

## CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

### Study Session Worksheet

**Present Date:** 02/05/2013 **Approx. Start Time:** 9:30 a.m. **Approx. Length:** 1/2 hour

**Presentation Title:** Lawnfield Phase 3 Project – ODOT/County IGA

**Department:** Department of Transportation and Development

**Presenters:** Mike Bezner

**Other Invitees:** Cam Gilmour, Terry Mungenast, Scot Sideras

#### **WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?**

Staff is asking the Board to concur with the ODOT/County IGA for the construction of the Highway 212/Lawnfield Road Connection Project, Phase 3. Staff will then bring it to the Board for approval at a business meeting.

#### **EXECUTIVE SUMMARY:**

On January 11, 2011, ODOT and Clackamas County entered into a Memorandum of Understanding (MOU) R1#00699 to address collaboration in the overall development and construction of the Sunrise system that was funded as part of the 2009 Oregon Jobs and Transportation Act (JTA). The Highway 212/Lawnfield Road Connection Project, Phase 3 (Lawnfield) is an associated project that has not yet been designated by ODOT to receive JTA funds.

The Lawnfield project design was funded by the Clackamas County Development Agency at a cost of \$815,000 and is nearly complete. The project will reconstruct Lawnfield Rd from 98<sup>th</sup> Ct to 97<sup>th</sup> Ave (see attached map). Improvements will include new curbs, sidewalks, bike lanes, signalization of the Lawnfield Rd/97<sup>th</sup> Ave intersection, street lighting, stormwater drainage improvements and a truck priority system to help keep truck traffic moving efficiently through the area. Also, the current maximum road grade of 14% will be reduced to a consistent 8.75% making travel safer for all users.

The Lawnfield project was not included in ODOT's original Sunrise project estimate. Therefore, ODOT has been reluctant to fund the Lawnfield project to leave a gap in their funding package. To fill this gap the Joint Policy Advisory Committee on Transportation (JPACT) recommended in December 2012 that the Metro Council allocate \$8.267 million of the Metropolitan Transportation Improvement Program (MTIP) Regional Economic Opportunity Fund for the Sunrise System. Although the MTIP funds are not guaranteed, we do believe that the likelihood is very high that the Sunrise System will receive these funds when they are awarded in September 2013. These funds will pay for the estimated cost of the Lawnfield Road project and the regional trail system element of the Sunrise project.

This IGA would allow the Lawnfield project construction to start now in anticipation of MTIP funds becoming available. The agreement requires ODOT to fund construction now with the County committing to transfer the MTIP dollars to ODOT in 2016 (when the funds are made available). ODOT would then use those funds for the Sunrise JTA project. This is essential to provide consistent access to the industrial area during construction of the Sunrise JTA project.

There are some risks to the County to proceed under this agreement. If the MTIP funds are not awarded to the Sunrise, then ODOT will look to recover the funding gap (if it still remains once all Sunrise project costs are known) by using future STIP funds designated for the County. Further, if the total Lawnfield project construction cost exceeds the current cost estimate of \$4,760,000 by not more than 10%, then the County will be obligated to pay that additional cost. If it exceeds it by more than 10%, then the County and the State will have to negotiate how to provide additional funds.

**FINANCIAL IMPLICATIONS (current year and ongoing):**

The County would be responsible for additional costs within 10% of the project estimate listed above. Further additional costs would be negotiated with ODOT.

**LEGAL/POLICY CONSIDERATIONS:**

N/A

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

N/A

**OPTIONS FOR CONSIDERATION:**

1. The Board can approve the ODOT/County IGA for the construction of the Highway 212/Lawnfield Road Connection Project, Phase 3. This would allow the Lawnfield project to proceed before the Sunrise construction begins.
2. The Board can not approve the IGA, which would delay indefinitely the Lawnfield project construction until another funding source is secured. This could result in the Sunrise construction significantly impacting traffic and truck access before Lawnfield is reconstructed.

