



DAN JOHNSON
DIRECTOR

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

November 25, 2020

Board of Commissioners
Clackamas County
Members of the Board:

Approval of Contract Amendment No. 2 with the National Safety Council for the purposes of
Safe Systems Approach to Rural Road to Zero

Purpose/ Outcomes	The funds will support our Drive to Zero work focused on two Health Equity Zones: Molalla and Canby. This project will showcase how a holistic Safe Systems Approach to traffic safety can be effective in reducing crashes, particularly serious and fatal crashes in a rural community. This Safe Systems Approach will combine proven low-cost engineering countermeasures with behavioral change focused education followed with targeted enforcement in collaboration with regional law enforcement partners.
Dollar Amount and Fiscal Impact	The grant is amended for an additional \$21,281 to increase the total award to \$153,561 from \$132,280.00. There is no match requirement.
Funding Source	National Highway Traffic Safety Administration and National Safety Council
Duration	At time of contract execution and terminates on June 30, 2021.
Previous Board Action	The application was approved by the County Administrator. The Board approved the initial contract on October 17, 2019.
Strategic Plan Alignment	<p>1. How does this item align with your department's Strategic Business Plan goals? Ensure safe, healthy and secure communities.</p> <p>2. How does this item align with the County's Performance Clackamas goals? The Drive to Zero Program - has a mission to reduce fatal and serious injury crashes. The goal of the program mirrors the County's MFR goal: By 2035, reduce the number of fatalities resulting from crashes on roads in Clackamas County to zero. This grant will support direct road improvements along with outreach and communications that will seek to engage community partners in this work.</p>
Counsel Review	Reviewed and approved by Counsel on 11/10/20 NB
Procurement Review	<p>1. Was this item processed through Procurement? NO</p> <p>2. If no, provide brief explanation: Item is a grant amendment</p>
Contact Person	Joseph Marek, Traffic Engineering Supervisor– Department of Transportation and Development - 742-4705

BACKGROUND:

The Department of Transportation and Development received authorization from the County Administrator to enter into contract with the National Safety Council to accept a grant award of \$132,280 to showcase how a holistic Safe Systems Approach to traffic safety can be effective in

making strides in reducing crashes, particularly serious and fatal crashes in a rural community. This Safe Systems Approach will combine low-cost engineering using proven countermeasures along with education focused on behavioral change followed with targeted enforcement in collaboration with regional towns. Layered throughout the project will be the intentional collaboration with partners in public health and schools to tackle issues of alcohol and drug use, build new opportunities with rural transit options to move teens and older adults, and to work hard to bring affordable driver's education and child protection to those who can least afford access.

The County's Drive to Zero initiative is an inspiring goal. To be successful, we need active partners throughout the county that will engage in the implementation of various elements and work toward the behavioral change that is necessary. The TSAP and the embodiment of Drive to Zero needs effective communications that are centered on county stories told by county people. We hope that target audiences see themselves in these stories and add to the collection of stories of how together, as a county, we can achieve this inspiring vision. Ultimately, the problem we are trying to impact is the number of fatalities and serious injuries due to traffic crashes in the county.

This amendment would increase the amount of the grant award by \$21,281, for a total amount of \$153,561. There is no match requirement associated with this grant award.

RECOMMENDATION:

Staff recommends the Board approval of this contract and authorizes Dan Johnson, DTD Director to sign on behalf of Clackamas County.

Respectfully submitted,

Joseph Marek

Joseph Marek, Traffic Engineering Supervisor
Department of Transportation and Development



AMENDMENT NO 2.
TO SUBAWARD AGREEMENT
Between
NATIONAL SAFETY COUNCIL
&
COUNTY OF CLACKAMAS

This Amendment No. 2 (the "Amendment"), dated Friday, October 16, 2020 , is attached to and made part of the Subaward Agreement dated October 17, 2019 ("Agreement") as amended by the Amendment No.1 between the National Safety Council ("NSC") and County of Clackamas ("Subrecipient"). Capitalized terms in this Amendment have the same meaning giving to them in the Subaward Agreement.

The parties wish to amend the terms of the Agreement as set forth below and agree that the following constitutes modifications of the terms and conditions of the Agreement.

Modifications:

The Subaward Amount is hereby amended to \$153,561 from the previous amount of \$132,280. As previously agreed in Amendment #1, the project completion date is June 30, 2021.

All other terms and conditions of the Agreement remain unchanged and effective. This Amendment does not affect, alter or invalidate any provision, term and condition of the Agreement. By signature below, the parties acknowledge their agreement and acceptance of this Addendum.

IN WITNESS WHEREOF, the Parties have executed this Addendum #2 to the Subaward Agreement between the National Safety Council and County of Clackamas dated October 17, 2019.

COUNTY OF CLACKAMAS

NATIONAL SAFETY COUNCIL

By: _____

DocuSigned by:
John Udelhofen
4A480F3BF2BD495...

Name: _____

Name: John Udelhofen

Title: _____

Title: Chief Financial Officer

Date: _____

Date: 10/19/2020



DAN JOHNSON
DIRECTOR

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

November 25, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of an Intergovernmental Agreement with the Oregon Department of
Transportation for Right of Way Services for the
South End Road at Milepost 3.8 Project**

Purpose/Outcomes	Defines the roles and responsibilities of the County and ODOT relating to acquiring right of way for the South End Road at Milepost 3.8 project.
Dollar Amount and Fiscal Impact	Total Project Phase Cost Estimate: \$88,891.92. Road Fund Match (10.27%): \$9,538.10
Funding Source	Federal Emergency Relief Program (ERP) and County Road Funds.
Duration	Execution until completion of the project
Previous Board Action	01/01/17: BCC Approval of Master Certification Agreement No. 30923 for County implementation of federally funded projects 08/16/18: BCC Approval of Supplemental Project Agreement No. 32607 for 2017 Emergency Relief Program Project Funding 05/16/19: Approval of a Contract with David Evans and Associates, Inc. for the South End Road at Milepost 3.8
Strategic Plan Alignment	1. How does this item align with your department's Strategic Business Plan goals? This item supports the DTD Strategic Focus on Safe Roads and Strategic Result of "Travelers on Clackamas County roads will experience roads in good condition." 2. How does this item align with the County's Performance Clackamas goals? This item aligns with "Build a Strong Infrastructure" by constructing retaining walls to mitigate slope instability.
Counsel Review	Reviewed Date: 11/16/2020 NB
Procurement Review	1. Was this item processed through Procurement? NO 2. If no, provide brief explanation: This is an IGA
Contact Person	Sharan LaDuca, Sr. Right of Way Agent 503-742-4675

Background:

Clackamas County obtained Federal Emergency Relief Program (ERP) funds to stabilize the roadway and slope on South End Road at Milepost 3.8. The road was damaged in March of 2017 as a result of heavy rains that occurred during the spring of 2017. A state emergency declaration, which included Clackamas County, was signed by the governor allowing Clackamas County to be eligible for the ERP funding.

Clackamas County constructed temporary repairs to the areas of roadway prism failure and deterioration in the spring of 2017. A more permanent solution is required to mitigate the slope instability and it is anticipated that the permanent solution will consist of construction of two

retaining walls approximately 800 feet in total length. The County received \$2,740,000 in funding thru the ERP, requiring a 10.27 percent Road Fund match.

The attached proposed agreement is a customary step in the project delivery process for federally funded projects. This agreement is specifically for right of way services for the South End Road at Milepost 3.8 project. The agreement acknowledges Clackamas County's obligations to acquire right of way in accordance with the Uniform Act, and the Oregon Department of Transportation's (ODOT) responsibility to certify that right of way acquisition has been performed accordingly. The agreement allows ODOT an amount not to exceed \$5,000 for their efforts.

Recommendation:

Staff respectfully recommends that the Board of County Commissioners approve the attached Intergovernmental Agreement for Right of Way Services for the South End Road at Milepost 3.8 Project.

Respectfully submitted,

Sharan LaDuca

Sharan LaDuca,
Senior Right of Way Agent

**INTERGOVERNMENTAL AGREEMENT
FOR RIGHT OF WAY SERVICES
South End Road at MP 3.8**

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and Clackamas County, acting by and through its elected officials, hereinafter referred to as "Agency," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, 283.110, 366.572 and 366.576, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.
2. By the authority granted in ORS 366.425, State may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within the State. When said money or a letter of credit is deposited, State shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.
3. That certain South End Road (is a County Road under the jurisdiction and control of Agency and Agency may enter into an agreement for the acquisition of real property.
4. This Agreement shall define roles and responsibilities of the Parties regarding the real property to be used as part of right of way for road, street or construction of public improvement. The scope and funding is further described in Agreement number 30923 and Supplemental Project Agreement 32607. Hereinafter, all acts necessary to accomplish services in this Agreement shall be referred to as "Project."
5. As of this time there are no local public agencies (LPAs) certified to independently administer federal-aid projects for right of way services. Therefore, State is ultimately responsible for the certification and oversight of all right of way activities under this Agreement (except as provided under "Agency Obligations" for LPAs in State's certification program for consultant selection).

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, to accomplish the objectives in Agreement No. 32607, State and Agency agree to perform certain right of way activities shown in Special Provisions - Exhibit A, attached hereto and by this reference made a part hereof. For the right of way services

State performs on behalf of the Agency, under no conditions shall Agency's obligations exceed a maximum of \$5,000, including all expenses, unless agreed upon by both Parties.

2. The work shall begin on the date all required signatures are obtained and shall be completed no later than December 30, 2029, on which date this Agreement automatically terminates unless extended by a fully executed amendment.
3. The process to be followed by the Parties in carrying out this Agreement is set out in Exhibit A.
4. It is further agreed both Parties will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual."

STATE OBLIGATIONS

1. State shall perform the work described in Special Provisions - Exhibit A.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.
3. State shall perform the service under this Agreement as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
4. State's right of way contact person for this Project is David Mendelson, Right of Way Project Manager, 123 NW Flanders Street, Portland, OR 97209 503-731-8451, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact changes during the term of this Agreement.

AGENCY OBLIGATIONS

1. Agency shall perform the work described in Special Provisions - Exhibit A.
2. Agency certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within Agency's current appropriation or limitation of current budget. Agency is willing and able to finance all, or its pro-rata share of all, costs and expenses incurred in the Project up to its maximum.
3. Agency's needed right of way services, as identified in Exhibit A, may be performed by qualified individuals from any of the following sources:
 - a. Agency staff,
 - b. State staff,

- c. Staff of another local public agency, as described in ODOT's Right of Way Manual and approved by the State's Region Right of Way Office;
- d. Consultants from State's Full Service Architectural and Engineering (A&E) Price Agreement 2 Tier Selection Process. Tier 2 procurements must be requisitioned through State's Local Agency Liaison (LAL) with solicitation process administered by State Procurement Office. Forms and procedures for Tier 2 process are located at: <http://www.oregon.gov/ODOT/CS/OPO/docs/fs/tier2guide.doc>;
- e. *Appraiser services procured by Agency from State's Qualified Appraiser List (on line at <http://www.oregon.gov/ODOT/HWY/ROW/Pages/index.aspx>);
- f. *Other right of way related services procured by Agency from any source of qualified contractors or consultants.

* Selections may be based on price alone, price and qualifications, or qualifications alone followed by negotiation. **Federally funded procurements** by Agency for right of way services must be conducted under State's certification program for consultant selection and must comply with requirements in the [LPA A&E Requirements Guide](#) (and must use the State's standard [A&E Contract Template for LPAs](#) which may be modified to include State-approved provisions required by Agency). **State and local funded procurements** by Agency must be in conformance with applicable State rules and statutes for A&E "Related Services" (and Agency may use its own contract document).

- 4. If Agency intends to use Agency staff, staff of another local public agency, consultants (except for consultants on State's Qualified Appraiser List), or contractors to perform right of way services scheduled under this Agreement, Agency must receive prior written approval from State's Region Right of Way Office.
- 5. The LPA A&E Requirements Guide and A&E Contract Template referenced above under paragraph 3 are available on the following Internet page: [http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx#Local_Public_Agency_\(LPA\)_Consultant_Templates_and_Guidance_Docs](http://www.oregon.gov/ODOT/CS/OPO/Pages/ae.aspx#Local_Public_Agency_(LPA)_Consultant_Templates_and_Guidance_Docs).
- 6. Agency or its subcontractor will strictly follow the rules, policies and procedures of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and the "State Right of Way Manual."
- 7. Agency represents that this Agreement is signed by personnel authorized to do so on behalf of Agency.
- 8. Agency's right of way contact person for this Project is Joel Howie, Civil Engineering Supervisor, 150 Beaver Creek Road, Oregon City, OR 97045, 503-742-4658, or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

PAYMENT FOR SERVICES AND EXPENDITURES:

1. In consideration for the services performed by State (as identified in the attached Exhibit A), Agency agrees to pay or reimburse State a maximum amount of \$5,000. Said maximum amount shall include reimbursement for all expenses, including travel expenses. Travel expenses shall be reimbursed to State in accordance with the current Oregon Department of Administrative Services' rates. Any expenditure beyond federal participation will be from, or reimbursed from, Agency funds. Payment in Agency and/or federal funds in any combination shall not exceed said maximum, unless agreed upon by both Parties.

2. Agency agrees to reimburse salaries and payroll reserves of State employees working on Project, direct costs, costs of rental equipment used, and per-diem expenditures.

GENERAL PROVISIONS:

1. This Agreement may be terminated by either Party upon thirty (30) days' notice, in writing and delivered by certified mail or in person, under any of the following conditions:
 - a. If either Party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If either Party fails to perform any of the other provisions of this Agreement or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within ten (10) days or such longer period as may be authorized.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.

2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

3. Agency acknowledges and agrees that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a

period of six (6) years after final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.

4. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
5. All employers that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Both Parties shall ensure that each of its subcontractors complies with these requirements.
6. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Agency with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
7. With respect to a Third Party Claim for which State is jointly liable with Agency (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of State on the one hand and of Agency on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

8. With respect to a Third Party Claim for which Agency is jointly liable with State (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
9. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
10. When federal funds are involved in this Agreement, Exhibits B and C are attached hereto and by this reference made a part of this Agreement, and are hereby certified to by Agency.
11. When federal funds are involved in this Agreement, Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
12. The Parties hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
13. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
14. This Agreement and attached exhibits and Agreement No. 32607 constitute the entire agreement between the Parties on the subject matter hereof. There are no

understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

Signature Page to Follow

Clackamas County, by and through
its elected officials

By _____

Date _____

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____

Date _____

Agency Contact:

Joel Howie
150 Beaver Creek Road
503-742-4658
JHowie@co.clackamas.or.us

State Contact:

David Mendelson
(Insert physical mailing address)
509-731-8451
David.Mendelson@odot.state.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
State Right of Way Manager

Date _____

APPROVAL RECOMMENDED

By _____
Region (insert Region number) Right of Way
Manager

Date _____

By _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By (insert N/A if not applicable)
Assistant Attorney General

Date _____

APPROVED

(If Litigation Work Related to Condemnation is
to be done by State)

By (insert N/A if not applicable)
Chief Trial Counsel

Date _____

SPECIAL PROVISIONS EXHIBIT A
Right of Way Services

THINGS TO BE DONE BY STATE OR AGENCY

1. Pursuant to this Agreement, the work performed on behalf of the Agency can be performed by the Agency, the Agency's consultant, the State or a State Flex Services consultant, as listed under Agency Obligations, paragraph 3 of this Agreement. The work may be performed by Agency staff or any of these representatives on behalf of Agency individually or collectively provided they are qualified to perform such functions and after receipt of approval from the State's Region 1 Right of Way Manager.
2. With the exception of work related to appraisals, State shall not enter into any subcontracts for any of the work scheduled under this Agreement without obtaining prior written approval from Agency.

Instructions: Insert either: State, Agency, or N/A on each line.

A. Preliminary Phase

1. Agency shall provide preliminary cost estimates.
2. Agency shall make preliminary contacts with property owners.
3. Agency shall gather and provide data for environmental documents.
4. Agency shall develop access and approach road list.
5. Agency shall help provide field location and Project data.

B. Acquisition Phase

1. General:
 - a. When doing the Acquisition work, as described in this Section, Agency) shall provide State with a status report of the Project monthly.
 - b. Title to properties acquired shall be in the name of the Agency).
 - c. The Agency shall adopt a resolution of intention and determination of necessity in accord with ORS 35.235 and ORS 35.610, authorizing acquisition and condemnation, such approval will be conditioned on passage of a resolution by Agency substantially in the form attached hereto as Exhibit D, and by this reference made a part hereof. If the Oregon Department of Justice is to handle condemnation work, prior approval evidenced by Chief Trial Counsel, Department of Justice, signature on this Agreement is required; and authorization for such representation shall be included in the resolution adopted by the Agency. Prior approval by Oregon Department of Justice is required.

2. Legal Descriptions:

- a. Agency shall provide sufficient horizontal control, recovery and retracement surveys, vesting deeds, maps and other data so that legal descriptions can be written.
- b. Agency shall provide construction plans and cross-section information for the Project.
- c. Agency shall write legal descriptions and prepare right of way maps. If the Agency acquires any right of way on a State highway, the property descriptions and right of way maps shall be based upon centerline stationing and shall be prepared in accordance with the current "ODOT Right of Way & Rail/Utility Coordination Contractor Services Guide" and the "Right of Way Engineering Manual." The preliminary and final versions of the property descriptions and right of way maps must be reviewed and approved by the State.
- d. Agency shall specify the degree of title to be acquired (e.g., fee, easement).

