



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

August 17, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of individual Intergovernmental Agreements with the cities of Gladstone, Lake Oswego, Milwaukie, Oregon City, West Linn and Wilsonville for Traffic Signal Controller Upgrades and Signal Optimization as part of Project Agreement No. 34925 with ODOT. Total Project Value is \$820,103. Funding through Federal, County Road and Local Jurisdictions Funds. No County General Funds are involved.

Previous Board Action/Review	07/07/22: Execution of Supplemental Agreement No. 34925 to allow Clackamas County to access Federal Funds to upgrade 99 traffic signal controllers and optimize traffic signal timing throughout the County. 08/15/23: Request for consent		
Performance Clackamas	-Grow a vibrant economy -Ensure safe, healthy and secure communities		
Counsel Review	Yes	Procurement Review	No
Contact Person	Joseph Marek	Contact Phone	503-723-4705

EXECUTIVE SUMMARY: Clackamas County currently operates and maintains approximately 175 traffic signals throughout the County, of which, 71 are owned by Clackamas County and the remaining are owned by local jurisdictions. These local jurisdictions consist of the cities of Gladstone, Lake Oswego, Milwaukie, Oregon City, West Linn and Wilsonville. Traffic signal timing and maintenance support for signals owned by local jurisdictions are supported by Clackamas County through existing intergovernmental agreements. Of the total 175 traffic signals throughout the County, approximately 120 of the signal controllers (computers) and the computer software running the signal timing are using outdated technology that is no longer supported by local vendors or manufacturers. Some of these controllers are almost 40 years old.

For Filing Use Only

The Traffic Signal Controller Upgrades and Signal Optimization project proposes to replace 99 outdated model traffic signal controllers with the latest Advanced Traffic Controllers (ATCs). ATCs are the latest national and state standards with higher processing power, larger memory, more functionality, and built-in performance software tools. With the controller upgrades, the project scope also includes optimizing signal timing for all road users (pedestrians, bikes, cars, and trucks) and improving system performance and connectivity.

Clackamas County received federal funding through Metro's Transportation System Management and Operations (TSMO) program for the controller replacement. The cost estimate for the project is estimated at \$820,103. The federal local match requirement is 10.27%. County will provide the initial match of \$84,224.58 with County Road Funds and recoup a total of \$65,508.30 of proportional share amounts from partner local jurisdictions for upgrades to their signals.

The agreements proposed for approval cover the costs for the cities of Gladstone, Lake Oswego, Milwaukie, Oregon City, West Linn and Wilsonville.

RECOMMENDATION: Staff respectfully recommends that the BCC approve the Intergovernmental Agreements with the cities of Gladstone, Lake Oswego, Milwaukie, Oregon City and West Linn.

Respectfully submitted,

Dan Johnson

Dan Johnson
Director of Transportation & Development

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF GLADSTONE
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 Gladstone ("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;

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 Clackamas County Regional ATC and Signal Optimization Project, described in the recital above, pursuant to Oregon Department of Transportation Agreement No. 34925/73000-00004353;

WHEREAS, a portion of the work to be completed under the above-described project includes the replacement of three (3) 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 above-described 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 upon the completion of the Project by the County and the final payment by the City pursuant to the terms of this Agreement, or by December 31, 2024, 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 \$2,552.26, 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. 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