**RECOMMENDATION:**

Staff respectfully requests that the Board approve the ODOT/County IGA for the construction of the Highway 212/Lawnfield Road Connection Project, Phase 3.

**ATTACHMENTS:**

- IGA
- Project maps

**SUBMITTED BY:**

Division Director/Head Approval

Department Director/Head Approval

County Administrator Approval

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Fiscal Impact Form**

**RESOURCES:**

Is this item in your current work plan and budget?

YES

NO

**START-UP EXPENSES AND STAFFING (if applicable):**

Not Applicable.

**ON-GOING OPERATING EXPENSES/SAVINGS AND STAFFING (if applicable):**

Not Applicable.

**ANTICIPATED RESULTS:**

**COSTS & BENEFITS:**

Not Applicable.

**REVISED DRAFT: January 29, 2013**

**Oregon Jobs and Transportation Act of 2009  
Local Agency Agreement for Fund Distribution  
SE Lawnfield Road: SE 97<sup>th</sup> – SE 98<sup>th</sup> [Section]  
Clackamas County**

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 Clackamas County, 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. Oregon Jobs and Transportation Act of 2009 (JTA) Program, hereinafter referred to as the "JTA of 2009 Program", provides funding for preservation and modernization projects chosen by the Oregon Transportation Commission (OTC).
2. Projects named in Section 64 of 2009 Legislative Assembly, Oregon House Bill (HB) 2001, as well as projects approved by the OTC pursuant to Section 64(3), were amended into the Statewide Transportation Improvement Program (STIP), including the project identified below.
3. Governor Kulongoski signed HB 2001 on July 29, 2009, Chapter 865, Oregon Laws 2009. This legislation also known as the Oregon Jobs and Transportation Act, is the transportation funding plan for accountability, innovation and environmental stewardship; highway, road and street funding; and, multimodal funding. On October 21, 2009 the OTC approved projects relating to this legislation.
4. By the authority granted in Oregon Revised Statute (ORS) 190.110, 366.572 and 366.576, state agencies may enter into cooperative agreements with counties, cities, and 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.
5. SE Lawnfield Road is a part of the Clackamas County road system under the jurisdiction and control of Clackamas County.
6. The Parties entered into a Memorandum of Understanding (MOU) R1#00699 on January 11, 2011. Said MOU addressed mutual collaboration of both Parties in the overall development and construction of the Sunrise JTA Project and Associated

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Projects which are comprised of seven separate project components, including the SE Lawnfield Road project described herein, being mutually funded and constructed. The first two Associated Projects have been fully funded and completed.

7. The Parties also entered into a Right of Way Services Agreement No. 27820 on May 16, 2012. Said Agreement addresses State's services to obtain right of way on behalf of the County for the SE Lawnfield Project and allows for an estimated \$4,000,000 in right of way costs.
8. The Agency has performed the Preliminary Engineering portion of the SE Lawnfield Project at its own expense of \$815,000.

**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. Agency shall reconstruct SE Lawnfield Road including construction, construction engineering and inspection, from approximately SE 97<sup>th</sup> Avenue to SE 98<sup>th</sup> Court, hereinafter referred to as "Project". A Project description, budget and map showing the location and approximate limits of the Project are shown on "Exhibit A", attached hereto and by this reference made a part hereof..
2. The Project was approved by the OTC on October 21, 2009.
3. The total Project cost is estimated at \$4,760,000, which is subject to change. The JTA of 2009 Program funds are limited to \$4,760,000. State shall reimburse Agency 100 percent of eligible, actual costs incurred up to the maximum amount of JTA funds committed for the Project.
4. If the Project exceeds the cost estimate of \$4,760,000 by not more than 10%, then the Agency will pay that additional cost. If greater than 10%, Agency will negotiate with State for additional funds. Any increase in the State funds will require an amendment to this Agreement.
5. This Agreement shall become effective on the date all required signatures are obtained and shall terminate on completion of the Project, final payment, and transfer of the 2015-18 MTIP Regional Economic Opportunity Fund (REOF) to STIP Key #15555 or December 31<sup>st</sup>, 2016, whichever is sooner. Only work begun after the effective date of this Agreement is eligible for reimbursement with funds available under the JTA of 2009 Program.