3. Real Property and Title Insurance:

- a. Agency shall provide preliminary title reports, if State determines they are needed, before negotiations for acquisition commence.
- b. Agency shall determine sufficiency of title (taking subject to). If the Agency acquires any right of way on a State highway, sufficiency of title (taking subject to) shall be determined in accordance with the current "State Right of Way Manual" and the "ODOT Right of Way & Rail/Utility Coordination Contractor Services Guide." Agency shall clear any encumbrances necessary to conform to these requirements, obtain Title Insurance policies as required and provide the State copies of any title policies for the properties acquired.
- c. Agency shall conduct a Level 1 Initial Site Assessment, according to State Guidance, within Project limits to detect presence of hazardous materials on any property purchase, excavation or disturbance of structures, as early in the Project design as possible, but at a minimum prior to property acquisition or approved design.
- d. Agency shall conduct a Level 2 Preliminary Site Investigation, according to State Guidance, of sufficient scope to confirm the presence of contamination, determine impacts to properties and develop special provisions and cost estimates, if the Level 1 Initial Site Assessment indicates the potential presence of contamination that could impact the properties.
 - If contamination is found, a recommendation for remediation will be presented to State.

- e. Agency shall be responsible for proper treatment and cost of any necessary remediation.
 - f. Agency shall conduct asbestos, lead paint and other hazardous materials surveys for all structures that will be demolished, renovated or otherwise disturbed. Asbestos surveys must be conducted by an AHERA (asbestos hazard emergency response act) certified inspector.
4. Appraisal:
- a. Agency shall conduct the valuation process of properties to be acquired.
 - b. Agency shall perform the Appraisal Reviews to set Just Compensation.
 - c. Agency shall recommend Just Compensation, based upon a review of the valuation by qualified personnel.
5. Negotiations:
- a. Agency shall tender all monetary offers to land-owners in writing at the compensation shown in the appraisal review. Agency shall have sole authority to negotiate and make all settlement offers. Conveyances taken for more or less than the approved Just Compensation will require a statement justifying the settlement. Said statement will include the consideration of any property trades, construction obligations and zoning or permit concessions.
 - b. State and Agency shall determine a date for certification of right of way and agree to cosign the State's Right of Way Certification form. State and Agency agree possession of all right of way shall occur prior to advertising for any construction contract, unless exceptions have been agreed to by Agency and State.
 - c. Agency agrees to file all Recommendations for Condemnation at least seventy (70) days prior to the right of way certification date if negotiations have not been successful on those properties.
6. Relocation:
- a. Agency shall perform any relocation assistance, make replacement housing computations, and do all things necessary to relocate any displaced parties on the Project.
 - b. Agency shall make all relocation and moving payments for the Project.
 - c. Agency shall facilitate the relocation appeal process.

C. Closing Phase

1. Agency shall close all transactions. This includes drawing of deeds, releases and satisfactions necessary to clear title, obtaining signatures on release documents, and making all payments. If State is working as a consultant for the Agency, State shall submit all signed Final Report packets, information required by the Uniform Act, and agreements to the Agency.
2. Agency shall record conveyance documents, only upon acceptance by appropriate agency.

D. Property Management

1. Agency shall take possession of all the acquired properties. There shall be no encroachments of buildings or other private improvements allowed upon the State highway right of way.
2. Agency shall dispose of all improvements and excess land consistent with State prevailing laws and policies.

E. Condemnation

1. Agency may offer mediation if the Agency and property owners have reached an impasse.
2. Agency shall perform all administrative functions in preparation of the condemnation process, such as preparing final offer and complaint letters.
3. Agency shall perform all legal and litigation work related to the condemnation process. Agency is responsible for passage of a resolution substantially in the form attached hereto as Exhibit D, and by this reference made a part hereof, specifically identifying the property being acquired.
4. When State shall perform legal or litigation work related to the condemnation process, Agency acknowledges, agrees and undertakes to assure that no member of Agency's board or council, nor Agency's mayor, when such member or mayor is a practicing attorney, nor Agency's attorney nor any member of the law firm of Agency's attorney, board or council member, or mayor, will represent any party, except Agency, against the State of Oregon, its employees or contractors, in any matter arising from or related to the Project which is the subject of this Agreement.

F. Transfer of Right of Way to State

When right of way is being acquired in Agency's name, Agency agrees to transfer and State agrees to accept all right of way acquired on the State highway. The specific method of conveyance will be determined by the Agency and the State at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. Agency agrees to provide the State all information and file documentation the State deems necessary to integrate the right of way into the State's highway system. At a minimum, this includes: copies of all

recorded conveyance documents used to vest title in the name of the Agency during the right of way acquisition process, and the Agency's Final Report or Summary Report for each acquisition file that reflects the terms of the acquisition and all agreements with the property owner(s).

G. Transfer of Right of Way to Agency

When right of way is being acquired in State's name, State agrees to transfer and Agency agrees to accept all right of way acquired on the Agency's facility, subject to concurrence from FHWA at the time of the transfer. The specific method of conveyance will be determined by the State and the Agency at the time of transfer and shall be coordinated by the State's Region Right of Way Manager. If requested, State agrees to provide Agency information and file documentation associated with the transfer.

For purposes of Exhibits B and C, references to Department shall mean State, references to Contractor shall mean Agency, and references to Contract shall mean Agreement.

EXHIBIT B (Local Agency or State Agency)

CONTRACTOR CERTIFICATION

Contractor certifies by signing this Contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Contractor) to solicit or secure this Contract,
- (b) agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Contractor), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the Contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

DEPARTMENT OFFICIAL CERTIFICATION

Department official likewise certifies by signing this Contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this Contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

Exhibit C
Federal Provisions
Oregon Department of Transportation

CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION

Contractor certifies by signing this Contract that to the best of its knowledge and belief, it and its principals:

- | | |
|--|---|
| 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency; | 2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or |
|--|---|

local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

EXCEPTIONS:

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this Contract, the Contractor is deemed to have signed this certification.

II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-- PRIMARY COVERED TRANSACTIONS

1. By signing this Contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the

certification set out below. This explanation will be considered in connection with the Department determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.
4. The Contractor shall provide immediate written notice to the Department if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by entering into this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
7. The Contractor further agrees by entering into this Contract that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered

Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.

III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this Contract, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this Contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Contract is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this Contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower

Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by entering into this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.

- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall submit a written explanation to Department.

IV. EMPLOYMENT

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractors, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranting, Department shall have the right to annul this Contract without liability or in its discretion to deduct from the Contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the Contract, any professional or technical personnel who are or have been at any time during the period of this Contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be entitled to rely on the accuracy, competence, and completeness of Contractor's services.

V. NONDISCRIMINATION

During the performance of this Contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this Contract. Contractor, with regard to the work performed after award and prior to completion of the Contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the Contract covers a program set forth in Appendix B of the Regulations.
 2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
 3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this Contract, Contractor agrees as follows:
 - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.
 - b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
 4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.
 5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the Contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
 - b. Cancellation, termination or suspension of the agreement in whole or in part.
 6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of

materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

DBE POLICY STATEMENT

DBE Policy. It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this Contract.

Required Statement For USDOT Financial Assistance Agreement. If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

DBE Obligations. The Department and its Contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all

necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither Department nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Department deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this Contract.

Records and Reports. Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials from the DBEs identified to meet Contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the Contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Department.

Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

DBE Definition. Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

CONTRACTOR'S DBE CONTRACT GOAL

DBE GOAL 0 %

By signing this Contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in

the Contract for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

\$100,000 and that all such subrecipients shall certify and disclose accordingly.

VII. LOBBYING

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed

FOR INQUIRY CONCERNING
DEPARTMENT'S DBE PROGRAM
REQUIREMENT CONTACT OFFICE OF
CIVIL RIGHTS AT (503)986-4354.

RESOLUTION EXERCISING THE POWER OF EMINENT DOMAIN EXHIBIT D
Right of Way Services

(Instructions, please delete before completing form)Regions: This portion of the document is unlocked. The LPA should block and copy to incorporate this language into their own standard resolution form **OR** fill in an "attested to" line or signature line at the bottom and use this form.

WHEREAS (insert title of agency) may exercise the power of eminent domain pursuant to (Agency's charter) (statutes conferring authority) and the Law of the State of Oregon generally, when the exercise of such power is deemed necessary by the (insert title of agency)'s governing body to accomplish public purposes for which (insert title of agency) has responsibility;

WHEREAS (insert title of agency) has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public;

WHEREAS the project or projects known as (insert Project name) have been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, travel safeguarded; and

WHEREAS to accomplish the project or projects set forth above it is necessary to acquire the interests in the property described in "Exhibit A," attached to this resolution and, by this reference incorporated herein; now, therefore

BE IT HEREBY RESOLVED by (Agency's Council, Commission, or Board)

1. The foregoing statements of authority and need are, in fact, the case. The project or projects for which the property is required and is being acquired are necessary in the public interest, and the same have been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury;
2. The power of eminent domain is hereby exercised with respect to each of the interests in property described in Exhibit A. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law;
3. The (insert title of agency)'s staff and the (Agency's Attorney, Counsel, or District's Counsel (or) (The Oregon Department of Transportation and the Attorney General) are authorized and requested to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters determined above or determinable by the (Agency's Council, Commission, or Board).
4. (insert title of agency) expressly reserves its jurisdiction to determine the necessity or propriety of any acquisition, its quantity, quality, or locality, and to change or abandon any acquisition.

DATED this ____ day of _____, 20__



DAN JOHNSON
DIRECTOR

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

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Contract with DiExSys, LLC for Traffic Safety Software

Purpose/Outcome	Complete Roadway Safety Analyses/Implement Cost Effective Safety Solutions to Eliminate Fatal and Serious Injury Crashes
Dollar Amount and Fiscal Impact	\$195,000 total Contract for a period of 5 years.
Funding Source	Road Fund (26%); Drive to Zero General Fund (74%)
Duration	Expires November 30, 2025.
Previous Board Action/Review	No previous action
Strategic Plan Alignment	Build a strong infrastructure; Ensure safe, healthy and secure communities
Counsel Review	1. Date of Counsel review: 11-5-2020 2. Initials of County Counsel performing review. ARN
Procurement Review	3. Was the item processed through Procurement? yes X no <input type="checkbox"/> 4. If no, provide brief explanation:
Contact Person	Joseph Marek – 503-970-8987
Contract No.	#3421

Background:

The BCC adopted Transportation Safety Plan calls for the elimination of Fatal and Serious Injury Crashes by 2035. To accomplish this goal as part of the Drive to Zero Program, very strategic roadway safety investments need to be made. The Highway Safety Manual methodologies and Level-of-Service-of-Safety provide a comprehensive method to analyze roadway networks to accomplish the County’s safety goals, but it needs to be in an easy to use software platform. The County needs to be strongly data driven, making investments to maximize crash reduction over time.

This software deployment will have an initial purchase, cost for data integration and annual maintenance/upgrade fee for use. Within this proposal, we have included initial purchase and ongoing subscription/maintenance for up to five (5) years with up to two renewals. Purchase will be split between Road Fund (16%) and Drive-to-Zero General Fund (74%).

Procurement Process:

This project was advertised in accordance with ORS and LCRB Rules on August 18, 2020. Proposals were opened on September 17, 2020. The County received four (4) Proposal: DiExSys, LLC; Source Soft Solutions; StreetLight Date, Inc.; and urban SKD. An evaluation committee of four DTD personnel scored DiExSys, LLC proposal with the most points.

Recommendation:

Staff respectfully recommends that the Board approve and execute the Traffic Safety Software Contract with DiExSys, LLC.

Sincerely,

A handwritten signature in cursive script that reads "Joseph F. Marek".

Joseph F. Marek, PE, PTOE

Placed on the BCC Agenda _____ by Procurement and Contract Services



**CLACKAMAS COUNTY
GOODS AND SERVICES CONTRACT
Contract #3421**

This Goods and Services Contract (this “Contract”) is entered into between **DiExSys, LLC** (“Contractor”), and Clackamas County, a political subdivisions of the State of Oregon (“County”) on behalf of Department of Transportation and Development for the purposes of providing **Traffic Safety Software (RFP 2020-58)**.

I. TERM

This Contract shall become effective upon signature of both parties and shall remain in effect until **November 30, 2025**. This Contract and any amendments to this Contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services.

II. SCOPE OF WORK

This Contract covers the Scope of Work as described in RFP 2020-58 Traffic Safety Software, issued August 18, 2020, attached and hereby incorporated by reference as Exhibit “A.” This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit “A”, and the Contractor’s Proposal attached and hereby incorporated by reference as Exhibit “B.” Work shall be performed in accordance with a schedule approved by the County. The Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The County’s Representative for this contract is: **Joe Marek**, 503-742-4705 email: joemar@clackamas.us

III. COMPENSATION

1. **PAYMENT.** The County agrees to compensate the Contractor on a time and material basis as detailed in this Contract. The initial Compensation for licenses, system integration, and a 2-day training shall not exceed \$85,000.00. There is an additional \$10,000.00 authorized for two 1-day follow-up refresher trainings. The training fees include travel expenses, per diem for instructors and all class materials. Thereafter, the annual license fee remains at \$25,000.00 per year until Contract expiration. The total Contract compensation shall not exceed **\$195,000.00** over the life of the Contract.
2. **TRAVEL EXPENSE REIMBURSEMENT.** Authorized: Yes No
If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.
3. **INVOICES.** Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent County contract and/or purchase order numbers. All charges shall be billed monthly (unless a different payment period is outlined in Exhibit A) and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute (“ORS”) 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present

such invoice thereafter and to receive payment therefor. Invoices shall be submitted to the County Representative at: Joe Marek via email: joemar@clackamas.us

IV. CONTRACT PROVISIONS

1. ACCESS TO RECORDS. Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

2. AVAILABILITY OF FUNDS. County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County's reasonable administrative discretion, to continue to make payments under this Contract.

3. CAPTIONS. The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.

4. COMPLIANCE WITH APPLICABLE LAW. Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor's surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor's employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee's wages to provide such services.

5. EXECUTION AND COUNTERPARTS. This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

6. GOVERNING LAW. This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it

shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

7. HAZARD COMMUNICATION. Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 437, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Contractor shall immediately provide Safety Data Sheets for the products subject to this provision.

8. INDEMNITY, RESPONSIBILITY FOR DAMAGES. Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.

9. INDEPENDENT CONTRACTOR STATUS. The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to the County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656.

10. INSURANCE. Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon. Contractor shall provide insurance as indicated below:

Required – Cyber Liability: combined single limit, or the equivalent, of not less than \$1,000,000.00 per occurrence, with an annual aggregate limit of \$2,000,000.00

A. COMMERCIAL GENERAL LIABILITY

The Contractor agrees to furnish the County evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use

thereof, in any way related to this Contract. The general aggregate shall apply separately to this project / location. The County, at its option, may require a complete copy of the above policy.

B. AUTOMOBILE LIABILITY

The Contractor agrees to furnish the County evidence of business automobile liability insurance with a combined single limit of not less than \$1,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this Contract. The County, at its option, may require a complete copy of the above policy.

C. Contractor shall provide County a certificate of insurance naming the Clackamas County and its officers, elected officials, agents, and employees as an additional insured. If Contractor's insurance policy does not include a blanket endorsement for additional insured status when/where required by written contract (as required in this Contract), the insurance, shall include Clackamas County and its officers, elected officials, agents, and employees as expressly scheduled additional insured. Use CG 20 10 or its equivalent. Such insurance shall provide sixty (60) days written notice to the County in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

D. If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor agrees to qualify and remain qualified for the term of this Contract as an insured employer under ORS 656. The Contractor shall maintain employer's liability insurance with limits of \$100,000 for each accident, \$100,000 per disease for each employee, and \$500,000 each minimum policy limit.

E. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of thirty-six (36) months or the maximum time period the Contractor's insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided it's retroactive date is on or before the effective date of this Contract.

F. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice by the Contractor to the County. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

G. Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Contract, unless this requirement is expressly modified or waived by the County.

11. LIMITATION OF LIABILITIES. Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract 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.

12. NOTICES. Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery,

facsimile, or mailing the same, postage prepaid, to Contractor or County at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against County, such facsimile transmission must be confirmed by telephone notice to County's supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

13. OWNERSHIP OF WORK PRODUCT. All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

14. REPRESENTATIONS AND WARRANTIES. Contractor represents and warrants to County that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- a. Performance Warranty. Contractor warrants that the goods provided to the County shall consistently perform according to the performance characteristics described in the Scope of Work.
- b. Service Warranty. Contractor warrants that the services provided herein to the County, if any, will be performed in a workmanlike manner and in accordance with the highest professional standards. Contractor's liability and County's remedy under this services warranty are limited to Contractor's prompt correction of such services, provided that written notice of such alleged defective services shall have been given by the County to Contractor. The County agrees to provide Contractor reasonable access to the goods for purposes of repair or replacement under this services warranty. Failure of Contractor to promptly correct problems pursuant to this Service Warrant shall be deemed a material breach of this Contract.

15. SURVIVAL. All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections of Section IV: 1, 6, 8, 11, 13, 14, 15, 21, and all other terms and conditions which by their context are intended to survive termination of this Contract.

16. SEVERABILITY. If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

17. SUBCONTRACTS AND ASSIGNMENTS. Contractor shall not enter into any subcontracts for any of the work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 8, 13, 15, and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

18. SUCCESSORS IN INTEREST. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

19. TAX COMPLIANCE CERTIFICATION. Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

20. TERMINATION. This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the work under this Contract is prohibited or the County are prohibited from paying for such work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such

failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.

21. REMEDIES. (A) In the event of termination pursuant to Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research or objects or other tangible things needed to complete the work.