Chair

Date

Recording Secretary

CITY OF GLADSTONE

Mike Mitchell

Mayor

06/14/2023

Date

Jami Barrick

Recording Secretary

Exhibit A

Clackamas County Regional ATC and Signal Optimization Project Map

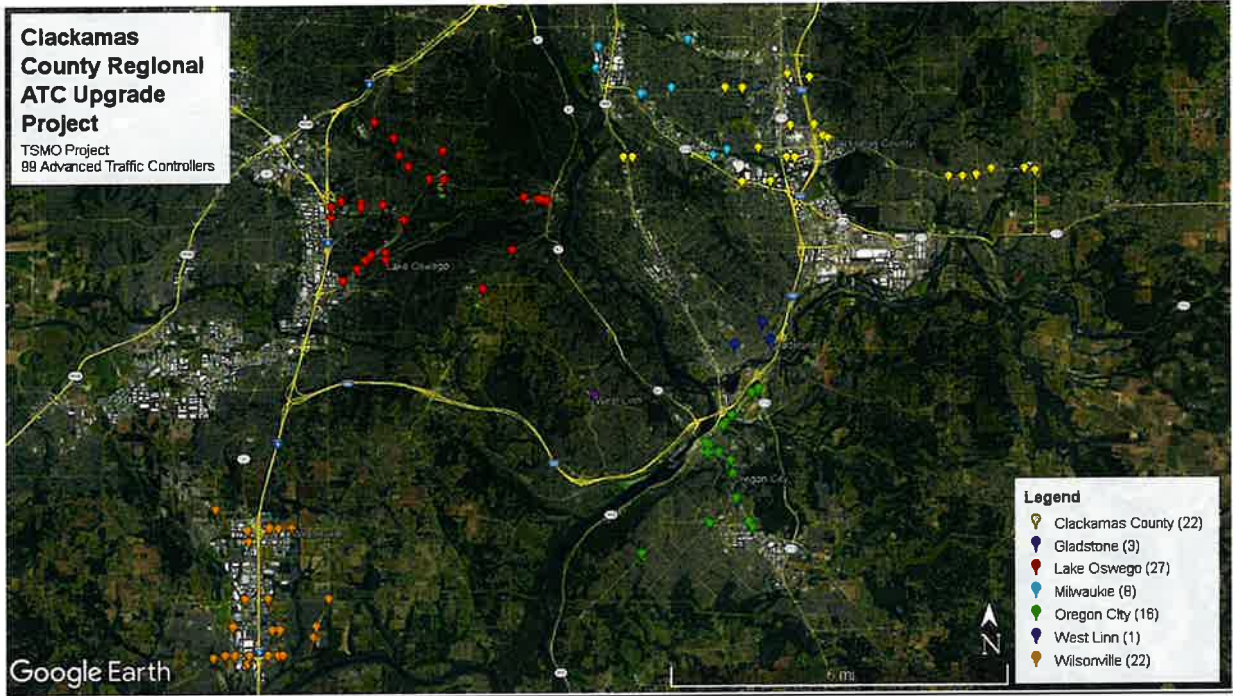


Exhibit B

City Project Specific Location List

ID#	Location	City Partner	Quantity
7520	Oatfield @ Webster	Gladstone	1
7521	82nd Dr @ Oatfield	Gladstone	1
7524	Portland @ Gloucester	Gladstone	1

Exhibit C

Proportional Share Table

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

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

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LAKE OSWEGO
AND CLACKAMAS COUNTY RELATED TO THE CLACKAMAS COUNTY
REGIONAL ADVANCED TRANSPORTATION CONTROLLER (ATC) AND SIGNAL
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This agreement (the "Agreement") is made on the date all required signatures have been obtained, between the City of Lake Oswego ("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;

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 Clackamas County Regional ATC and Signal Optimization Project, described in the recital above, pursuant to Oregon Department of Transportation Agreement No. 34925/73000-00004353;

WHEREAS, a portion of the work to be completed under the above-described project includes the replacement of twenty seven (27) 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 above-described 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 upon the completion of the Project by the County and the final payment by the City pursuant to the terms of this Agreement, or by December 31, 2024, 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 \$22,970.34, 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.**
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 - 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.
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- 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

Chair

Date

Recording Secretary

CITY OF LAKE OSWEGO



City Manager

June 25, 2023

Date

Approved as to Form:


Evan Boone
Deputy City Attorney

Exhibit A

Clackamas County Regional ATC and Signal Optimization Project Map

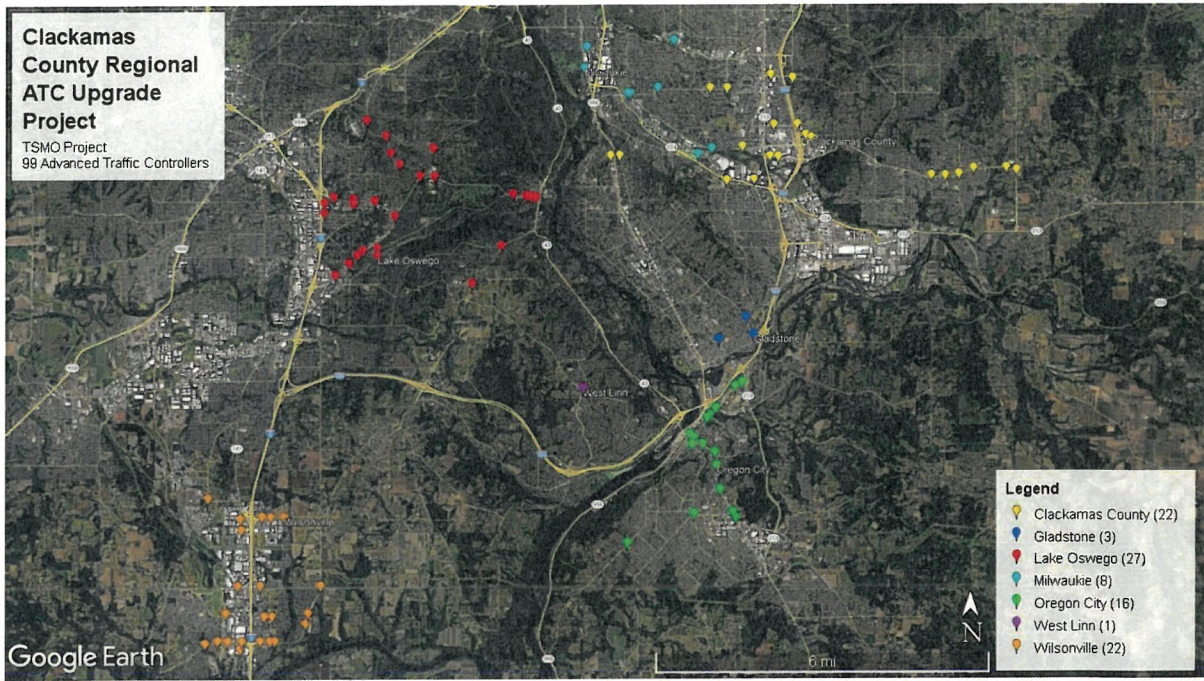


Exhibit B

City Project Specific Location List

ID #	TC #	Major Street	Minor Street
7802	TC-0000-01002	Boones Ferry Rd	Jean Way
7803	TC-0000-01003	Boones Ferry Rd	Pilkington Rd
7804	TC-0000-01004	Boones Ferry Rd	Washington Ct
7805	TC-0000-01005	Boones Ferry Rd	W Sunset Dr
7808	TC-0000-01008	Boones Ferry Rd	Mercantile Dr
7811	TC-0000-01011	Boones Ferry Rd	Kerr Pkwy / Country Club Rd
7812	TC-0000-01012	Boones Ferry Rd	Monroe Pkwy
7813	TC-0000-01013	SW 49th Ave / Kerr Pkwy	SW PCC Rd / Hidalgo St
7814	TC-0000-01014	Kerr Pkwy	Mcnary Pkwy
7815	TC-0000-01015	Kerr Pkwy	Jefferson Pkwy
7816	TC-0000-01016	Kerr Pkwy	Touchstone St
7817	TC-0000-01017	Bangy Rd	Meadows Rd
7818	TC-0000-01018	Bangy Rd	Bonita Rd
7820	TC-0000-01019	Kruse Way	Kruse Oaks Blvd
7821	TC-0000-01020	Kruse Way	Westlake Dr / Kruse Woods Dr
7822	TC-0000-01021	Kruse Way	Carman Dr
7824	TC-0000-01023	Bryant Rd	Lakeview Blvd
7825	TC-0000-01024	Bryant Rd	Upper Dr
7826	TC-0000-01025	SW Meadows Rd	Kruse Woods Dr
7829	TC-0000-01026	A Ave	1st St
7830	TC-0000-01027	A Ave	2nd St
7831	TC-0000-01028	A Ave	3rd St
7832	TC-0000-01029	A Ave	4th St
7833	TC-0000-01030	A Ave	8th St
7837	TC-0000-01031	Country Club Rd	Hazel Rd
7838	TC-0000-01032	McVey Ave	S Shore Blvd
7840	TC-0000-01033	SW Stafford Rd	Overlook Dr