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6. The funds available under the JTA of 2009 Program are State Highway Funds. To be eligible for reimbursement under the JTA of 2009 Program, expenditures must comply with the requirements of Article IX, Section 3a of the Oregon Constitution.
7. The JTA of 2009 Program Funds are expected to become available on or before January 1, 2011 by way of increases in gas taxes and other fees under HB 2001, 2009 Legislative Assembly (Oregon Laws 2009, Chapter 865), and through the issuance and sale by the State Treasurer, of the bonds authorized by Section 61 of HB 2001, in an amount sufficient to fund this Project. The Agreement is effective and work may begin upon execution of this Agreement, but State's obligation to make project payments is contingent upon State determining that sufficient funds are available for the Project. State will notify Agency when such funds are available; and State shall begin payments for invoiced work pursuant to this Agreement from such date.
8. Agency and State have a joint obligation to ensure timely expenditure of the JTA of 2009 Program funds and to comply with the provisions of the bonds that finance the JTA of 2009 Program.
9. The County agrees to make all funds allocated through the 2015-18 MTIP Regional Economic Opportunity Fund available to ODOT for construction of the Sunrise Project Key# 15555. The Lawnfield Road Project was originally one of the various projects that make up Sunrise Project Key Number 15555.
10. If the Project cost exceeds the amount of MTIP funding made available to ODOT under terms of agreement #9, currently estimated to be \$8,267,000, then the State will negotiate with Agency for additional funds. If mutually agreeable terms cannot be reached by Agency and State prior to December 31<sup>st</sup>, 2016, the State reserves its right to review projects programmed in the STIP at that time and seek the reprogramming of funds as State deems necessary.

#### **AGENCY OBLIGATIONS**

1. Agency shall perform the work described in Exhibit A.
2. Agency shall present invoices for the eligible, actual costs incurred by Agency on behalf of the Project directly to State's Project Liaison for review and approval. Such invoices shall be submitted in the form as shown on "Exhibit B", JTA of 2009 Program fund Progress Billing Form, attached hereto and by this reference made a part hereof. Invoices will identify the Project and Agreement number, and shall itemize and explain all expenses for which reimbursement is claimed. Invoices shall be presented for periods of not greater than one month, based on actual expenses

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incurred, and must clearly specify the percentage of completion of the Project. Upon completion of the Project, Agency shall submit a final invoice and letter indicating that the Project is complete.

3. Agency shall be responsible for any and all costs of Project which are not covered by the JTA of 2009 Program funds, including costs of the Project when the maximum amount of the JTA of 2009 Program funds obligated under this Agreement have been expended.
4. Agency shall provide engineering design documents to ODOT for approval if the design affects the state highway.
5. Agency shall advertise for construction of the Project by March 2013, commence construction in the spring of 2013, and complete construction to reopen SE Lawnfield Road to traffic by January of 2014.
6. The Project shall be developed in conformance with Agency's standards. If Agency has not adopted standards of its own, the Project shall be developed in conformance with the current edition of "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway and Transportation Officials (AASHTO). Agency shall provide State with sufficient information to complete a project prospectus.
7. Agency 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, Agency 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.
8. Agency shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
9. All employers, including Agency, 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

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under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Agency shall ensure that each of its subcontractors complies with these requirements.