22. NO ATTORNEY FEES. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.

23. NO THIRD PARTY BENEFICIARIES. County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

24. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence under this Contract.

25. FOREIGN CONTRACTOR. If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

26. FORCE MAJEURE. Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

27. WAIVER. The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

28. COMPLIANCE. Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a

part of this Contract: (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished. (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. (C) The Contractor shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default. (D) The Contractor shall promptly, as due, make payment to any person or copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

29. DELIVERY. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the Contractor, unless specified otherwise in this Contract. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the County except as to latent defects, fraud and Contractor's warranty obligations.

30. INSPECTIONS. Goods and services furnished under this Contract will be subject to inspection and test by the County at times and places determined by the County. If the County finds goods and services furnished to be incomplete or not in compliance with the Contract, the County, at its sole discretion, may either reject the goods and services, require Contractor to correct any defects without charge, or negotiate with Contractor to sell the goods and services to the County at a reduced price, whichever the County deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the County, the County may reject the goods and services and cancel the Contract in whole or in part. Nothing in this paragraph shall in any way affect or limit the County's rights as a Buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

31. COOPERATIVE CONTRACTING. Pursuant to ORS 279A.200 to 279A.225, other public agencies may use this Contract resulting from a competitive procurement process unless the Contractor expressly noted in their proposal/quote that the prices and services are available to the County only. The condition of such use by other agencies is that any such agency must make and pursue contact, purchase order, delivery arrangements, and all contractual remedies directly with Contractor; the County accepts no responsibility for performance by either the Contractor or such other agency using this Contract. With such condition, the County consents to such use by any other public agency.

32. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY

UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

DiExSys, LLC
8606 W. Mountain View Lane
Littleton, CO 80125

Clackamas County



11/4/2020

Authorized Signature

Date

Chair

Kononov, Jake / Principal

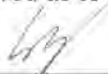
Name / Title (Printed)

Recording Secretary

1656006-94 FLLC / Colorado
Oregon Business Registry #

Date

Approved as to Form:



11/05/2020

County Counsel

Date

EXHIBIT A
RFP 2020-58 TRAFFIC SAFETY SOFTWARE
ISSUED: AUGUST 18, 2020



REQUEST FOR PROPOSALS #2020-58

FOR

Traffic Safety Software

BOARD OF COUNTY COMMISSIONERS

JIM BERNARD, Chair

SONYA FISCHER, Commissioner

KEN HUMBERSTON, Commissioner

PAUL SAVAS, Commissioner

MARTHA SCHRADER, Commissioner

**Gary Schmidt
County Administrator**

**George Marlton
Chief Procurement Officer**

**Brant Sylvester
Analyst**

PROPOSAL CLOSING DATE, TIME AND LOCATION

DATE: September 17, 2020

TIME: 2:00 PM, Pacific Time

**PLACE: Clackamas County Procurement Division
Clackamas County Public Services Building
2051 Kaen Road, Oregon City, OR 97045**

SCHEDULE

Request for Proposals Issued.....	August 18, 2020
Protest of Specifications Deadline.....	August 25, 2020, 5:00 PM, Pacific Time
Deadline to Submit Clarifying Questions.....	September 02, 2020, 5:00 PM, Pacific Time
Request for Proposals Closing Date and Time.....	September 17, 2020, 2:00 PM, Pacific Time
Deadline to Submit Protest of Award.....	Seven (7) days from the Intent to Award

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SECTION 1 NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that Clackamas County through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, September 17, 2020** (“Closing”), to provide Traffic Safety Software. No Proposals will be received or considered after that time.

The resulting contract from this RFP requires the implementation to begin in November 2020 with all software up and running by June 2021.

RFP Documents can be downloaded from ORPIN at the following address:

<http://orpin.oregon.gov/open.dll/welcome>, Document No. C01010-2020-58-20.

Prospective Proposers will need to sign in to download the information and that information will be accumulated for a Plan Holder's List. Prospective Proposers are responsible for obtaining any Addenda, clarifying questions, and Notices of Award from ORPIN. Sealed Proposals are to be sent to Clackamas County Procurement Services – Attention George Marlton, Chief Procurement Officer at 2051 Kaen Road, Oregon City, Oregon, 97045 or may be emailed to procurement@clackamas.us.

Contact Information

Procurement Process and Technical Questions: Brant Sylvester, bsylvester@clackamas.us

The Board of County Commissioners reserves the right to reject any and all Proposals not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, the Board of County Commissioners will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of Clackamas County and will reserve the right to award the contract to the contractor who's Proposal shall be best for the public good.

Clackamas County encourages proposals from Minority, Women, and Emerging Small Businesses.

SECTION 2 INSTRUCTIONS TO PROPOSERS

Clackamas County (“County”) reserves the right to reject any and all Proposals received as a result of this RFP. County Local Contract Review Board Rules (“LCRB”) govern the procurement process for the County.

2.1 Modification or Withdrawal of Proposal: Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided that a written request is received by the County Procurement Division Director, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

2.2 Requests for Clarification and Requests for Change: Proposers may submit questions regarding the specifications of the RFP. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, at the Procurement Division address as listed in Section 1 of this RFP. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit County to correct, prior to the opening of Proposals, RFP terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. County will consider all requested changes and, if appropriate, amend the RFP. No oral or written instructions or information concerning this RFP from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFP.

2.3 Protests of the RFP/Specifications: Protests must be in accordance with LCRB C-047-0730. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, or within three (3) business days of issuance of any addendum, at the Procurement Division address listed in Section 1 of this RFP. Protests may not be faxed. Protests of the RFP specifications must include the reason for the protest and any proposed changes to the requirements.

2.4 Addenda: If any part of this RFP is changed, an addendum will be provided to Proposers that have provided an address to the Procurement Division for this procurement. It shall be Proposers responsibility to regularly check ORPIN for any notices, published addenda, or response to clarifying questions.

2.5 Submission of Proposals: Proposals must be submitted in accordance with Section 5.

All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFP. Proposals that include orders or qualifications may be rejected as irregular. All Proposals must include a signature that affirms the Proposer’s intent to be bound by the Proposal (may be on cover letter, on the Proposal, or the Proposal Certification Form) shall be signed. If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor. The Proposals will be considered by the County to be submitted in confidence and are not subject to public disclosure until the notice of intent to award has been issued.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by telephone or fax.

2.6 Post-Selection Review and Protest of Award: County will name the apparent successful Proposer in a Notice of Intent to Award published on ORPIN. Identification of the apparent successful Proposer is procedural only and creates no right of the named Proposer to award of the contract. Competing Proposers shall be given seven (7) calendar days from the date on the Notice of Intent to Award to review the file at the Procurement Division office and file a written protest of award, pursuant to LCRB C-047-0740. Any award protest must be in writing and must be delivered by hand-delivery or mail to the address for the Procurement Division as listed in Section 1 of this RFP.

Only actual Proposers may protest if they believe they have been adversely affected because the Proposer would be eligible to be awarded the contract in the event the protest is successful. The basis of the written protest must be in accordance with ORS 279B.410 and shall specify the grounds upon which the protest is based. In order to be an

adversely affected Proposer with a right to submit a written protest, a Proposer must be next in line for award, i.e. the protester must claim that all higher rated Proposers are ineligible for award because they are non-responsive or non-responsible.

County will consider any protests received and:

- a. reject all protests and proceed with final evaluation of, and any allowed contract language negotiation with, the apparent successful Proposer and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer; OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer as nonresponsive, if such Proposer is unable to demonstrate that its Proposal complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name a new apparent successful Proposer; OR
- c. reject all Proposals and cancel the procurement.

2.7 Acceptance of Contractual Requirements: Failure of the selected Proposer to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of County.

2.8 Public Records: Proposals are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFP and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.345(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

“This information constitutes a trade secret under ORS 192.345(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” (ORS 192.345). Therefore, non-disclosure of documents, or any portion of a document submitted as part of a Proposal, may depend upon official or judicial determinations made pursuant to the Public Records Law.

2.9 Investigation of References: County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any other factor relevant to this RFP. County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer in order to complete its investigation.

2.10 RFP Proposal Preparation Costs and Other Costs: Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by County), or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by County.

2.11 Clarification and Clarity: County reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

2.12 Right to Reject Proposals: County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by County.

2.13 Cancellation: County reserves the right to cancel or postpone this RFP at any time or to award no contract.

2.14 Proposal Terms: All Proposals, including any price quotations, will be valid and firm through a period of one hundred and eighty (180) calendar days following the Closing date. County may require an extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.

2.15 Oral Presentations: At County's sole option, Proposers may be required to give an oral presentation of their Proposals to County, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Procurement Division will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by County. **Note:** Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, **written Proposals should be complete.**

2.16 Usage: It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

2.17 Review for Responsiveness: Upon receipt of all Proposals, the Procurement Division or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

2.18 RFP Incorporated into Contract: This RFP will become part of the Contract between County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFP, their Proposal(s), and the terms of the Sample Contract.

2.19 Communication Blackout Period: Except as called for in this RFP, Proposers may not communicate with members of the Evaluation Committee or other County employees or representatives about the RFP during the procurement process until the apparent successful Proposer is selected, and all protests, if any, have been resolved. Communication in violation of this restriction may result in rejection of a Proposer.

2.20 Prohibition on Commissions and Subcontractors: County will contract directly with persons/entities capable of performing the requirements of this RFP. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process. Contractor shall not use subcontractors to perform the Work unless specifically pre-authorized in writing to do so by the County. Contractor represents that any employees assigned to perform the Work, and any authorized subcontractors performing the Work, are fully qualified to perform the tasks assigned to them, and shall perform the Work in a competent and professional manner. Contractor shall not be permitted to add on any fee or charge for subcontractor Work. Contractor shall provide, if requested, any documents relating to subcontractor's qualifications to perform required Work.

2.21 Ownership of Proposals: All Proposals in response to this RFP are the sole property of County, and subject to the provisions of ORS 192.410-192.505 (Public Records Act).

2.22 Clerical Errors in Awards: County reserves the right to correct inaccurate awards resulting from its clerical errors.

2.23 Rejection of Qualified Proposals: Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFP or the Sample Contract.

2.24 Collusion: By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFP, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

2.25 Evaluation Committee: Proposals will be evaluated by a committee consisting of representatives from County and potentially external representatives. County reserves the right to modify the Evaluation Committee make-up in its sole discretion.

2.26 Commencement of Work: The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by County.

2.27 Best and Final Offer: County may request best and final offers from those Proposers determined by County to be reasonably viable for contract award. However, County reserves the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

2.28 Nondiscrimination: The successful Proposer agrees that, in performing the work called for by this RFP and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.

2.29 Intergovernmental Cooperative Procurement Statement: Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the contractor and the participating public agency and shall not impact the contractor's obligation to the County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

SECTION 3 SCOPE OF WORK

3.1. INTRODUCTION

Clackamas County is seeking Proposals from vendors to provide Traffic Safety Diagnostic and Management Software as described here in.

Please direct all Technical/Specifications or Procurement Process Questions to the indicated representative referenced in the Notice of Request for Proposals and note the communication restriction outlined in Section 2.19.

3.2 BACKGROUND

Clackamas County (“County”) has set a goal to eliminate fatal and serious injury crashes by 2035. Deployment of safety infrastructure countermeasures is a key component of reducing these life-altering crashes. Choosing locations for safety countermeasure deployment is heavily data driven, requiring use of crash data, roadway inventory, traffic volume, posted speed and functional classifications to analyze the road network in search of the most cost-effective projects. The complex process of determining locations for safety improvements is based upon the concepts and procedures outlined in the Highway Safety Manual, a comprehensive set of processes and procedures for the practitioner to use to screen and analyze a roadway network in search of the most cost-effective safety countermeasure. The foundational tenet is the Safety Management Process including:

1. Network Screening
2. Diagnosis
3. Countermeasure Selection
4. Economic Appraisal
5. Project Prioritization
6. Safety Effectiveness Evaluation

The County is searching for an easy-to-use software package that is Highway Safety Manual compliant that can be used on a Windows platform located on individual computers and access data from either an individual computer or network. To more comprehensively evaluate safety on County roadways, the software package is required to use Level of Service of Safety (“LOSS”) which uses crash rate, crash frequency along with the use of Safety Performance Function’s (“SPF”).

3.3. SCOPE OF WORK

3.3.1. Scope:

The scope of work for this project includes the purchase and deployment of an easy-to-use Traffic Safety Management software package based on the Highway Safety Manual software and using the Level of Service of Safety (LOSS) methodology (see <https://safety.fhwa.dot.gov/rsdp/downloads/fhwasal6027.pdf> and AASHTO Highway Safety Manual) and diagnostic analysis and pattern recognition to identify potential safety improvements. Any software solution must use this methodology or equivalent and be compliant with said manuals and use the data algorithms located within this manual or equivalent.

The software shall consist of the ability to analyze highway segments and intersections. While completing this purpose this software must be capable of meeting the following requirements:

- a. Reports – The software must be able to generate reports that at a minimum include:
 - Summary of all input data and/or input screens

- Summary of analysis methodology and reasoning processes
 - Detailed summary of safety assessment, findings and safety options/countermeasures that may reduce crashes along with the predicted change.
- b. Detailed summary Benefit to Cost of safety countermeasures.
- c. Standards – The Software must comply with all standards set forth in the Highway Safety Manual and use LOSS, which uses crash rate, crash frequency along with crash severities predicted by Safety Performance Functions (SPF).
- d. Software General Capabilities – Software must include the following:
- Software can be cloud, network or individual computer-based
 - Capability to perform detailed safety analysis on roadway segments and intersections using safety performance functions
 - Provide general analysis tools with user friendly graphical interface and ability to integrate with Google Earth capabilities.
 - Have the ability to Utilize Crash filters on analysis and reports
 - Ability to conduct network screening
 - Contain a detailed roadway information module containing Model Inventory Roadway Elements (MIRE) based on County road data.
 - Ability to conduct detailed economic analysis of all roadways
 - Use of normative percentages
 - Ability to conduct direct safety diagnostics
 - Ability to conduct pattern recognition analysis
 - Use of Empirical Bayes correction for regression to the mean
- e. Integration – Software must have:
- Ability to integrate Oregon DOT’s crash data
 - Ability to integrate the County’s roadway inventory, traffic data and traffic count data
- f. Maintenance and Support:
- Maintenance & Support must begin first business day following software deployment on County-owned computers.
 - Provide remote training for up to twenty (20) County and other public personnel including representatives from Traffic Safety, law enforcement and public health.
 - Support to be via email and telephone support Monday through Friday – 8:00-5:00 PM with response time of one (1) hour or less
- g. Documentation needed to be provided under the proposed contract:
- Full PDF Software manual with license to distribute copies to all County Users
- h. Data to be migrated and or added into the system shall be included but not limited to:
- Oregon DOT crash data for all of the County – last 10 years and will be continually uploaded annually throughout the life of the contract.
 - Annual average daily traffic within the County
 - Road functional classifications within the County
 - Road widths, bike lane widths, shoulder widths, and clear zone widths for all public roads within the County
 - Number of lanes for all public roads within the County
 - Divided/undivided for all public roads within the County
 - Signalized/not signalized intersections within the County
 - Curb/no curb on all public roads
 - Stripe/no stripe on all public roads
 - Edge line/no edge line on all public roads
- i. Expandability – Must Accommodate annual updates of roadway data, traffic count data and crash data from both Clackamas County and the Oregon DOT.

- j. Software Licensing:
 - Enterprise level license and support for five (5) years, with the option for additional renewals thereafter. If Software is not cloud based the Licenses shall cover unlimited software installation on County-owned computers. Regardless of local or cloud based, the Licenses shall cover all maintenance and support needed to keep software running throughout the life of the contract.
- k. Protected Information:
 - There is no protected information as part of the program data or outputs
- l. Overall Cost must include the following:
 - Software purchase
 - One time data integration/implementation
 - Annual License Fee & Maintenance
 - Training on software use
 - Annual crash data and roadway data update integration feed

3.3.2. Implementation Schedule:

The following implementation schedule is proposed:

- a. Contract Execution in October of 2020
- b. Software setup and data integration, importing Oregon-specific SPF’s and development of new SPF’s by vendor – (can allow up to six (6) months to complete this step)
- c. Software deployment on or around April 2021. (1 month)
- d. Remote training for 20+ individuals/users.
- e. Software implementation fully completed by June 2021.

3.3.3. Term of Contract:

The term of the contract shall start on the effective date once both parties have signed the contract and continue for a base period of five (5) years, with the option for additional renewals thereafter. These renewals will be on a year by year basis and the contractor will be required to submit an updated quote for the renewal 60 days prior to the expiration of the current period.

3.3.4 Sample Contract: Submission of a Proposal in response to this RFP indicates Proposer’s willingness to enter into a contract containing substantially the same terms (including insurance requirements) of the sample contract identified below. No action or response to the sample contract is required under this RFP. Any objections to the sample contract terms should be raised in accordance with Paragraphs 2.2 or 2.3 of this RFP, pertaining to requests for clarification or change or protest of the RFP/specifications, and as otherwise provided for in this RFP. This RFP and all supplemental information in response to this RFP will be a binding part of the final contract.

The applicable Sample Professional Services Contract, for this RFP can be found at <https://www.clackamas.us/finance/terms.html>.