Exhibit C

Proportional Share Table

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

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

**INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF MILWAUKIE AND CLACKAMAS COUNTY
RELATED TO THE CLACKAMAS COUNTY REGIONAL ADVANCED
TRANSPORTATION CONTROLLER AND SIGNAL OPTIMIZATION PROJECT**

This agreement (“Agreement”) is made between the City of Milwaukie (“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, 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 ;

WHEREAS, the County is administering the Clackamas County Regional ATC and Signal Optimization Project, described in the recital above, pursuant to Oregon Department of Transportation Agreement No. 34925/73000-00004353 (the “Project”);

WHEREAS, the 99 intersections that will be impacted by the 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;

WHEREAS, a portion of the work to be completed under the Project includes the replacement of eight (8) 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 at intersections on roadways under the City’s jurisdiction shall be referred to as the “City Project.” The locations that are part of the City Project are depicted on , Exhibit A, and specifically listed in Exhibit B; and

WHEREAS, the Parties desire to define their respective obligations for the City Project, 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 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 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 upon the completion of the City Project by the County and the final payment by the City pursuant to the terms of this Agreement, or by December 31, 2024, whichever is sooner.
2. **City Responsibilities.**
 - A. The City agrees to the scope of work set forth in Exhibit D.
 - 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 \$6,806.03, 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, as required in Section 3.C below, 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 expiration of the 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..
 - B. Work shall be performed to IMSA and ITE industry standards, and in compliance with 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 IMSA and ITE industry standards, and be in compliance with the State of Oregon guidelines and specifications.
- E. 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 to which the County is made aware. 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 contained in this Agreement shall prevent the Parties from meeting to mutually discuss the City 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 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 in this Agreement, 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 that 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 in this Agreement, this Agreement constitutes the entire agreement between the Parties on the matter of the Project and City Project. There are no understandings, agreements, or representations, oral or written, not specified in this Agreement regarding the Project or City Project. 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 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 in this Agreement. Nothing in this Agreement 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 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.