10. Agency will maintain the improvements made as a result of the Project at the same level as other similar facilities owned by Agency.
11. Agency agrees that the Project will be on the public right of way and will serve general transportation needs.
12. Utility relocation or reconstruction may or may not be an eligible Project expense according to the following standard:
  - a. The expense is an eligible expense if the owner of the utility facility possesses a property right for its location on the public right of way.
  - b. The expense is not an eligible expense if the owner of the utility facility does not possess a property right for its location, but the facility exists on the public right of way solely under the permission of the Agency or other road authority, whether that permission is expressed or implied, and whether written or oral.
13. 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 the State, be indemnified by the contractor and subcontractor from and against any and all Claims.
14. 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 anytime 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



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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.

15. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of the current budget. Agency further agrees that they will only submit invoices to State for reimbursement on work that has been performed and paid for by Agency.
16. Agency shall place signs that identify Project as "Oregon Jobs and Transportation Act" (State approved design). Agency may affix additional signage that identifies local funds used for the Project.
17. Agency shall provide progress information, appropriate links from Agency's web sites related to their JTA of 2009 Projects, and photographs in a suitable format directly to the State's Project Liaison for posting on the State's JTA of 2009 Program web site.
18. Agency agrees to provide State with name of the contractor and subcontractors doing work on the Project along with total dollars contracted to those listed.
19. If Agency enters into a construction contract for performance of work on the Project, then Agency will require its contractor to provide the following:
  - a. Contractor and Agency shall name State as a third party beneficiary of the resulting contract.
  - b. Contractor shall indemnify, defend and hold harmless State 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 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. 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

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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 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 \$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 will include State 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. 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.
20. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts during the course of the Project and for a period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
21. 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.
22. Agency's Project Manager for this Project is Terry Mungenast, Technical Services Coordinator, Clackamas County, 150 Beaver Creek Road, Oregon City, OR 97045; 503-742-4656, [terrymun@co.clackamas.or.us](mailto:terrymun@co.clackamas.or.us), 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.

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## STATE OBLIGATIONS

1. In consideration for the services performed, State agrees to pay Agency within ten (10) days of receipt by State of the Project invoice and Exhibit B. State shall reimburse Agency 100 percent of eligible, actual costs incurred up to the maximum amount of JTA funds committed for the Project and as specified in Terms of Agreement, Paragraph No. 2. Under no conditions shall State's total obligation exceed \$4,760,000, including all expenses. Travel expenses will be reimbursed.
2. State shall review the documentation provided by Agency to ensure that the Project undertaken by Agency is the Project approved by the OTC at the October 21, 2009 meeting.
3. State shall not be required to approve Agency's selection of contractors, right of way purchase, or engineering design documents, unless the Project design affects the state highway system or as required by the conditions of approval adopted by the OTC.
4. State's Project Manager for this Project is Nathan Potter, ODOT – Region 1, Consultant Project Manager, 123 NW Flanders St., Portland, OR 97209; 503-731-3344, [Nathan.K.Potter@odot.state.or.us](mailto:Nathan.K.Potter@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. This Agreement may be terminated by mutual consent of both Parties.
2. 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. Because of legislative or other legal action, including but not limited to initiative petitions, there is failure to approve, reduction, elimination, or other interference with appropriations of state expenditure limitation to the extent that legal authority is insufficient to enable State, in its reasonable discretion, to continue making

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payments under this Agreement.

- d. State, the Department of Justice, or a court of competent jurisdiction determines that state law, rules, regulation or guidelines are modified, changed, repealed or interpreted in such a way that the activities described in this Agreement are no longer allowable or no longer eligible for funding proposed by this Agreement.
  - e. 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.
  - f. 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.
3. If State terminates this Agreement for the reasons described in General Provisions 2., "a" or "b" above, Agency must reimburse State for all JTA of 2009 Program funds expended. If Agency fails to reimburse State, State may withhold Agency's proportional share of State Highway Fund distribution necessary to reimburse State for costs incurred by such Agency breach.
  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

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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. State and Agency are the only Parties to this Agreement and, as such, are the only Parties entitled to enforce its terms. Nothing in this Agreement gives or shall be construed to give or provide any benefit, direct, indirect or otherwise to third persons unless such third persons are expressly identified by name and specifically described as intended to be beneficiaries of its terms.
10. 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.
11. This Agreement, MOU R1#00699, Right of Way Services Agreement #27820 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

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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 that Party 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.