Personal Services Contract (unless checked, item does not apply)

The following paragraphs of the Professional Services Contract will be applicable:

- Article I, Paragraph 5 – Travel and Other Expense is Authorized
- Article II, Paragraph 27 – Confidentiality
- Article II, Paragraph 28 – Criminal Background Check Requirements
- Article II, Paragraph 29 – Key Persons
- Exhibit A – On-Call Provision

The following insurance requirements will be applicable:

- ☒ **Commercial General Liability:** combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
- ☒ **Professional Liability:** combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
- ☒ **Automobile Liability:** combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.
- ☒ **Cyber Liability:** combined single limit, or the equivalent, of not less than \$1,000,000.00 per occurrence, with an annual aggregate limit of \$3,000,000.00

**SECTION 4
EVALUATION PROCEDURE**

4.1 An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals in accordance with the below criteria. The evaluation committee may recommend an award based solely on the written responses or may request Proposal interviews/presentations. Interviews/presentations, if deemed beneficial by the evaluation committee, will consist of the highest scoring Proposers. The invited Proposers will be notified of the time, place, and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.

Written Proposals must be complete and no additions, deletions, or substitutions will be permitted during the interview/presentation (if any). The evaluation committee will recommend award of a contract to the final County decision maker based on the highest scoring Proposal. The County decision maker reserves the right to accept the recommendation, award to a different Proposer, or reject all Proposals and cancel the RFP.

Proposers are not permitted to directly communicate with any member of the evaluation committee during the evaluation process. All communication will be facilitated through the Procurement representative.

4.2 Evaluation Criteria

<u>Category</u>	<u>Points available:</u>
Proposer’s General Background and Qualifications	0-15
Implementation Plan	0-20
Software Capabilities	0-30
Software Service Level Agreement	0-15
Fees	0-15
References	0-5
Available points	0-100

4.3 Once a selection has been made, the County will enter into contract negotiations. During negotiation, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contract. The negotiations will identify a level of work and associated fee that best represents the efforts required. If the County is unable to come to terms with the highest scoring Proposer, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple phases and the County deems it is in its interest to not authorize any particular phase, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer to complete the remaining phases.

SECTION 5 PROPOSAL CONTENTS

5.1. Vendors must observe submission instructions and be advised as follows:

5.1.1. Complete Proposals may be mailed to the below address or **emailed** to Procurement@clackamas.us. The subject line of the email must identify the RFP title. Proposers are encouraged to contact Procurement to confirm receipt of the Proposal. If the Proposal is mailed, an original copy and an electronic copy (on compact disk or jump drive) must be included. The Proposal (hardcopy or email) must be received by the Closing Date and time indicated in Section 1 of the RFP.

5.1.2. Mailing address including Hand Delivery, UPS and FEDEX:

Clackamas County Procurement Division – Attention George Marlton, Chief Procurement Officer
Clackamas County Public Services Building
2051 Kaen Road
Oregon City, OR 97045

5.1.3. County reserves the right to solicit additional information or Proposal clarification from the vendors, or any one vendor, should the County deem such information necessary.

5.1.4. Proposal may not exceed a total of **40 pages (single-sided)**, inclusive of all exhibits, attachments or other information.

Provide the following information in the order in which it appears below:

5.2. Proposer's General Background and Qualifications:

At a minimum

- Description of the firm.
- Credentials/experience of key individuals that would be assigned to this project.
- Description of providing similar Safety Software/Services to public entities of similar size within the past five (5) years.
- Description of the firm's ability to meet the requirements in Section 3.
- Description of what distinguishes the firm from other firms performing a similar service.

5.3. Implementation Plan

Provide a detailed implementation plan within your proposal to include a Gantt chart outlining the timeline. The plan should follow the milestones outlined in the Scope of Work however, if any deviations are made, the change must be called out in the proposal and a detailed reasoning for the change must be included. The proposal must also specifically outline the roles and responsibilities of your firm and what is expected of the County for all activities related to implementation.

5.4. Software Capabilities

Contractor must provide a clear, detailed list of all the software capabilities that the proposed software has and provide individual confirmation for every capability required/listed in Section 3 of this RFP. Additionally all capabilities listed within the proposal **MUST** be included in the total cost outlined in the Fees page.

If your software solution provides additional functions and features outside the scope of this RFP, you may provide information on those optional functions and features that the County may elect to purchase initially or in

the future. If these over-and-above type functions are proposed, pricing must be clearly broken out from the total cost of the base software solution.

5.5. Software Service Level Agreement

- Provide detail of how software is maintained and updated based on new research and development of new SPF's.
- Provide detail of annual software update method and timeframe.
- Provide your Service Legal Agreement that provides details of the technical support plan offered within the proposal to include, issue response and resolution times.

5.6. Fees

Provide a detailed fee schedule of all features/options listed in the proposal. Said fee schedule must list a total not to exceed price for the base period and break out clear set pricing for the optional renewal. This total price must reflect all fees associated with every feature/function/option that is listed within the proposal. Additionally the fee for the software must be structured as enterprise licensing pricing vs. per license/user. Fees should be sufficiently descriptive to facilitate acceptance of a Proposal. Additionally the fee schedule must include the following information and clearly identify the costs associated with each of these items:

- Subscription/Licensing Annual Cost
- All Implementation Fees
- Renewal Fee Maximum Escalation (Percentage or fixed amount after the initial term).
- Any other fees not contemplated above

5.7. References

Provide at least three (3) references from clients your firm has served similar to the County in the past three (5) years, for similar services, including one client that has newly engaged the firm in the past thirty-six (36) months and one (1) long-term client. Provide the name, address, email, and phone number of the references. Please note the required three references may not be from County staff, but additional references may be supplied. Points awarded for this criteria are based on both the providing of references as well as information gleaned from the provided contacts. Evaluation Committee members may contact references at their sole discretion.

5.8. Completed Proposal Certification (see the below form)

PROPOSAL CERTIFICATION
RFP # 2020-58 Traffic Safety Software

Submitted by: _____
(Must be entity's full legal name, and State of Formation)

The undersigned, through the formal submittal of this Proposal response, declares that he/she has examined all related documents and read the instruction and conditions, and hereby proposes to provide the services as specified in accordance with the RFP, for the price set forth in the Proposal documents.

Proposer, by signature below, hereby represents as follows:

- (a) That no County elected official, officer, agent or employee of the County is personally interested directly or indirectly in this contract or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the County, its elected officials, officers, agents, or employees had induced it to enter into this contract and the papers made a part hereof by its terms;
- (b) The Proposer, and each person signing on behalf of any Proposer certifies, in the case of a joint Proposal, each party thereto, certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
 - 1. The prices in the Proposal have been arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restraining competition as to any matter relating to such prices with any other Proposer or with any competitor;
 - 2. Unless otherwise required by law, the prices which have been quoted in the Proposal have not been knowingly disclosed by the Proposer prior to the Proposal deadline, either directly or indirectly, to any other Proposer or competitor;
 - 3. No attempt has been made nor will be made by the Proposer to induce any other person, partnership or corporation to submit or not to submit a Proposal for the purpose of restraining trade;
- (c) The Proposer fully understands and submits its Proposal with the specific knowledge that:
 - 1. The selected Proposal must be approved by the Board of Commissioners.
 - 2. This offer to provide services will remain in effect at the prices proposed for a period of not less than ninety (90) calendar days from the date that Proposals are due, and that this offer may not be withdrawn or modified during that time.
- (d) That this Proposal is made without connection with any person, firm or corporation making a bid for the same material, and is in all respects, fair and without collusion or fraud.
- (e) That the Proposer shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.
- (f) That the Proposer accepts all terms and conditions contained in this RFP and that the RFP and the Proposal, and any modifications, will be made part of the contract documents. It is understood that all Proposals will become part of the public file on this matter. The County reserves the right to reject any or all Proposals.
- (g) That the Proposer holds current licenses that businesses or services professionals operating in this state must hold in order to undertake or perform the work specified in these contract documents.
- (h) That the Proposer is covered by liability insurance and other insurance in the amount(s) required by the solicitation and in addition that the Proposer qualifies as a carrier insured employer or a self-insured employer under ORS 656.407 or has elected coverage under ORS 656.128.
- (i) That the Proposer is legally qualified to contract with the County.
- (j) That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

(k) The Proposer agrees to accept as full payment for the services specified herein, the amount as shown in the Proposal.

Resident Bidder, as defined in ORS 279A.120

Non-Resident Proposer, Resident State _____
Oregon Business Registry Number _____

Contractor's Authorized Representative:

Signature: _____ Date: _____

Name: _____ Title: _____

Firm: _____

Address: _____

City/State/Zip: _____ Phone: () _____

e-mail: _____ Fax: _____

Contract Manager:

Name _____ Title: _____

Phone number: _____

Email Address: _____

EXHIBIT B
CONTRACTOR'S PROPOSAL



CLACKAMAS COUNTY

Traffic Safety Diagnostic and Management Software and Services

RFP #2020-58





September 14, 2020

George Marlton, Chief Procurement Officer
Clackamas County Procurement Division
Clackamas County Public Services Building
2051 Kaen Road, Oregon City, OR 97045

Re: Traffic Safety Diagnostic and Management Software and Services — RFP #2020-58

Dear Mr. Marlton:

We are honored to have an opportunity to offer our services in delivering Traffic Safety Diagnostic and Management Software to Clackamas County. DiExSys is a Certified Emerging Small Business (ESB) Enterprise.

We are a safety analytics company, our expertise is in integrating the science of road safety, statistical modeling and quantitative risk analysis with highway and traffic engineering, transportation planning, economics, GIS and IT. Our engineers and scientists specialize in effectively translating state-of-the-art safety analysis techniques into applied practical methodology used by transportation planners, engineers, and law enforcement personnel.

DiExSys is the developer and sole source provider of the Vision Zero Suite (VZS), an HSM compliant safety management system. DiExSys VZS meets or exceeds all of the software requirements described in the RFP.

Our team has a proven record of successfully delivering similar Traffic Safety Diagnostic and Management Software/ Services 19 times over the last 5 years. Our principals and employees have made and continue to make significant scientific contributions to the AASHTO Highway Safety Manual (HSM).

We founded our company in 2006 to do one thing: work alongside our clients toward a shared vision of preventing injury and deaths on our roads. This remains our singular purpose today. Road Safety is our business and our passion.

DiExSys is committed to delivering Safety Diagnostic and Management Software and Services on schedule as described in the RFP and without exceptions to the Clackamas County standard Professional Services Contract.

I certify that to the best of my knowledge all of the information submitted with this proposal is true and complete.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jake Kononov", is written over a white background.

Jake Kononov, PhD, PE
DiExSys, Principal
jake.kononov@diexsys.com
303-910-1401



5.2 | General Background and Qualifications

Description of the Firm

DiExSys stands for Diagnostic Expert Systems, we founded our company in 2006 to do one thing: work alongside our clients toward a shared vision of preventing injury and deaths on our roads. This remains our singular purpose today. *Road Safety is our business and our passion.*

Our engineers and scientists provide expert advice, policy guidance, and decision support analysis on highway safety and traffic operations related matters to numerous Departments of Transportation, cities, counties and public road authorities throughout the US and abroad. We hold the strong belief that professional authority rests on substantive scientific knowledge and that only when such knowledge is obtained can the transportation engineer act with social responsibility. Our culture is rooted in applied research, safety analytics and the pursuit of safety insights and breakthrough innovation. DiExSys has a proven record of translating state-of-the-art statistical techniques into applied methodology used by practicing engineers and planners at DOTs, cities and counties.



DiExSys is the developer and sole source provider of Vision Zero Suite (VZS), a Highway Safety Manual (HSM)-compliant safety management system that harnesses the power of predictive analytics and diagnostic pattern recognition to produce the augmented intelligence needed for effective road safety management. DiExSys VZS guides our clients on their journey toward our shared vision of zero traffic fatalities.

Credentials/Experience of Key Individuals Assigned to this project

DiExSys' founders and employees are leading experts in the science of road safety analytics. Our engineers and scientists are critical thinkers, comprised of nationally and internationally recognized experts in highway and traffic engineering, crash analysis, statistical modeling, traffic operations, software development, artificial intelligence and geographic information systems. Our team has made and continues to make significant scientific contributions to the first and draft second editions of the AASHTO Highway Safety Manual (HSM).

DiExSys principals developed the concept and pioneered practical use of Level of Service of Safety (LOSS) and diagnostic pattern recognition methodologies in highway safety management. DiExSys founders authored foundational TRB papers on LOSS and diagnostics incorporated into HSM and presently used nationwide.



Jake Kononov, PhD, PE

Jake Kononov, PhD, PE will function as Project Manager responsible for all aspects of implementing HSM-compliant VZS safety analysis software at Clackamas County.

Dr Kononov has successfully managed 19 (nineteen) similar projects across the country. Jake is the founding Principal of DiExSys and is an internationally known expert in highway safety. His research on Safety Performance Functions (SPF), LOSS and diagnostics has been incorporated into first and draft second editions of the AASHTO Highway Safety Manual. As a practicing engineer, Dr. Kononov performed thousands of diagnostic examinations using statistical methods starting in 2001. Jake has over 30 years of experience in all aspects of highway and traffic engineering. As a Principal of DiExSys, he has provided expert advice, policy guidance, and decision support analysis on highway safety and traffic operations related matters to numerous Departments of Transportation, Cities and Counties and Public Road Authorities throughout the U.S. Dr. Kononov is an author of numerous research papers on road safety published by the TRB, Swedish National Road and Transport Institute (VTI), German Road Research Institute (BAST), Italian Society of Highway Infrastructure (SIIV) and Public Works Magazine. He is the lead author of Best Paper of the Year awarded by the TRB Committee on Safety Data Analysis and Evaluation. Dr. Kononov is a registered Professional Engineer in Montana, Colorado and Wyoming.

PhD Transportation Engineering, Emphasis on Highway Safety, University of Colorado

MS Transportation Engineering, University of Colorado in Denver

BS Civil Engineering, University of Colorado in Denver

5.2 | General Background and Qualifications

Dr. Kononov is also an Associate Professor Adjunct at the Graduate School of Civil Engineering at the University of Colorado in Boulder. He served on the following TRB committees and NCHRP study panels:

- Chairman of the TRB Standing Committee on Safety Management (2006-2014)
- Member of the TRB Standing Committee on Safety Data, Design, Analysis and Evaluation (2001-2015)
- Member of the TRB Standing Committee on Highway Safety Performance (2011-2014)
- NCHRP Review of Truck Characteristics as Factors in Roadway Design. Study Panel Chairman
- NCHRP System-wide Impact of safety and Traffic Operations Design Decisions on RRR Projects. Study Panel Member
- NCHRP Synthesis on Statistical Methods for Highway Safety Analysis. Study Panel Member



Bryan Allery, PE

Bryan Allery, PE will be in charge of System's Integration and Data Management. Managing DiExSys integration and data management team Bryan has successfully completed integration of crash and roadway databases into VZS for 19 (nineteen) deployments of VZS across the country.

BS Geological Engineering

Colorado School of Mines, Golden, CO

He is also a founding Principal of DiExSys and has over 25 years of experience in transportation engineering, over 7 years at CALTRANS, and over 17 years at CDOT. Bryan is a nationally recognized expert on traffic records, accident analysis, and safety program management. He has extensive experience in development and deployment of Safety Management Systems and related computer programming. Bryan is a highly experienced transportation engineer in the areas of design, construction management, materials, geometric design, and traffic engineering. He has served as a research study panel member at the National Cooperative Highway Research Program (NCHRP). Bryan, together with Dr. Kononov, has coauthored a number of research papers on road safety. His experience at the Colorado DOT included: Responsibility for the conceptual development and implementation of strategies and programs to improve highway safety, planning and budgeting of statewide safety improvement programs (HSIP), overseeing assessment of safety needs and making recommendations for safety improvements on the statewide resurfacing program (budget \$100,000,000), reconstruction, realignment, and major widening projects, managing the process of optimization of investments into safety improvements to maximize program-wide accident reduction within constraints of available budgets, and providing expert advice and supporting analysis on safety related matters to six engineering regions. Bryan is a Registered Professional Engineer in Colorado and California.



Evan Kirby, GISP

Evan Kirby will be in charge of GIS applications and mapping on this project. Working with Bryan Allery and Jake Kononov, he prepared GIS mapping and related system integration on VZS deployments in several states. Evan

BS Geography and Environmental Conservation

University of Colorado, Boulder, CO

is a GIS applications, design and development expert with 24 years of professional experience that recently joined DiExSys as an owner. He is highly skilled in all aspects of ArcGIS and has been supporting projects with DiExSys in several states over the past 7 years. Evan has managed GIS analyses on a wide array of CDOT projects, including the Statewide Freight and Passenger Rail Plan, Statewide Transit Plan, Statewide Level of Service of Safety and Crash Pattern Mapping, the I-70 Mountain Corridor Programmatic EIS, CDOT's Statewide Travel Map and the Statewide Effects of Energy Development on the Transportation System Research Study. His interdisciplinary background in both the public and private sectors provides him with a wide range of GIS expertise. Evan has worked with DiExSys in several states to develop processes for the creation of GIS datasets from and data inputs into Vision Zero Suite (VZS). In Montana and Alabama, Evan used tabular outputs from statewide analysis of crash patterns and Level of Service of Safety (LOSS) from VZS and developed scripts to format the data to and to enable mapping of the model results in GIS.

5.2 | General Background and Qualifications



Catherine S. Durso, PhD

Dr. Durso will function as a Principal Statistician on the project. She is highly experienced with development of Accident Prediction Models, Advanced Diagnostic Tools, Variable Speed Limits (VSL) and Artificial Intelligence Algorithms. She is also actively

involved in applying statistical analysis to the problems of roadway safety and traffic operations. She has over 20 years of experience in the area of applied statistics and mathematical modeling with focus on highway safety analytics. Dr. Durso has coauthored a number of research papers on highway safety with Jake Kononov, Bryan Allery and Jim Williams.