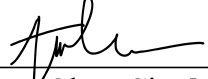
CLACKAMAS COUNTY

Chair

Date

Recording Secretary

CITY OF MILWAUKIE



Ann Ober, City Manager

6/12/23

Date



Scott Stauffer, City Recorder

Exhibit A

Clackamas County Regional ATC and Signal Optimization Project Map

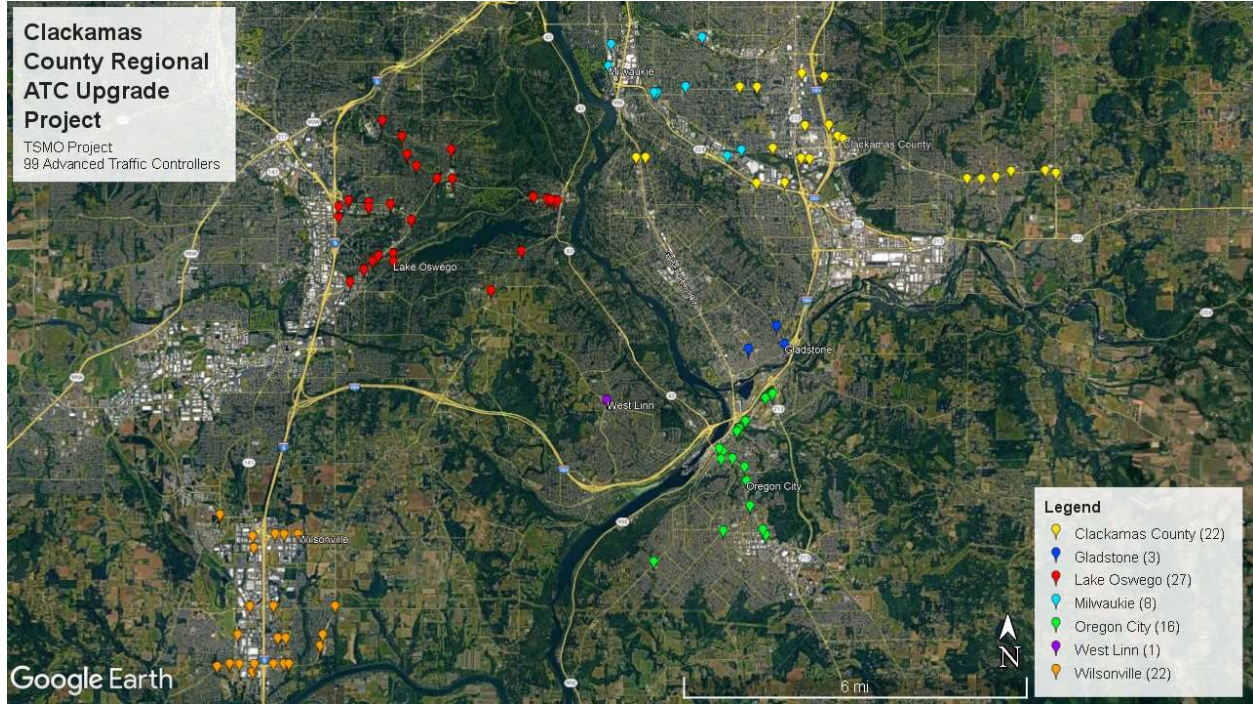


Exhibit B

City Project Specific Location List

ID #	TC #	Dir	Major Street	Dir	Minor Street	Asset Type
7205	TC-0000-05553	SE	Lake Rd	SE	International Way / Harmony Rd	Signal
7206	TC-0000-05552	SE	Harmony Rd	SE	Linwood Av / Railroad Av	Signal
7304	TC-0000-05550	SE	17th Av	SE	Milport Rd	Signal
7305	TC-0000-05568	SE	Ochoco St	SE	19th - Goodwill access	R/R PTR sign
7315	TC-0000-05556	SE	Johnson Creek Blvd	SE	Precision Cast Parts access	Signal
7325	TC-0000-05551	SE	32nd Av	SE	Harrison St	Signal
7326	TC-0000-05569	SE	Harrison St		3282 SE Harrison St	Fire Signal
7327	TC-0000-05567	SE	King Rd	SE	43rd Av	Signal

Exhibit C

Proportional Share Table

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

	Controllers	Proportional Share	Local Match
Clackamas County	22	22.22%	\$ 18,716.57
Lake Oswego	27	27.27%	\$ 22,970.34
Oregon City	16	16.16%	\$ 13,612.05
Wilsonville	22	22.22%	\$ 18,716.57
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Gladstone	3	3.03%	\$ 2,552.26
West Linn	1	1.01%	\$ 850.75
Total Controllers:	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
- County's consultant support in signal timing conversions and optimizations
- County signal timing testing and deployment
- New central signal system server for maintenance and operation of the traffic signals

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF OREGON CITY
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 Oregon City ("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 "PARITES" 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;

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 Clackamas County Regional ATC and Signal Optimization Project, described in the recital above, pursuant to Oregon Department of Transportation Agreement No. 34925/73000-00004353;

WHEREAS, a portion of the work to be completed under the above-described project includes the replacement of sixteen (16) 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 above-described 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 upon the completion of the Project by the County and the final payment by the City pursuant to the terms of this Agreement, or by December 31, 2024, 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 \$13,612.05, 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. 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