This Project is in the 2010-2013 Statewide Transportation Improvement Program, (Key #18167) that was approved by the Oregon Transportation Commission on December 16, 2010 (or subsequently approved by amendment to the STIP).

*Signature page to follow*

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**CLACKAMAS COUNTY**, by and through  
its elected officials

By \_\_\_\_\_  
Chair

Date \_\_\_\_\_

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

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

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

Date \_\_\_\_\_

**Agency Contact:**  
Terry Mungenast, Technical Services  
Coordinator, Clackamas County  
150 Beaver Creek Road  
Oregon City, OR 97045  
Phone: 503-742-4656  
Email: [terrymun@co.clackamas.or.us](mailto:terrymun@co.clackamas.or.us)

**State Contact:**  
Nathan Potter, ODOT – Region 1,  
Consultant Project Manager  
123 NW Flanders St.  
Portland, OR 97209  
Phone: 503-731-3344  
Email: [Nathan.K.Potter@odot.state.or.us](mailto:Nathan.K.Potter@odot.state.or.us)

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

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

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Technical Services Manager/Chief  
Engineer

Date \_\_\_\_\_

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

Date \_\_\_\_\_

By \_\_\_\_\_  
District 2B Manager

Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

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

Date \_\_\_\_\_

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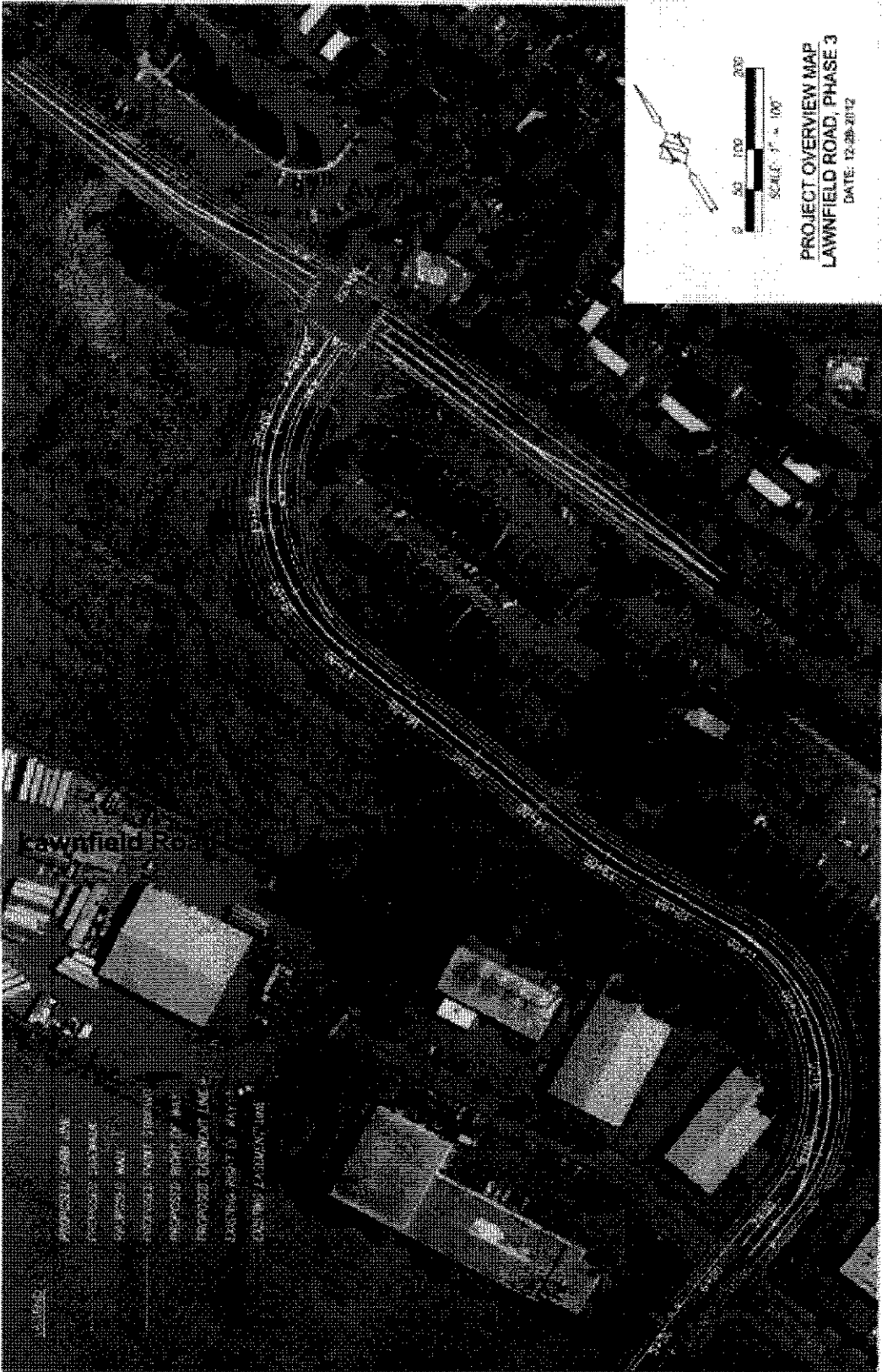
Exhibit A –PROJECT DESCRIPTION  
Clackamas County  
SE Lawnfield Road: SE 97<sup>th</sup> to SE 98<sup>th</sup>