**PhD & MS – Mathematics
Massachusetts Institute of Technology
(MIT) Cambridge, MA**

**BS Mathematics, Princeton University,
Princeton, NJ**



James S. Williams, P.E.

Jim Williams, PE will assist with Systems Integration, perform SPF modeling and development of diagnostic norms

Jim is Senior Safety Analyst at DiExSys. He has over 30 years of experience in all aspects of Transportation Engineering. During his career at DiExSys he developed hundreds of crash prediction models (SPFs) of segments and intersections for CDOT, Montana DOT and Louisiana DOT. Jim has pioneered new modeling techniques which resulted in improved goodness of fit in SPF modeling. He has a strong background in predictive analytics and is intimately familiar with crash records and databases. During his time at CDOT, Jim worked in the staff traffic and cost estimating unit, where he designed sophisticated databases to provide decision support analysis. Jim is an experienced user of VZS.

**BS Mathematics
University of Colorado, Boulder, CO**



Richard Sarchet, MS., P.E.

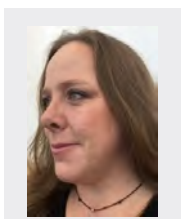
Rich Sarchet, PE will serve as Senior Safety Engineer on the project responsible for training and safety analysis. Rich joined DiExSys as a Senior Transportation Safety Engineer 5 years ago. He has over 20 years of transportation engineering experience at CDOT, with 15 of those years

focused on safety and traffic operations. From 2011 through 2015 Rich worked as Region 3 Traffic Operations Engineer addressing multidisciplinary problems of safety and mobility combining expertise in rural and urban environments. He has evaluated hundreds of intersections, interchanges, freeways and arterial segments and identified thousands of opportunities for crash reduction and optimization of traffic operations.

**MS Civil Engineering, Transportation Focus
University of Colorado, Denver, CO**

**BS Civil Engineering
University of Colorado, Denver, CO**

**BS Business Administration, Management
University of Northern Colorado, Greeley, CO**



Marcia Rutherford, GIS Technician

Marcia Rutherford is a GIS Technician and will provide GIS support for the project. She is very familiar with roadway systems and crash profiles on state highways and county roads from her experience with geocoding crashes,

assigning mileposts and conducting GIS Analysis for Arapahoe and Douglas Counties crash data in Colorado. She has 2 years of transportation related experience.

**Classes in Surveying and AUTOCAD at
Arapahoe Community College**

GIS Training from ESRI

5.2 | General Background and Qualifications

Description of providing similar Safety Software/Services to public entities of similar size within the past five (5) years.

Development of jurisdiction-specific safety knowledge base is comprised of developing predictive tools in the form of SPF/LOSS and diagnostic tools in the form of stratified diagnostic norms for segments and intersections. DiExSys has developed jurisdiction-specific safety knowledge bases, integrated databases, deployed VZS seventeen times and conducted training and support for the following state Departments of Transportations, Cities and Counties:

1 Colorado DOT (CDOT)

Counties in Colorado

- 2** Arapahoe
- 3** Douglas
- 4** Jefferson
- 5** Mesa
- 6** Weld

Cities in Colorado

- 7** Arvada
- 8** Aurora
- 9** Castle Rock
- 10** Colorado Springs
- 11** Denver
- 12** Englewood
- 13** Greenwood Village
- 14** Lakewood
- 15** Louisville

Other DOTs

- 16** Louisiana DOT (LADOTD)
- 17** Alabama DOT (ALDOT)

Montana DOT (**18**) and Wyoming DOT (**19**) hired DiExSys to develop their safety knowledge bases and build state-specific versions of VZS, however they decided to hire DiExSys to provide statewide safety engineering consulting services using VZS rather than license and use VZS themselves.

We provided similar Safety Software/Services to public entities of similar size or larger 19 times over the last 5 years.

Description of the firm's ability to meet the requirements in Section 3.

Entire DiExSys team of safety professionals is committed to successful execution of the contract within the 6-month timeframe specified in the RFP. DiExSys' team has many years of experience working together on similar efforts.

We offer in depth technical expertise and extensive practical experience in all aspects of the project. We have requisite production capacity to guarantee effective and timely completion. All 7 members of our team will work on Clackamas County's Safety Software Implementation Project.

Jake Kononov, PhD, PE will function as Project Manager responsible for all aspects of implementing HSM-compliant VZS safety analysis software at Clackamas County. Dr Kononov has successfully managed **19 (nineteen)** similar projects across the country.

Bryan Allery, PE will be in charge of System's Integration and Data Management. Working together with Jake Kononov and managing DiExSys integration and data management team Bryan has successfully completed integration of crash and roadway databases into VZS for **19 (nineteen)** similar deployments.

Evan Kirby, GISP will be in charge of GIS applications and mapping of VZS deployment on this project. Working with Bryan Allery and Jake Kononov he worked on GIS mapping and related system integration on VZS deployments in several states.

Catherine Durso, PhD will function as a Principal Statistician on the project. She is highly experienced with development of Accident Prediction Models and Advanced Diagnostic Tools. She has collaborated on safety modeling with Dr Kononov and Bryan Allery since 2009.

Jim Williams, PE will assist with Systems Integration, perform SPF modeling and development of diagnostic norms. During his career at DiExSys he developed hundreds of crash prediction models (SPFs) of segments and intersections for CDOT, Montana DOT and Louisiana DOT. Jim has pioneered new modeling techniques which resulted in improved goodness of fit.

5.2 | General Background and Qualifications

Rich Sarchet, PE will function as a Senior Safety Engineer on the project responsible for developing training materials and safety analysis of Clackamas County in-class examples. He has evaluated hundreds of intersections, interchanges, freeways and arterial segments and identified thousands of opportunities for crash reduction.

Marcia Rutherford, a GIS Technician working with Evan Kirby, will provide GIS support and quality control for the project. She is very familiar with roadway systems and crash profiles on state highways and county roads from her experience with Geocoding crashes, assigning mileposts and conducting GIS Analysis.

We are familiar with Oregon crash database structures, Linear Reference Systems and existing inventory of Oregon SPFs.

In addition to our experience with development and deployment of safety management systems we are highly experienced in training engineers, technicians, planners and law enforcement officials how to use it. DiExSys has a proven record of translating state-of-the-art statistical techniques into applied methodology used by the practitioners at DOTs, cities and counties.

DiExSys VZS meets or exceeds all of the software requirements and provides all of the capabilities specified under subsection 3.3.1 of the Scope.

Our experience with successfully delivering similar Traffic Safety Diagnostic and Management Software/Services 19 times over the last 5 years virtually eliminates budgetary and schedule-related risks normally associated with custom designed enterprise-wide software deployment projects.

Description of what distinguishes the firm from other firms performing a similar service

We founded our company in 2006 to do one thing: work alongside our clients toward a shared vision of preventing injury and deaths on our roads. This remains our singular purpose today. Our professional commitment to road safety is complete and to our knowledge there is not another company like ours in the country.

DiExSys is a Road Safety Analytics company. In contrast to typical transportation engineering firms or IT companies, we have the expertise to integrate the science of road safety, statistical modeling and quantitative risk analysis with highway and traffic engineering, transportation planning, economics, GIS and IT. We specialize in road safety and we fill a critical gap between making predictions and making decisions leading to crash reduction. DiExSys engineers and scientists harness the power of predictive analytics and diagnostic pattern recognition to produce the augmented intelligence needed for effective road safety management, and to guide our clients on their journey toward a shared vision of zero traffic fatalities.

DiExSys provides the highest level of technical expertise in safety engineering, predictive analytics and statistical modeling in concert with many years of practical experience of enterprise-wide deployment of safety management systems.

We have invented the concept of Level of Service of Safety (LOSS) as well as diagnostic pattern recognition methods used in safety management by DOTs and consulting firms across the country. Our team has made and continues to make significant scientific contributions to the AASHTO Highway Safety Manual (HSM).

Our engineers and scientists are critical thinkers, comprised of nationally and internationally recognized experts in highway and traffic engineering, crash analysis, statistical modeling, traffic operations, artificial intelligence and geographic information systems.

Road safety is our passion and our business, and we are focused on it with laser-like intensity.

Transportation professionals across the US, Canada, Italy, Australia and Japan make use of our applied research findings and methodology to design and build safer roads.

It is often said that you can't schedule a breakthrough, yet DiExSys has a history of delivering breakthrough solutions for our clients. DiExSys has the experience, drive and expertise to create transportation safety solutions that are both innovative and practical.



5.3 | Implementation Plan

Provide a detailed implementation plan within your proposal to include a Gantt chart outlining the timeline. The plan should follow the milestones outlined in the Scope of Work however, if any deviations are made, the change must be called out in the proposal and a detailed reasoning for the change must be included. The proposal must also specifically outline the roles and responsibilities of your firm and what is expected of the County for all activities related to implementation.

DiExSys will proceed with implementation exactly as described in Section 3.3.2 Implementation Schedule in the Scope of Work.

System Integration will be completed as follows:

- Clackamas County will provide DiExSys with electronic files of its linear referencing system (LRS), roadway features inventory and traffic data for all roads and the most recent 10-years of crash data. If the County does not maintain its own linear referencing, ORDOT's All Roads Network of Linear Referenced Data (ARNOLD) will be used as a framework. Data from ORDOT's Model Inventory of Roadway Elements (MIRE) database may also be used to supplement inventory information.
- DiExSys will validate and translate roadway inventory, traffic and crash databases to the format required for VZS analysis
- Following the conversion of the data tables the Consultant will ensure accuracy of the translation by applying quality control protocols. A thorough data cleanse will be performed that will include a uniform street naming convention to enable accurate query of streets within Vision Zero Suite.

Encoding of Existing Oregon-specific SPF's into Clackamas County VZS

DiExSys will encode SPF's developed by the Oregon DOT and made available on ODOT website for the following facilities:

- Rural 2-Lane Highways
- Rural Multi-Lane Highways
- Rural and Urban Intersections

Development of New SPF and Diagnostic Norms by DiExSys

If Clackamas county data sample size is found sufficiently large DiExSys will develop new SPF models for selected segments and intersections.

DiExSys will develop stratified diagnostic norms to enable direct diagnostics and pattern recognition analysis for existing and new SPF's.

Deployment

DiExSys will deploy VZS on all county-owned computers designated by the County. The County will allocate IT staff to ensure or provide administrative privileges and designate a protocol for deployment preferred by the County IT professionals. All of this work is expected to be completed during Day 1 of training, which does not require use of VZS.

Training

DiExSys LLC will initially instruct a 2-day VZS Training Class for the Clackamas County employees. This training class will offer a methodological foundation and analytical framework for the explicit consideration of safety in highway design, traffic operations and transportation planning using VZS software. It will provide a practical approach to solving a complex problem of road safety by integrating elements of geometric design, traffic operations, statistics and risk analysis. Clackamas County engineers, planners and law enforcement staff taking the course will gain a comprehensive understanding of the relationships between geometric design and road safety, safety performance of various roads, principles of diagnostics and pattern recognition, benefit cost analysis and optimization strategies. Throughout the course, real life case histories, including roads in Clackamas County will be used to illustrate the application of the introduced concepts. Day 1 will be used to learn modern safety analysis methodology and Day 2 to learn how to use VZS software.

5.3 | Implementation Plan

Training will include the following:

- Philosophy of explicit consideration of safety in highway design, traffic operations and transportation planning.
- Review of selected design standards from the safety perspective
- Problems with using crash rates
- How to measure safety
- Oregon Safety Performance Functions and Level of Service of Safety
- Relationship between safety and congestion and safety to the Number of Lanes
- Regression to the Mean (RTM) bias and its correction using Empirical Bayes Method
- Diagnostic analysis using statistical pattern recognition with Oregon-specific diagnostic tables
- Overview of DiExSys Vision Zero Suite
- Safety assessment analysis and report preparation
- Review and analysis of case histories in Clackamas County using Oregon predictive and diagnostic tools
- Network Screening

It is anticipated that an additional 2 separate 1-day Refresher Training sessions will be required over the contract term.

It is assumed that Clackamas County will provide training facilities and computers for the participants. If, due to policy changes resulting from COVID-19, it will be required by the State of Oregon or Clackamas County to conduct training remotely, then DiExSys will prepare class materials to be delivered remotely to all participants and provide instructions via GoToMeeting or other means preferred by the County.

Gantt Chart with implementation timeline is provided in **Figure 1**

Task Description	Month					
	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
System Integration	█					
Encoding of Oregon SPF's			█			
Development of New SPF's and Norms				█		
Deployment						█
Training						█

Figure 1 Implementation Timeline

Support will commence immediately following deployment.

5.4 | Software Capabilities

Contractor must provide a clear, detailed list of all the software capabilities that the proposed software has and provide individual confirmation for every capability required/listed in Section 3 of this RFP. Additionally, all capabilities listed within the proposal MUST be included in the total cost outlined in the Fees page.

DiExSys VZS is individual computer based software with capabilities for data to reside on the network server if preferred by the County. VZS is HSM compliant and provides all capabilities specified in Section 3.3.1. of the Scope. Detailed description of all capabilities is as follows:

a. Reports – The software must be able to generate reports that at a minimum include:

- Summary of all input data and/or input screens
- Summary of analysis methodology and reasoning processes

VZS meets and exceeds above requirements, it generates numerous reports including but not limited to Summary of all input data and output screens. A sample input/output summary report using Oregon State Route 25 MP 14.00-18.00 as an example is provided in **Figure 2**.

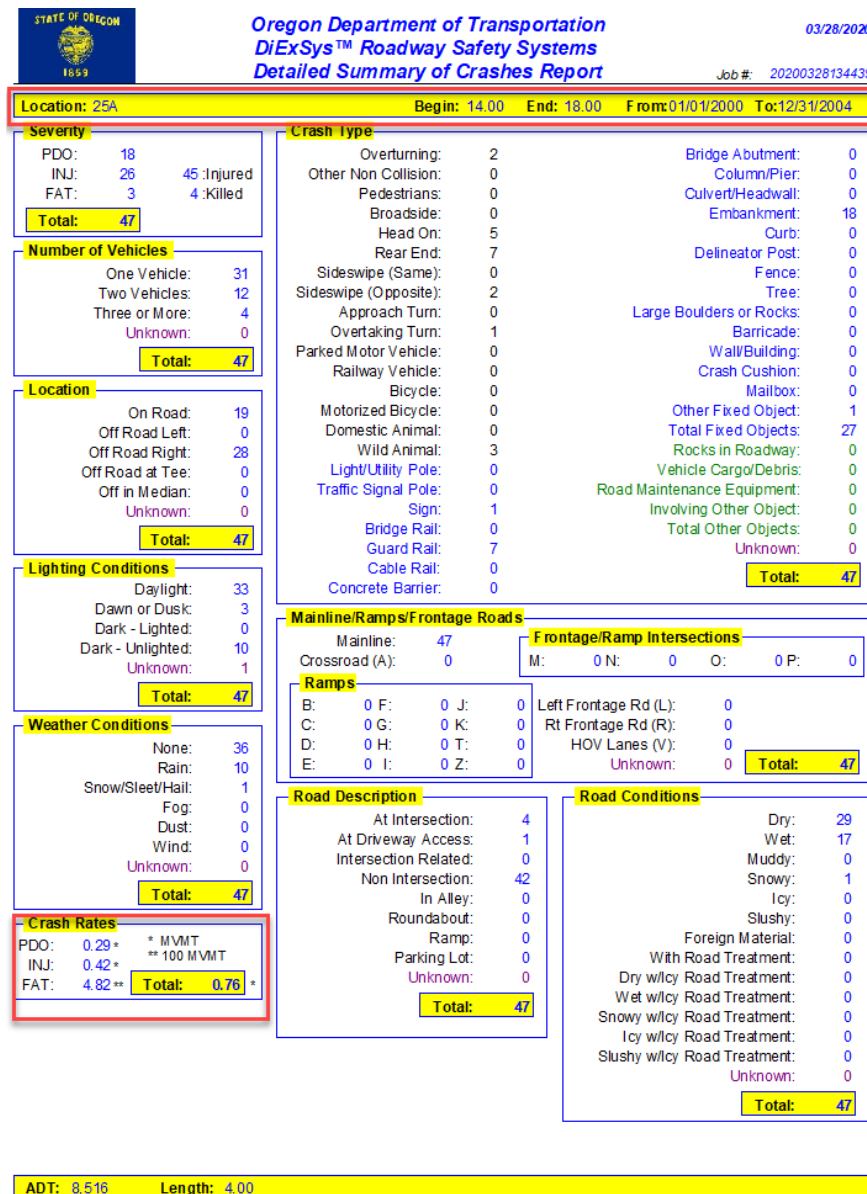


Figure 2 Detailed Input/output Summary Report

5.4 | Software Capabilities

In this case crash rate was used (lower left-hand corner of **Figure 2**) to describe analysis methodology and reasoning process. Similarly, an SPF/LOSS analysis report for the same segment is provided in **Figure 3** showing safety performance profile along the segment using a sliding window method. **Loss_s** connotes LOSS for severity and **Loss_t** connotes LOSS for frequency for Oregon SR25 MP 14-18. The LOSS report demonstrates that safety performance of SR25 MP 14.00-18.00 is within LOSS I-II range reflecting low to low-to-moderate potential for crash reduction from the frequency and severity standpoints.