Chair

Date

Recording Secretary

CITY OF OREGON CITY

Denyse C. McPuff

Mayor

June 7, 2023

Date

John D. Wiley

Recording Secretary

Exhibit A

Clackamas County Regional ATC and Signal Optimization Project Map

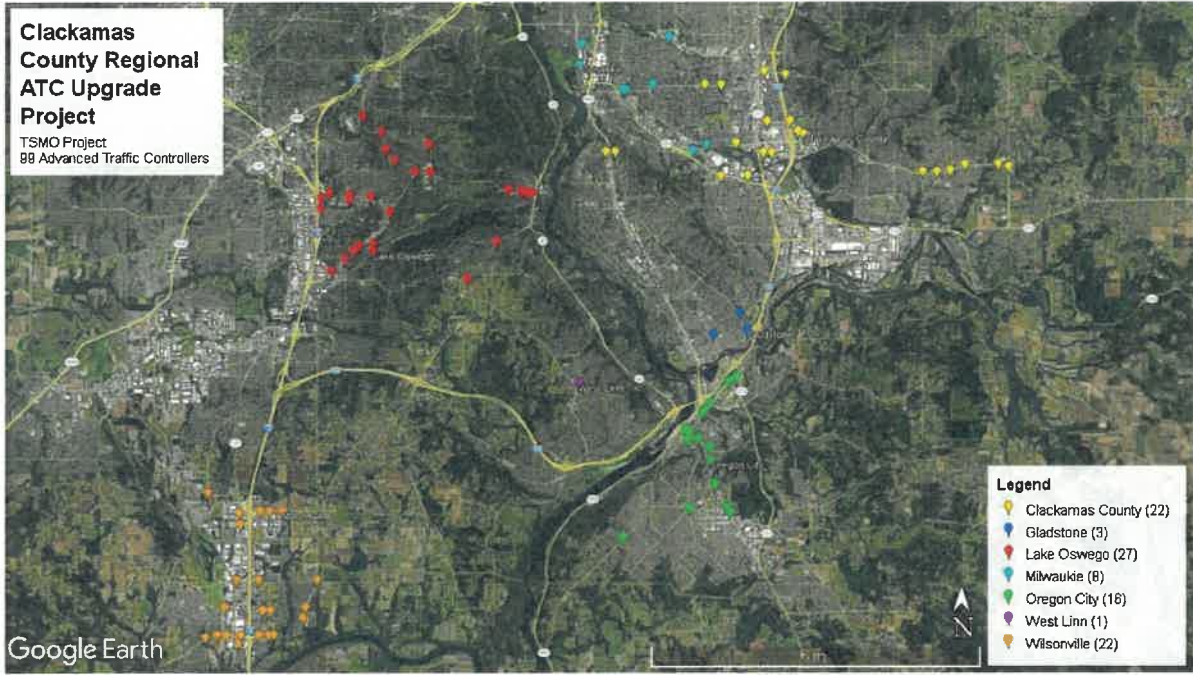


Exhibit B

City Project Specific Location List

ID #	TC #	Major Street	Minor Street	Asset Type
7611	TC-0000-05515	John Adams St	5th St	Fire Signal
7613	TC-0000-05673	Washington St	Prairie Schooner Way	Signal
7614	TC-0000-05651	Washington St	Home Depot - Metro access	Signal
7618	TC-0000-05500	Washington St	Abernethy Rd - 17th St	Signal
7619	TC-0000-05501	Washington St	15th St	Signal
7620	TC-0000-05502	Washington St	14th St	Signal
7621	TC-0000-05672	Singer Hill	RR Xing	R/R PTR sign
7622	TC-0000-05503	Washington St	7th St	Signal
7623	TC-0000-05505	7th St	Monroe St	Signal
7624	TC-0000-05507	Molalla Av	Polk St / Division St	Ped Signal
7625	TC-0000-05508	Molalla Av	Pearl St	Signal
7626	TC-0000-05509	Molalla Av	Holmes Ln - Hilda St	Signal
7627	TC-0000-05510	Molalla Av	Warner Milne Rd	Signal
7628	TC-0000-05541	Molalla Av	1476 Molalla Av (near McDonalds)	Signal
7638	TC-0000-05539	South End Rd	Shelby Rose Dr	Ped Signal
7640	TC-0000-05535	Warner Milne Rd	Linn Av - Leland Rd	Signal

i

Exhibit C

Proportional Share Table

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

	Controllers	Proportional Share	Local Match
Clackamas County	22	22.22%	\$ 18,716.57
Lake Oswego	27	27.27%	\$ 22,970.34
Oregon City	16	16.16%	\$ 13,612.05
Wilsonville	22	22.22%	\$ 18,716.57
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Gladstone	3	3.03%	\$ 2,552.26
West Linn	1	1.01%	\$ 850.75
Total Controllers:	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