Construction, Construction Engineering and inspection services for the section of SE  
Lawnfield Road from SE 97<sup>th</sup> Avenue to SE 98<sup>th</sup> Court.

Project Cost Estimate		Project Financing	
Preliminary engineering & design	\$ COMPLETED	Agency Contribution \$	PE and Design
Right-of-way purchase	\$COMPLETED	JTA of 2009 Program	\$4,760,000
Construction	\$4,760,000	<b>Total Funds</b>	<b>\$4,760,000</b>
<b>Total Project Cost</b>	<b>\$4,760,000</b>		



Exhibit A – Map



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Exhibit B – Progress Billing Form  
Oregon Jobs and Transportation Act of 2009  
Progress Billing Form

Agency: \_\_\_\_\_  
Project: \_\_\_\_\_  
Agreement No: \_\_\_\_\_  
Billing Period: \_\_\_\_\_ to \_\_\_\_\_

	Costs Incurred This Period	Costs Billed Previously	Total Cost To Date	Participation Rate	Total Amount Claimed	Prior Total Claimed	Amount Claimed This Period	Percent Complete This Phase
Planning								
Engineering Design								
Right of Way								
Construction								
Total								

Submission of this request certifies that, in accordance with the laws of the State of Oregon and under the conditions of approval for the Project identified above, actual costs claimed have been incurred and are eligible pursuant to the Intergovernmental Agreement between Agency and State. Also, no other claims have been presented to, or payment made by, the State of Oregon for those costs claimed for reimbursement.