Hwy	Csec	Bmp	Emp	Beg_date	End_date	Pdo	Inj	Fat	Total	Aadt	Pct_dev_s	Loss_s	Pct_dev_t	Loss_t	Score
25	A	14.00	14.00	01/01/2000	12/31/2004	5	9	0	14	8920	0.4886	2	0.2628	2	99.55
25	A	14.00	15.00	01/01/2000	12/31/2004	5	9	0	14	8920	0.4886	2	0.2628	2	99.55
25	A	14.10	15.10	01/01/2000	12/31/2004	6	9	0	15	8920	0.4886	2	0.2906	2	100.92
25	A	14.20	15.20	01/01/2000	12/31/2004	5	8	0	13	8920	0.4360	2	0.2353	2	81.38
25	A	14.30	15.30	01/01/2000	12/31/2004	5	7	0	12	8920	0.3776	2	0.2084	2	64.12
25	A	14.40	15.40	01/01/2000	12/31/2004	6	7	0	13	8920	0.3776	2	0.2353	2	65.26
25	A	14.50	15.50	01/01/2000	12/31/2004	6	8	0	14	8920	0.4360	2	0.2628	2	82.64
25	A	14.60	15.60	01/01/2000	12/31/2004	8	8	0	16	8920	0.4360	2	0.3186	2	85.48
25	A	14.70	15.70	01/01/2000	12/31/2004	8	7	0	15	8920	0.3776	2	0.2906	2	67.89
25	A	14.80	15.80	01/01/2000	12/31/2004	7	5	0	12	8920	0.2646	2	0.2084	2	38.04
25	A	14.90	15.90	01/01/2000	12/31/2004	7	4	1	12	8920	0.2646	2	0.2084	2	38.04
25	A	15.00	16.00	01/01/2000	12/31/2004	5	4	1	10	8920	0.2646	2	0.1570	1	36.09
25	A	15.10	16.10	01/01/2000	12/31/2004	5	5	2	12	8920	0.3776	2	0.2084	2	64.12
25	A	15.20	16.20	01/01/2000	12/31/2004	5	5	2	12	8851	0.3822	2	0.2117	2	64.82
25	A	15.30	16.30	01/01/2000	12/31/2004	5	5	2	12	8765	0.3881	2	0.2144	2	65.67
25	A	15.40	16.40	01/01/2000	12/31/2004	5	5	2	12	8679	0.3905	2	0.2187	2	66.03
25	A	15.50	16.50	01/01/2000	12/31/2004	4	3	2	9	8593	0.2791	2	0.1431	1	37.00
25	A	15.60	16.60	01/01/2000	12/31/2004	2	3	2	7	8507	0.2842	2	0.0988	1	36.25
25	A	15.70	16.70	01/01/2000	12/31/2004	2	3	2	7	8421	0.2856	2	0.1012	1	36.38
25	A	15.80	16.80	01/01/2000	12/31/2004	2	3	2	7	8335	0.2909	2	0.1037	1	36.98
25	A	15.90	16.90	01/01/2000	12/31/2004	3	4	1	8	8249	0.2963	2	0.1292	1	38.23
25	A	16.00	17.00	01/01/2000	12/31/2004	3	4	1	8	8163	0.3004	2	0.1323	1	38.69
25	A	16.10	17.10	01/01/2000	12/31/2004	2	2	1	5	8077	0.1818	1	0.0662	1	16.98
25	A	16.20	17.20	01/01/2000	12/31/2004	2	2	0	4	8060	0.1260	1	0.0492	1	9.72
25	A	16.30	17.30	01/01/2000	12/31/2004	2	4	0	6	8060	0.2432	2	0.0875	1	26.69
25	A	16.40	17.40	01/01/2000	12/31/2004	3	4	0	7	8060	0.2432	2	0.1108	1	27.26
25	A	16.50	17.50	01/01/2000	12/31/2004	3	5	0	8	8060	0.3057	2	0.1362	1	39.29
25	A	16.60	17.60	01/01/2000	12/31/2004	3	5	0	8	8060	0.3057	2	0.1362	1	39.29
25	A	16.70	17.70	01/01/2000	12/31/2004	2	6	0	8	8060	0.3686	2	0.1362	1	52.67
25	A	16.80	17.80	01/01/2000	12/31/2004	2	6	0	8	8060	0.3686	2	0.1362	1	52.67
25	A	16.90	17.90	01/01/2000	12/31/2004	2	6	0	8	8060	0.3686	2	0.1362	1	52.67
25	A	17.00	18.00	01/01/2000	12/31/2004	3	7	1	11	8060	0.4879	2	0.2197	2	87.10
25	A	18.00	18.00	01/01/2000	12/31/2004	3	7	1	11	8060	0.4879	2	0.2197	2	87.10

Figure 3 SPF/LOSS Report

- Detailed summary of safety assessment, findings and safety options/countermeasures that may reduce crashes along with the predicted change.

VZS is capable of providing a detailed summary of all analyses required for safety assessments, including assessment of the nature and magnitude of the safety problem using SPF/LOSS, options for effective countermeasures, extensive library of expected crash reduction factors, expected crash reduction with predicted change in safety performance over the life cycle of improvements. Additionally, VZS comes with report template files in the Microsoft word format to prepare Clackamas County safety assessment reports. VZS training includes preparation of the safety assessment reports.

5.4 | Software Capabilities

b. Detailed summary Benefit to Cost of safety countermeasures.

VZS is capable of providing detailed summaries of Benefit to Cost (B/C) analysis of safety countermeasures. **Figure 4** shows life cycle B/C analysis of possible deployment of cable rail on SR25 MP 14.00-18.00 with consideration of the maintenance cost in addition to initial construction, and **Figure 5** shows B/C analysis of possible shoulder widening on the same segment.

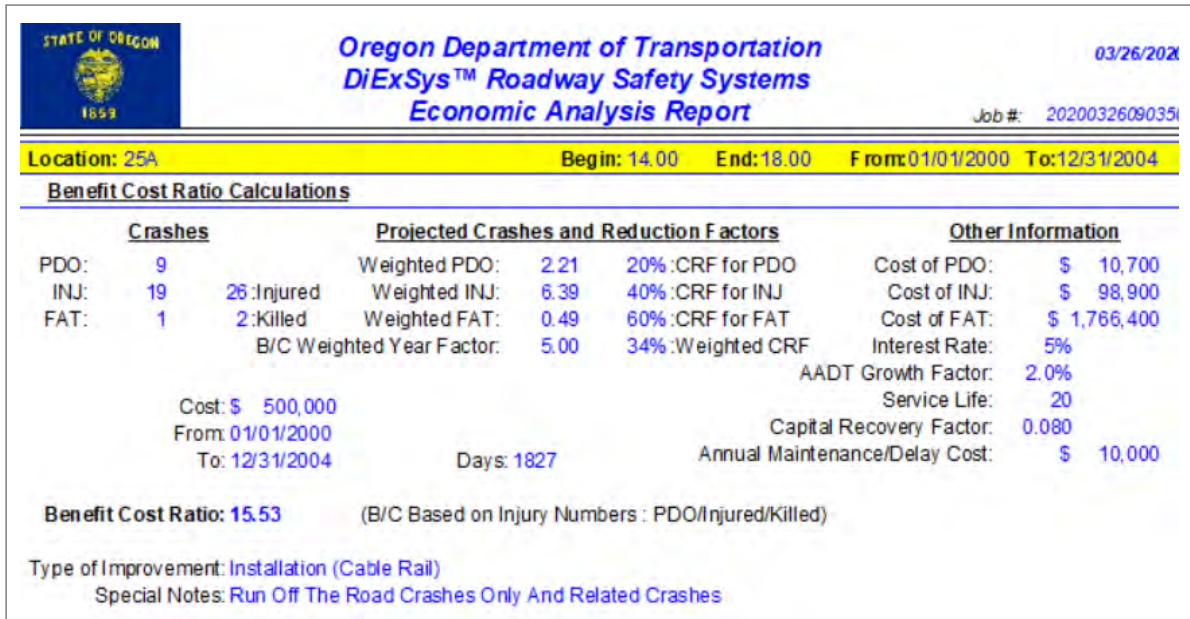


Figure 4 B/C Analysis Capability Cable Rail

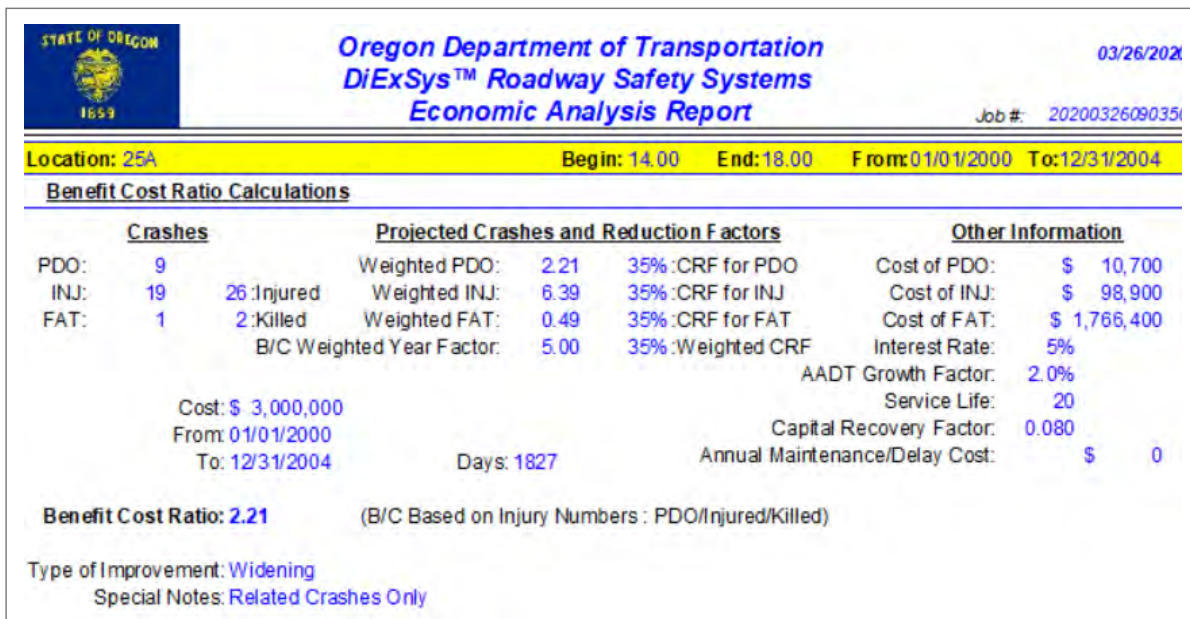


Figure 5 B/C Analysis Capability Widening

5.4 | Software Capabilities

c. Standards – The Software must comply with all standards set forth in the Highway Safety Manual and use LOSS, which uses crash rate, crash frequency along with crash severities predicted by Safety Performance Functions (SPF).

VZS is HSM compliant software capable of providing standard capabilities set forth in the HSM, including but not limited to: SPF/LOSS analysis, Correction for Regression to the Mean (RTM) bias using Empirical Bayes (EB) method, diagnostics using pattern recognition and direct diagnostics, crash modification factors, network screening, before and after study capabilities and project level analysis.

d. Software General Capabilities - Software must include the following:

- **Capability to perform detailed safety analysis on roadway segments and intersections using safety performance functions**

VZS has SPF analysis capabilities and SPF libraries for segments and intersections. **Figure 6** shows SPF interface for segments, and **Figure 7** shows SPF interface for intersections reflecting the need to use main line and side-road ADTs.



Figure 6 SPF Interface for Segments

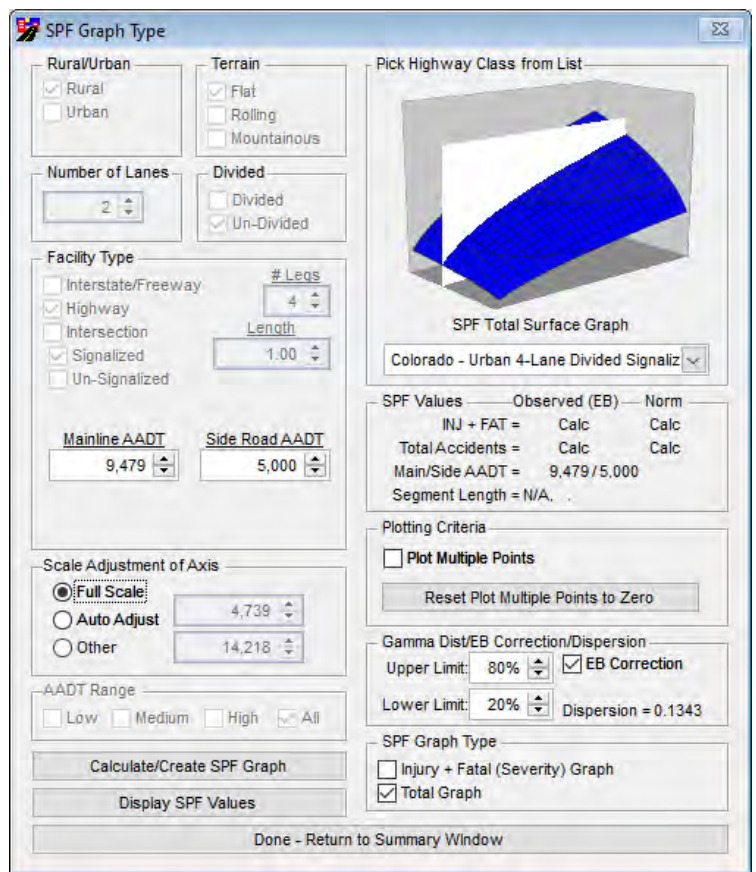


Figure 7 SPF Interface for Intersections

5.4 | Software Capabilities

Figure 8 shows frequency SPF/LOSS analysis corrected for RTM using the EB method for Oregon SR25 MP 15-20 and Figure 9 shows severity SPF analysis for the same route.

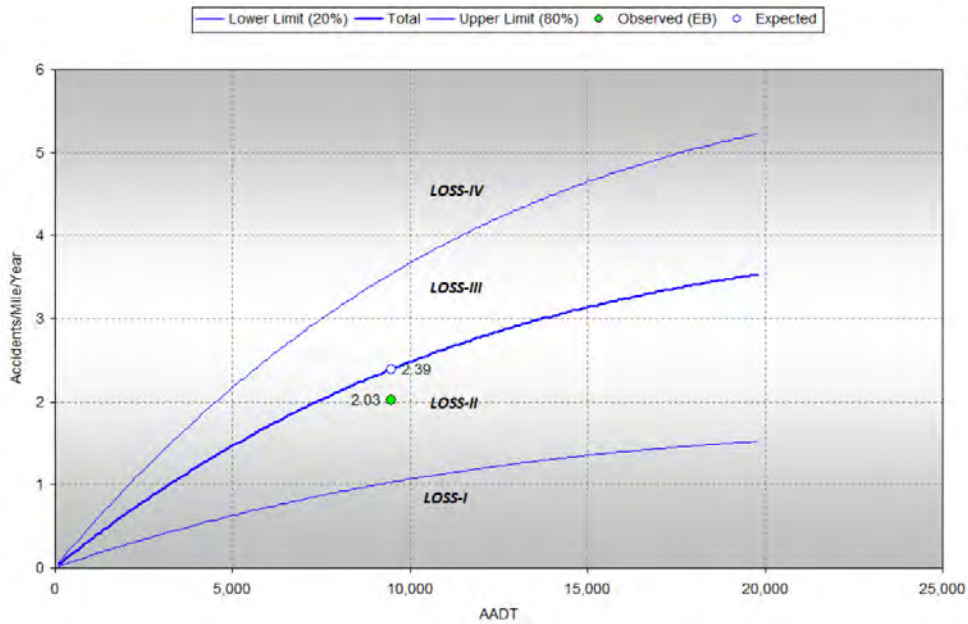


Figure 8 SPF Frequency Graph EB Corrected SR25 MP 15.00-20.00

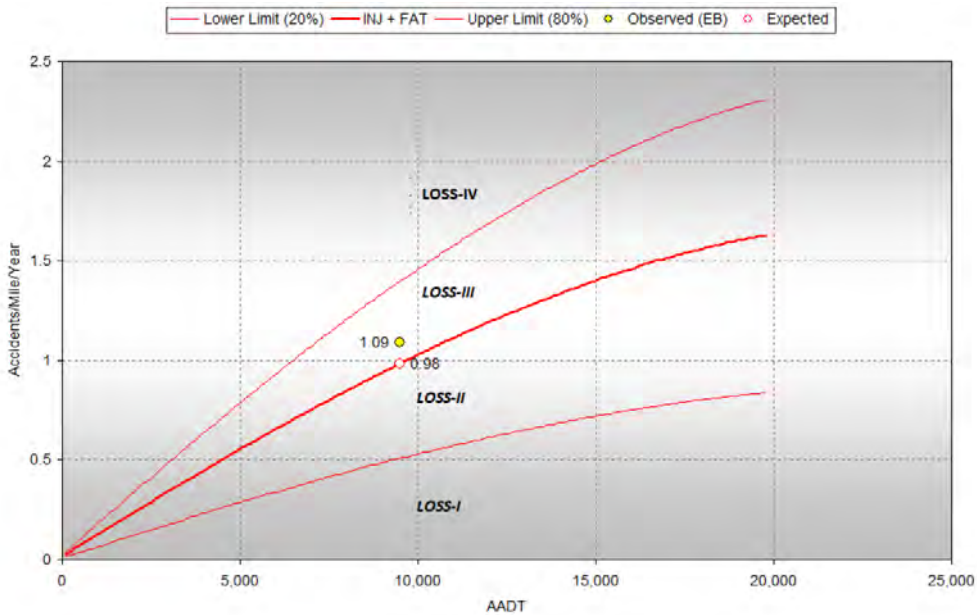


Figure 8 SPF Severity Graph EB Corrected SR25 MP 15.00-20.00

- Provide general analysis tools with user friendly graphical interface and ability to integrate with Google Earth capabilities.