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WEST LINN
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 West Linn ("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 "PARITES" 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;

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 Clackamas County Regional ATC and Signal Optimization Project, described in the recital above, pursuant to Oregon Department of Transportation Agreement No. 34925/73000-00004353;

WHEREAS, a portion of the work to be completed under the above-described project includes the replacement of one (1) existing traffic signal at an intersection on a roadway 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 above-described project at an intersection on a roadway under the City's jurisdiction shall be referred to herein as the "City Project." The location which is part of the City Project is 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 upon the completion of the Project by the County and the final payment by the City pursuant to the terms of this Agreement, or by December 31, 2024, 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 \$850.75, 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. 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

Chair

Date

Recording Secretary

CITY OF WEST LINN



Mayor

6/20/2023

Date



Recording Secretary

Exhibit A

Clackamas County Regional ATC and Signal Optimization Project Map

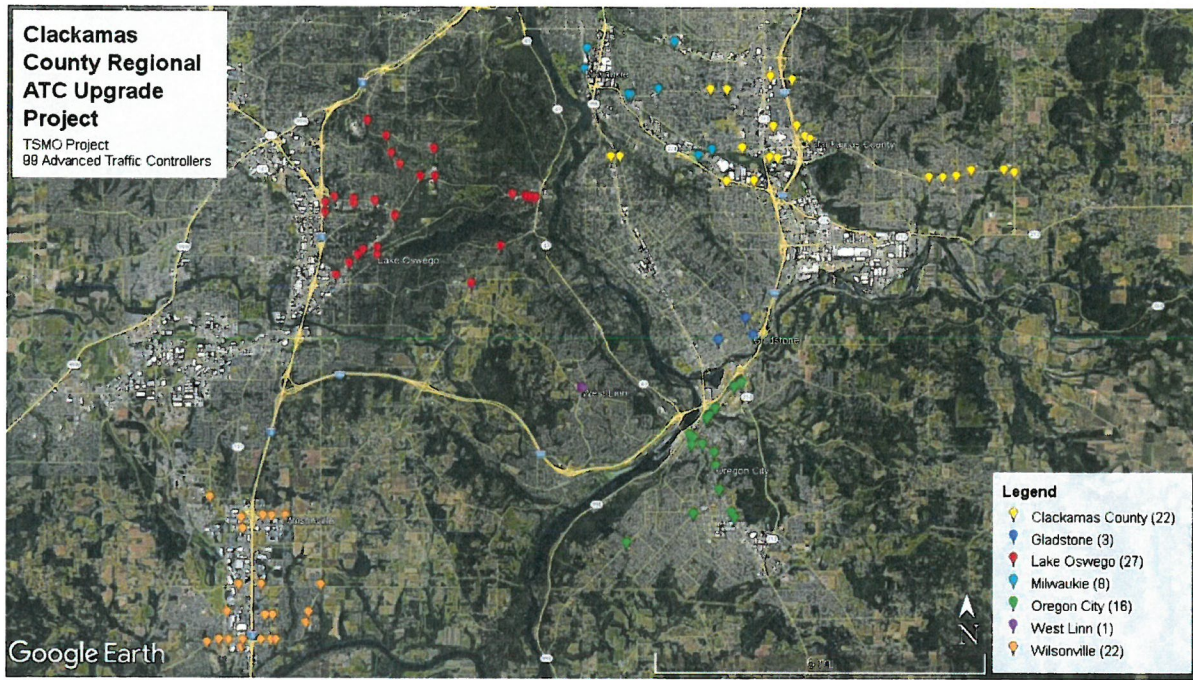


Exhibit B

City Project Specific Location List

ID#	Location	City Partner	Quantity
7550	Rosemont @ Salamo/Santa Anita	West Linn	1

Exhibit C

Proportional Share Table

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

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

**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

Chair

Date

Recording Secretary

CITY OF WILSONVILLE

DocuSigned by:
Julie Fitzgerald
8A974AF3ADE042E...

