av
<b>7708</b>	TC-0000-05606	SW	Elligson Rd	SW	Parkway Center Dr
<b>7709</b>	TC-0000-05613	SW	Elligson Rd	SW	Canyon Creek Rd
<b>7715</b>	TC-0000-05614	SW	95th Av	SW	Commerce Circle
<b>7716</b>	TC-0000-05610	SW	95th Av	SW	Ridder Rd
<b>7718</b>	TC-0000-05666	SW	95th Av	SW	Boeckman Rd
<b>7720</b>	TC-0000-05603	SW	Parkway Av	SW	Boeckman Rd
<b>7722</b>	TC-0000-05667	SW	Barber St	SW	Kinsman Rd
<b>7724</b>	TC-0000-05653	SW	Town Center Loop	SW	Parkway Ct
<b>7725</b>	TC-0000-05678	SW	Town Center Loop	SW	Canyon Creek Rd
<b>7731</b>	TC-0000-05601	SW	Wilsonville Rd	SW	Brown Rd
<b>7732</b>	TC-0000-05659	SW	Wilsonville Rd	SW	Montebello Dr
<b>7733</b>	TC-0000-05609	SW	Wilsonville Rd	SW	Kinsman Rd
<b>7734</b>	TC-0000-05600	SW	Wilsonville Rd	SW	Boones Ferry Rd
<b>7735</b>	TC-0000-05670	SW	Boones Ferry Rd		Fred Meyer Access
<b>7738</b>	TC-0000-05604	SW	Wilsonville Rd	SW	Town Center Loop W
<b>7739</b>	TC-0000-05611	SW	Wilsonville Rd	SW	Rebekah St
<b>7740</b>	TC-0000-05608	SW	Wilsonville Rd	SW	Town Center Loop E
<b>7741</b>	TC-0000-05621	SW	Wilsonville Rd	SW	Meadows Loop - Wildcat Wy (HS access)
<b>7742</b>	TC-0000-05607	SW	Wilsonville Rd	SW	Meadows Pkwy (school access)
<b>7743</b>	TC-0000-05602	SW	Wilsonville Rd - Stafford Rd	SW	Boeckman Rd - Advance Rd



Exhibit C

Proportional Share Table

<b>Fed Funds:</b>	\$ 735,878.42
<b>Local Match (10.27%)</b>	\$ 84,224.58
<b>Total Project Cost:</b>	\$ 820,103.00

	<b>Controllers</b>	<b>Proportional Share</b>	<b>Local Match</b>
<b>Clackamas County</b>	22	22.22%	\$ 18,716.57
<b>Lake Oswego</b>	27	27.27%	\$ 22,970.34
<b>Oregon City</b>	16	16.16%	\$ 13,612.05
<b>Wilsonville</b>	22	22.22%	\$ 18,716.57
<b>Milwaukie</b>	8	8.08%	\$ 6,806.03
<b>Gladstone</b>	3	3.03%	\$ 2,552.26
<b>West Linn</b>	1	1.01%	\$ 850.75
<b>Total Controllers:</b>	99		

## Exhibit D

### Scope of Work

The Clackamas County Regional ATC Controller & Signal Optimization Project includes the following elements:

- Procurement of 99 Advanced Traffic Controllers (ATCs) to upgrade older traffic signals controllers that are no longer supported and do not provide the functionality desired for current signal operations. This includes locations owned by Clackamas County, City of Lake Oswego, City of Oregon City, City of Wilsonville, City of Milwaukie, City of Gladstone, and City of West Linn
- Consultant support in signal timing conversions and optimizations
- Clackamas County signal timing testing and deployment
- New central signal system server for maintenance and operation of the traffic signals