VZS offers highly intuitive user-friendly graphical interface with one-click capability to instantly create analysis supporting graphics (Figure 9) directly transferable into safety assessments reports. Figures 10 and 11 show selected graphs generated by one-click graph function. Of course, the actual outputs are in much larger scale, and easily readable.

5.4 | Software Capabilities

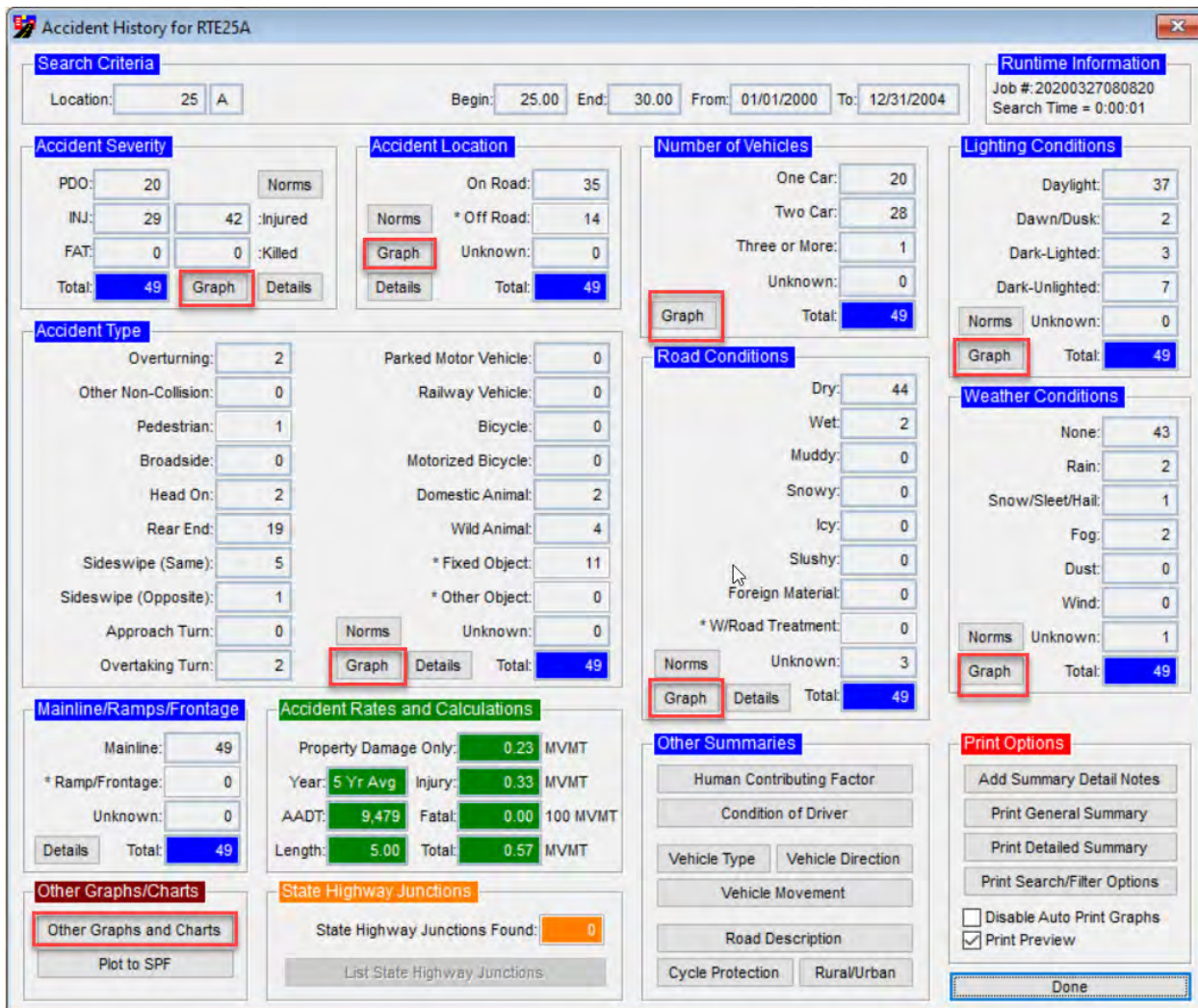


Figure 9 VZS Graphical Interface

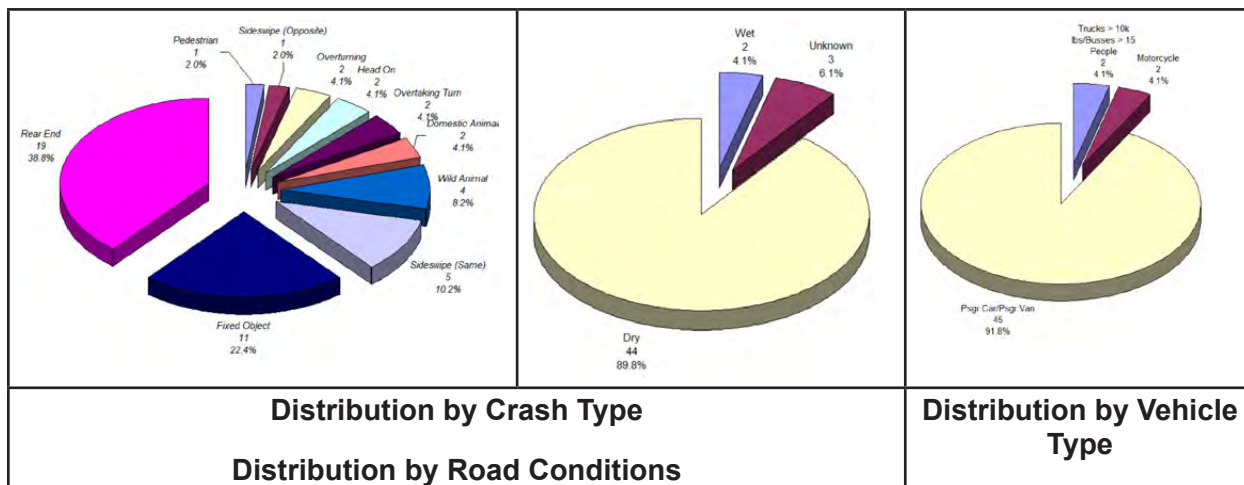


Figure 10 One-Click Graphics (Distributions by Crash Type, Road Condition and Vehicle Types)

5.4 | Software Capabilities

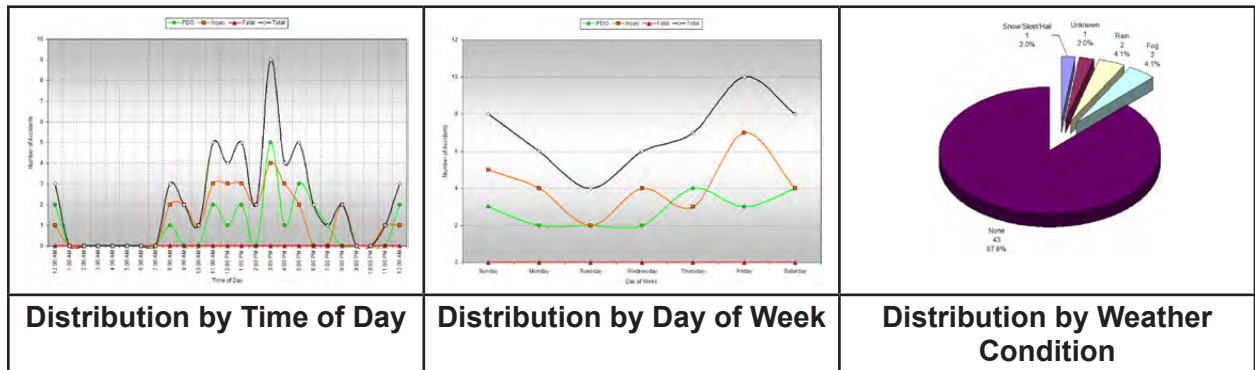


Figure 11 One-Click Graphics (Distributions by Time of Day, Day of Week and Weather Conditions)

VZS has capability to map crashes with crash attributes selected by the analyst directly into Google Earth or ESRI. **Figure 12** shows locations of Motorcycle crashes on a 2-lane mountainous road west of Denver.

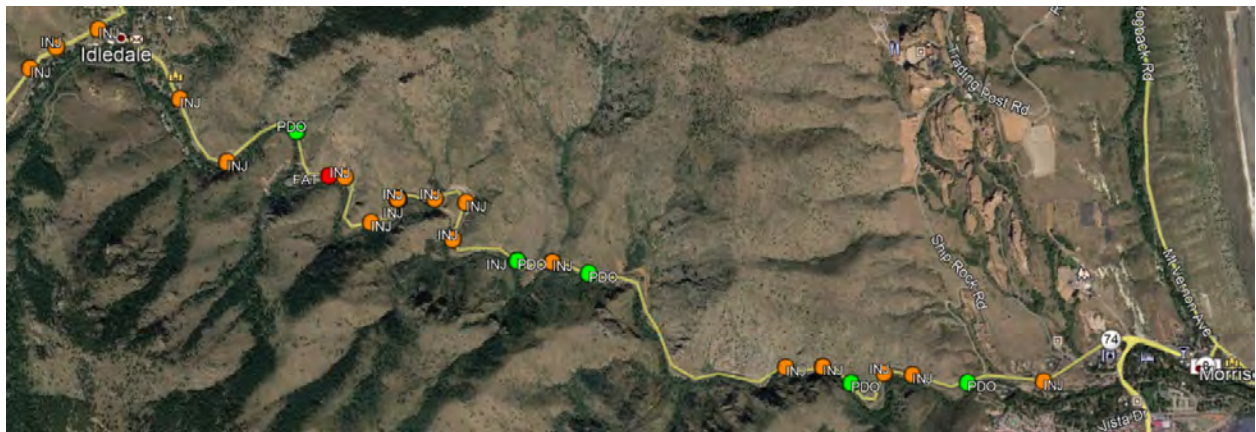


Figure 12 Google Earth Map of Motorcycle Crashes on SH74 in Colorado Directly Plotted by VZS

5.4 | Software Capabilities

Figure 13 displays crash attributes selected by the analyst at a specific location.

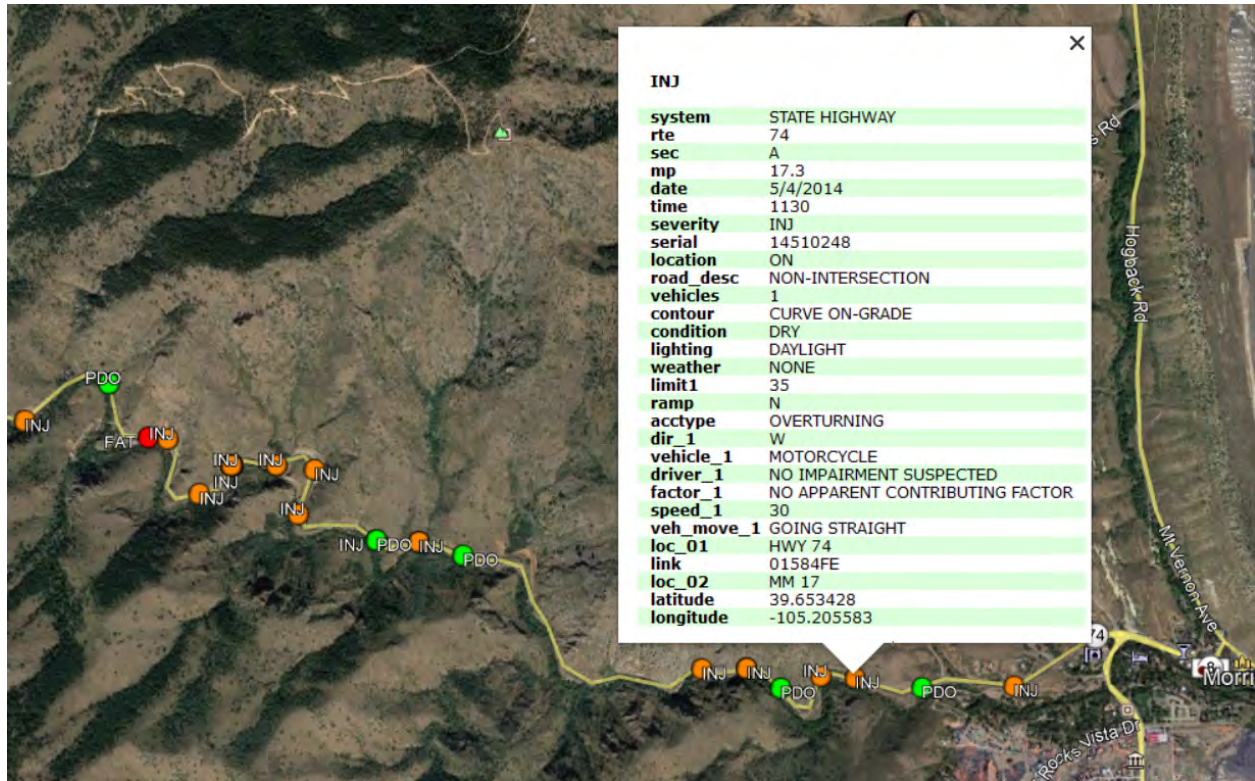


Figure 13 Display of Crash Attributes in Google Earth

- Have the ability to Utilize Crash filters on analysis and reports

VZS has the ability to utilize crash filters which was designed to be intuitive and easy to use. Once Crash Filters are selected on the main window (Figure 14) a menu of filters can be effectively used to select specific crash, roadway, vehicle or driver characteristics (Figure 15). VZS filters are used extensively to perform analysis and prepare reports.

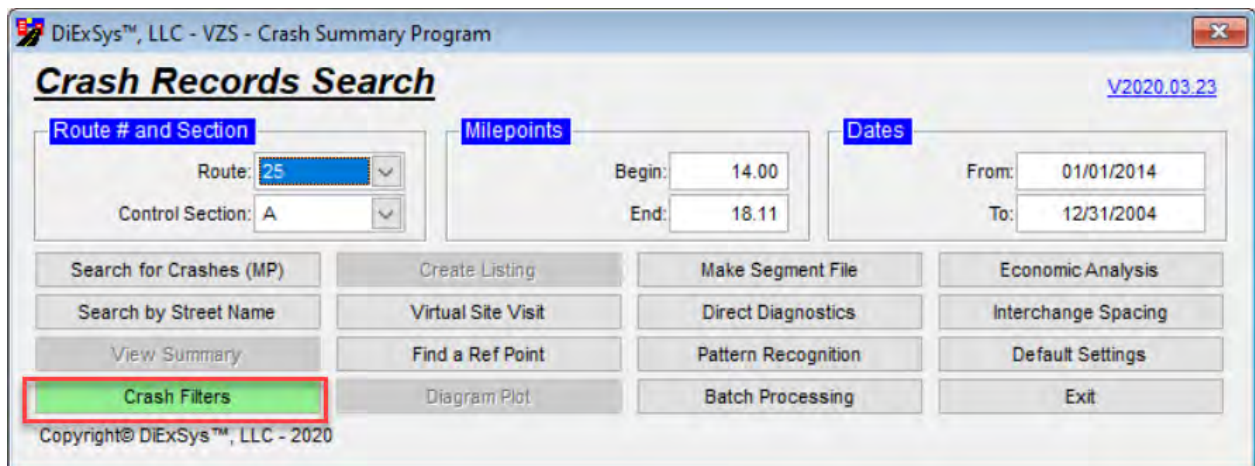


Figure 14 Select Crash Filters

5.4 | Software Capabilities

Figure 15 shows Filter Menu and the content of selected filters

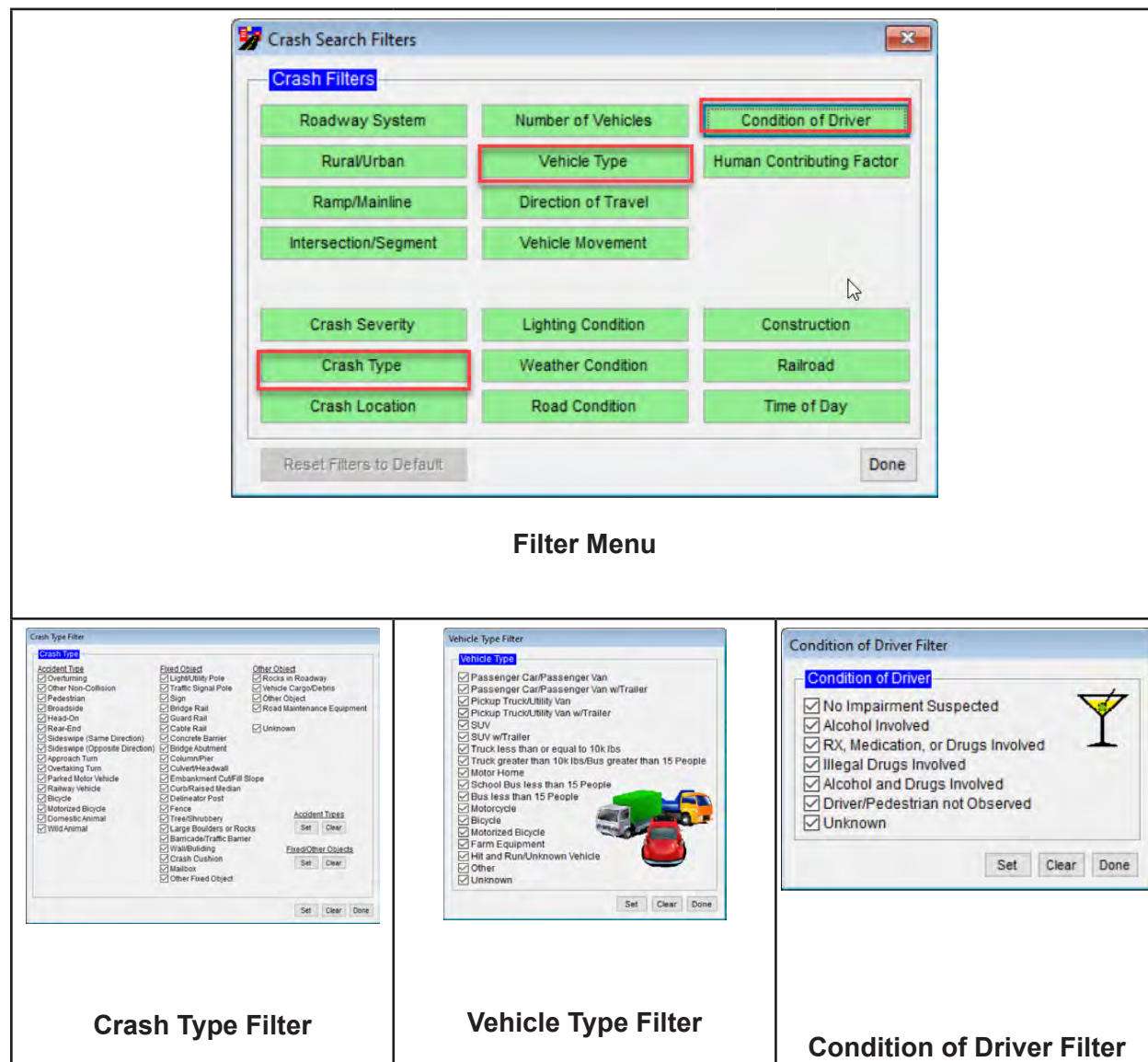


Figure 15 Filter Menu and Selected Filters

5.4 | Software Capabilities

- **Ability to conduct network screening**

VZS provides network screening capabilities using frequency and severity SPF models, while correcting for the RTM and assigning LOSS designation at the network or corridor levels. SPF/LOSS-based network screening identifies locations with elevated frequency and severity of crashes and ranks them by their potential for crash reduction. **Figure 16** shows a color-coded map of Montana resulted from the SPF/LOSS-based network screening. VZS also provides network screening capabilities using pattern recognition to identify crash patterns susceptible to correction, **Figure 17** shows patterns of alcohol-related crashes outside of Helena, Montana. Both methods are effective in identifying opportunities to improve safety and develop an effective program of projects.