Mayor

July 19, 2023

Date

DocuSigned by:
Kimberly Veliz
E781DE10276B498...

Recording Secretary

Exhibit A

Clackamas County Regional ATC and Signal Optimization Project Map

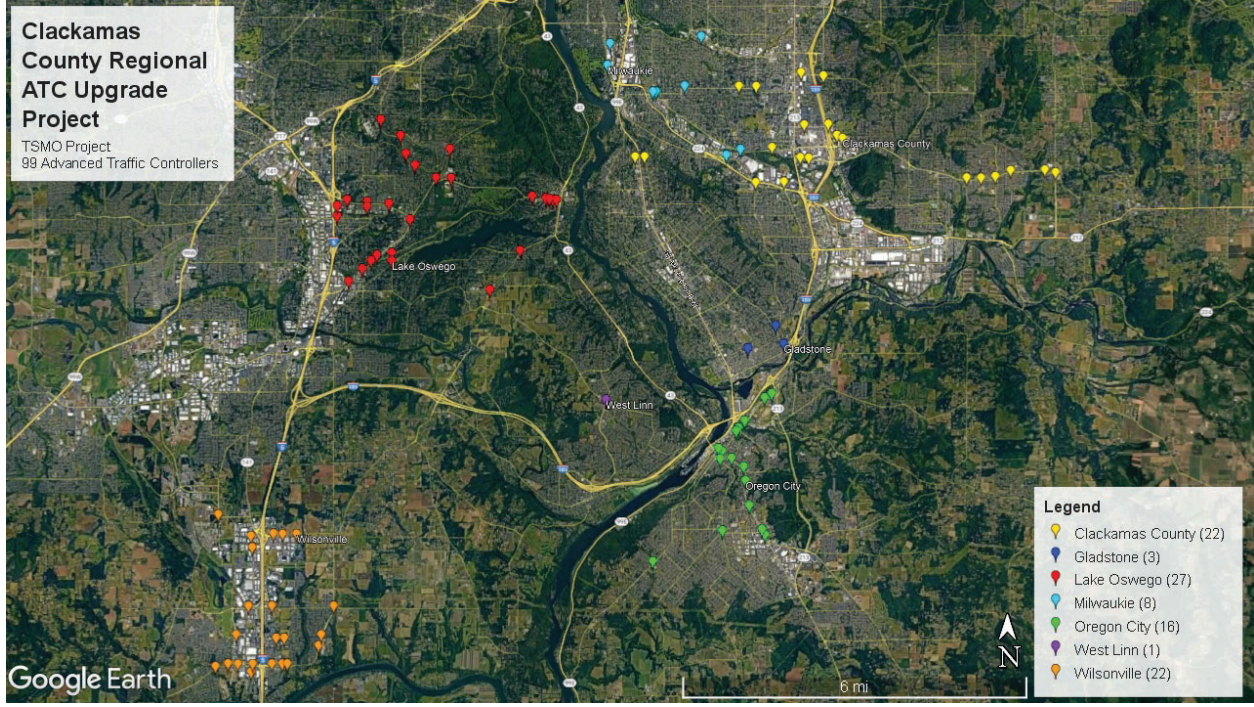


Exhibit BCity Project Specific Location List

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

Exhibit CProportional Share Table

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

	Controllers	Proportional Share	Local Match
Clackamas County	22	22.22%	\$ 18,716.57
Lake Oswego	27	27.27%	\$ 22,970.34
Oregon City	16	16.16%	\$ 13,612.05
Wilsonville	22	22.22%	\$ 18,716.57
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West Linn	1	1.01%	\$ 850.75
Total Controllers:	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