\_\_\_\_\_  
Agency Project Liaison

\_\_\_\_\_  
Date

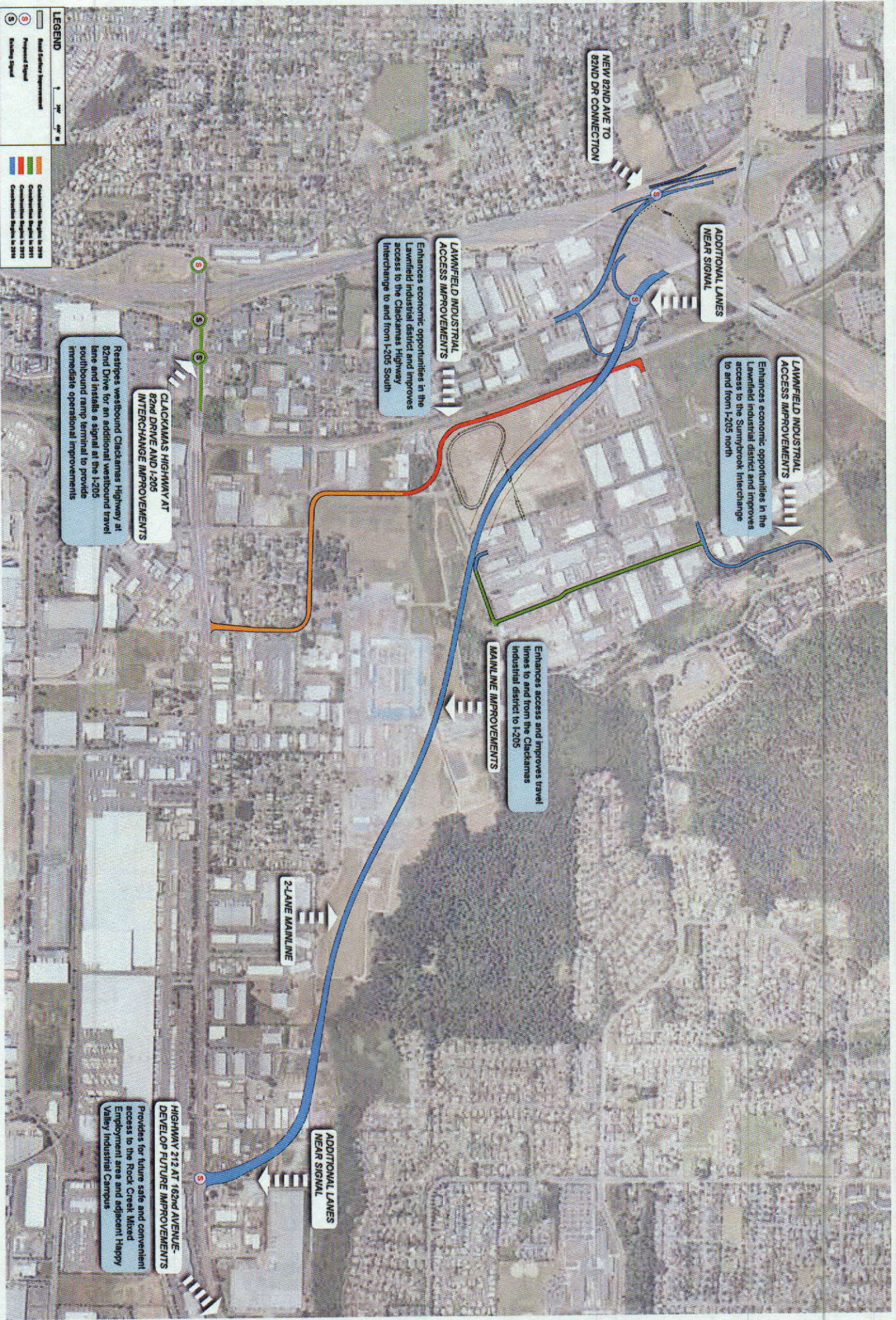
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(for State use)

I have reviewed the above Project and related costs and, in my opinion, subject to audit, the costs reflect the progress to date and are eligible for reimbursement in the amount of \$ \_\_\_\_\_.

\_\_\_\_\_  
State Project Liaison

\_\_\_\_\_  
Date





# Sunrise JTA Project

FOR INFORMATIONAL PURPOSES ONLY - SUBJECT TO CHANGE