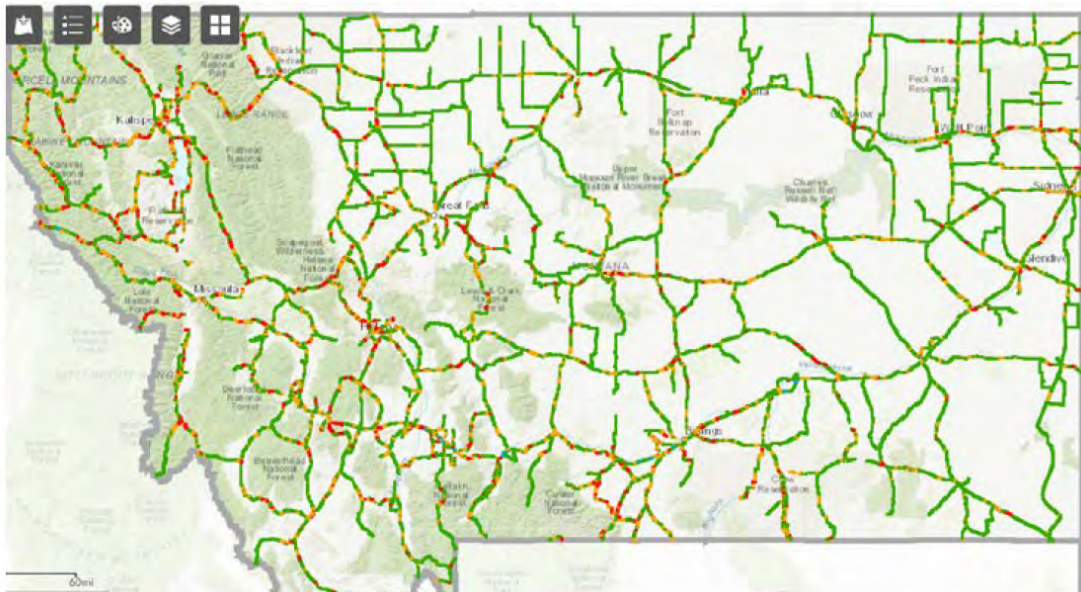


Figure 16 SPF/LOSS-based Networks Screening Map of Montana

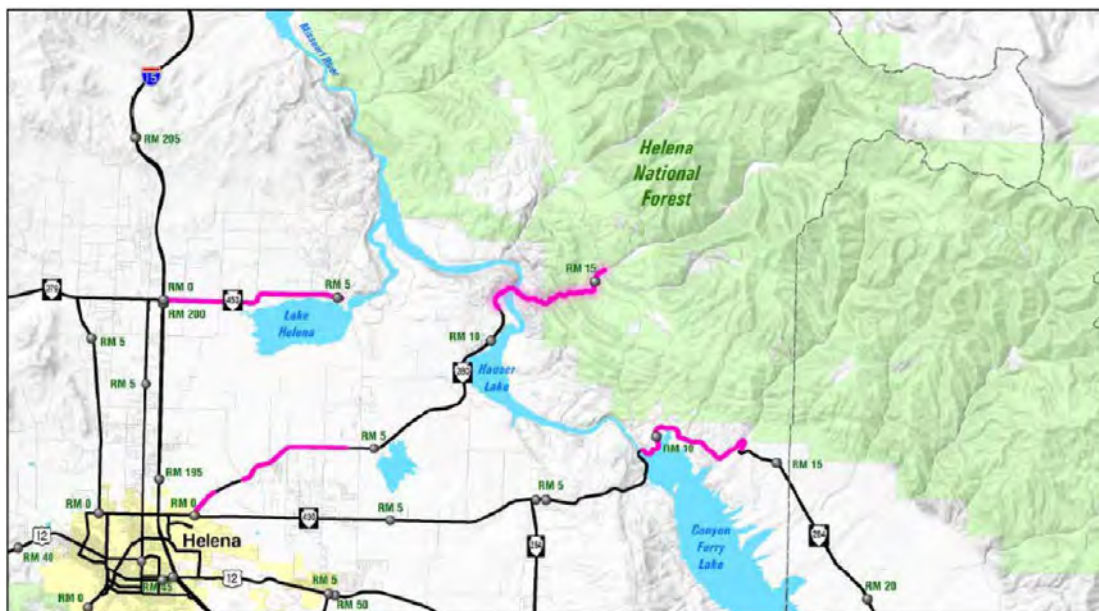


Figure 17 Crash Pattern-based Network Screening Map of Alcohol Crashes (Outside of Helena)

5.4 | Software Capabilities

Figure 18 shows results of SPF/LOSS-based network screening for Oregon State Route 25 MP 6.00-MP 40.00 using 2-Lane Highway SPF,1 mile sliding window and correcting for Regression to the Mean bias using Empirical Bayes Method. Frequency and severity SPFs were used to compute crash reduction potential score to rank all segments on the corridor.

HWY	CSEC	BMP	EMP	MIDPOINT	SEG LENGTH	PDO	INJ	FAT	TOTAL	AADT	SPF PREDICTED SEVERITY	LOSS - SEVERITY	SPF PREDICTED - FREQUENCY	LOSS - FREQUENCY	SPF MODEL TYPE	SCORE
25	A	28.43	29.43	28.93	1	23	25	0	48	11006	1.11	4	2.64	4	Rural 2L HWY	445.62
25	A	26.43	27.43	26.93	1	5	15	0	20	9220	0.96	4	2.35	4	Rural 2L HWY	244.53
25	A	19.30	20.30	19.80	1	7	11	0	18	8346	0.88	4	2.19	4	Rural 2L HWY	180.25
25	A	17.30	18.30	17.80	1	3	9	1	13	8060	0.95	4	2.14	3	Rural 2L HWY	154.50
25	A	24.43	25.43	24.93	1	6	8	1	15	9180	0.96	4	2.34	3	Rural 2L HWY	143.99
25	A	9.00	10.30	9.65	1	8	6	2	16	8920	0.93	4	2.30	3	Rural 2L HWY	130.03
25	A	14.30	15.30	14.80	1	6	8	0	14	8920	0.93	4	2.30	3	Rural 2L HWY	125.81
25	A	25.43	26.43	25.93	1	5	8	0	13	9178	0.96	3	2.34	3	Rural 2L HWY	123.51
25	A	18.30	19.30	18.80	1	6	7	0	13	8060	0.95	3	2.14	3	Rural 2L HWY	108.57
25	A	27.43	28.43	27.93	1	7	7	0	14	9838	1.01	3	2.45	3	Rural 2L HWY	107.90
25	A	15.30	16.30	15.80	1	5	5	2	12	8765	0.92	3	2.27	3	Rural 2L HWY	105.66
25	A	12.30	13.30	12.80	1	1	6	1	8	8920	0.93	3	2.30	2	Rural 2L HWY	98.22
25	A	21.30	22.43	21.87	1	0	6	1	7	9282	0.97	3	2.36	2	Rural 2L HWY	96.20
25	A	29.43	30.43	29.93	1	2	6	0	8	7051	0.76	3	1.93	2	Rural 2L HWY	84.29
25	A	22.43	23.43	22.93	1	2	5	1	8	9180	0.96	3	2.34	2	Rural 2L HWY	81.51
25	A	39.00	40.00	39.50	1	2	5	1	8	2900	0.33	4	0.92	4	Rural 2L HWY	70.32
25	A	40.00	40.00	40.00	1	2	5	1	8	2900	0.33	4	0.92	4	Rural 2L HWY	70.32
25	A	31.43	32.43	31.93	1	3	4	1	8	6508	0.71	3	1.82	2	Rural 2L HWY	69.98
25	A	11.30	12.30	11.80	1	5	5	0	10	8920	0.93	3	2.30	2	Rural 2L HWY	69.60
25	A	8.00	9.00	8.50	1	5	5	0	10	9149	0.95	3	2.34	2	Rural 2L HWY	69.08
25	A	7.00	8.00	7.50	1	3	5	0	8	9380	0.97	3	2.38	2	Rural 2L HWY	65.19
25	A	34.43	35.43	34.93	1	0	4	1	5	5020	0.56	3	1.47	2	Rural 2L HWY	64.79
25	A	38.43	39.43	38.93	1	2	5	0	7	2900	0.33	4	0.92	3	Rural 2L HWY	59.71
25	A	35.43	36.43	35.93	1	1	4	0	5	4806	0.53	3	1.42	2	Rural 2L HWY	51.87
25	A	30.43	31.43	30.93	1	1	4	0	5	6620	0.72	3	1.84	2	Rural 2L HWY	51.00
25	A	16.30	17.30	16.80	1	2	4	0	6	8060	0.85	2	2.14	2	Rural 2L HWY	49.99
25	A	10.30	11.30	10.80	1	1	3	1	5	8920	0.93	2	2.30	2	Rural 2L HWY	47.16
25	A	13.30	14.30	13.80	1	3	3	0	6	8920	0.93	2	2.30	2	Rural 2L HWY	34.85
25	A	23.43	24.43	23.93	1	3	1	2	6	9180	0.96	2	2.34	2	Rural 2L HWY	34.34
25	A	33.43	34.43	33.93	1	0	2	0	2	5020	0.56	2	1.47	2	Rural 2L HWY	24.44
25	A	6.00	6.00	6.00	1	2	2	0	4	12467	1.23	2	2.84	1	Rural 2L HWY	16.96
25	A	6.00	7.00	6.50	1	2	2	0	4	12467	1.23	2	2.84	1	Rural 2L HWY	16.96
25	A	32.43	33.43	32.93	1	3	1	0	4	5020	0.56	2	1.47	2	Rural 2L HWY	16.72
25	A	20.30	21.30	20.80	1	3	1	0	4	9096	0.95	2	2.33	2	Rural 2L HWY	12.22
25	A	37.43	38.43	37.93	1	1	0	0	1	2900	0.33	2	0.92	2	Rural 2L HWY	7.56
25	A	36.43	37.43	36.93	1	1	0	0	1	3134	0.36	2	0.98	2	Rural 2L HWY	7.50

Figure 18 Network Screening Table Oregon SR 25

5.4 | Software Capabilities

- Contain a detailed roadway information module containing Model Inventory Roadway Elements (MIRE) based on County road data.

VZS has the ability to contain Clackamas County MIRE data elements, it also has the flexibility to add new data elements if needed. **Figure 19** shows VZS MIRE interface and **Figure 20** shows a snapshot of a listing of MIRE data elements for Oregon SR 25 MP 6.00-MP 6.55.

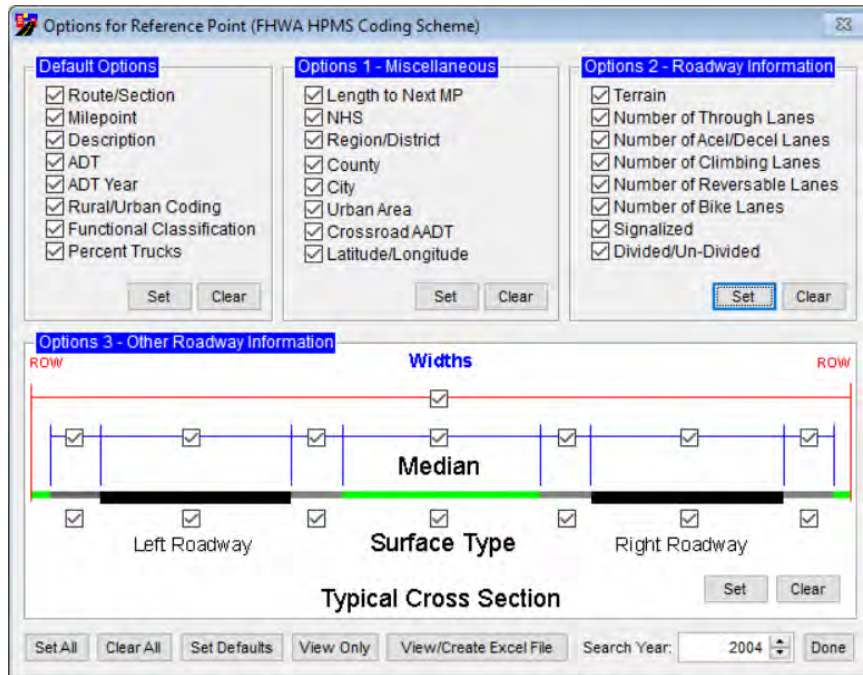


Figure 19 VZS MIRE Interface

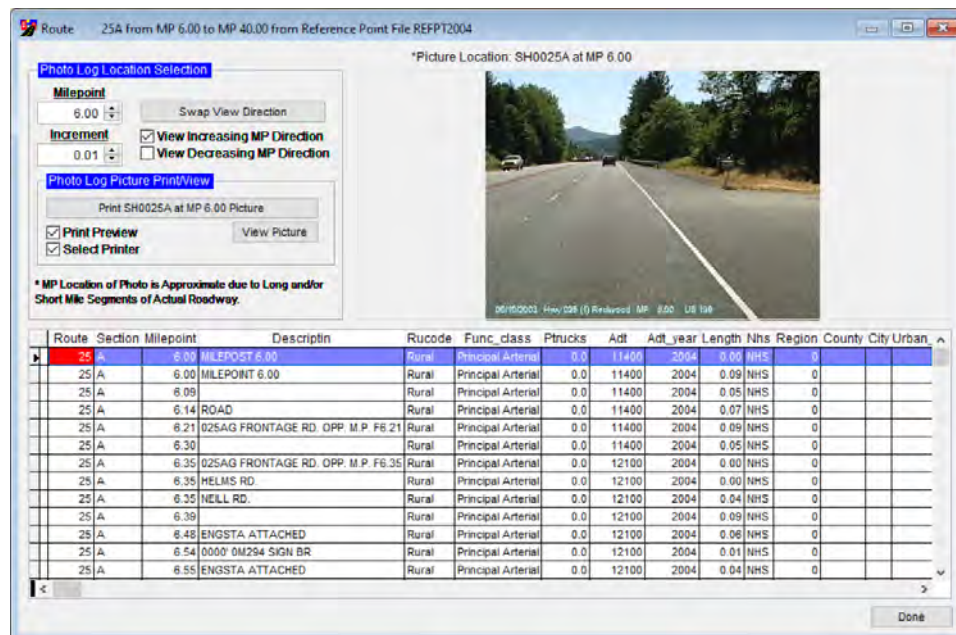


Figure 20 Listing of MIRE Data Elements Oregon SR25

5.4 | Software Capabilities

- **Ability to conduct detailed economic analysis of all roadways**

VZS has the ability to conduct detailed economic analysis of all roadways. It contains an extensive library of crash reduction factors and the ability to conduct Life Cycle Benefit/Cost Analysis which considers initial cost of construction as well as the cost of annual maintenance. The Economic Analysis Interface is designed to be highly intuitive (**Figure 21**). The cost of crashes is updated biannually when new costs are published by the National Safety Council. Crash reduction factors can be obtained from the library and when needed entered manually. VZS has the ability to generate easy to understand and use B/C reports for spot location, corridor or system level analyses (**Figure 22**).

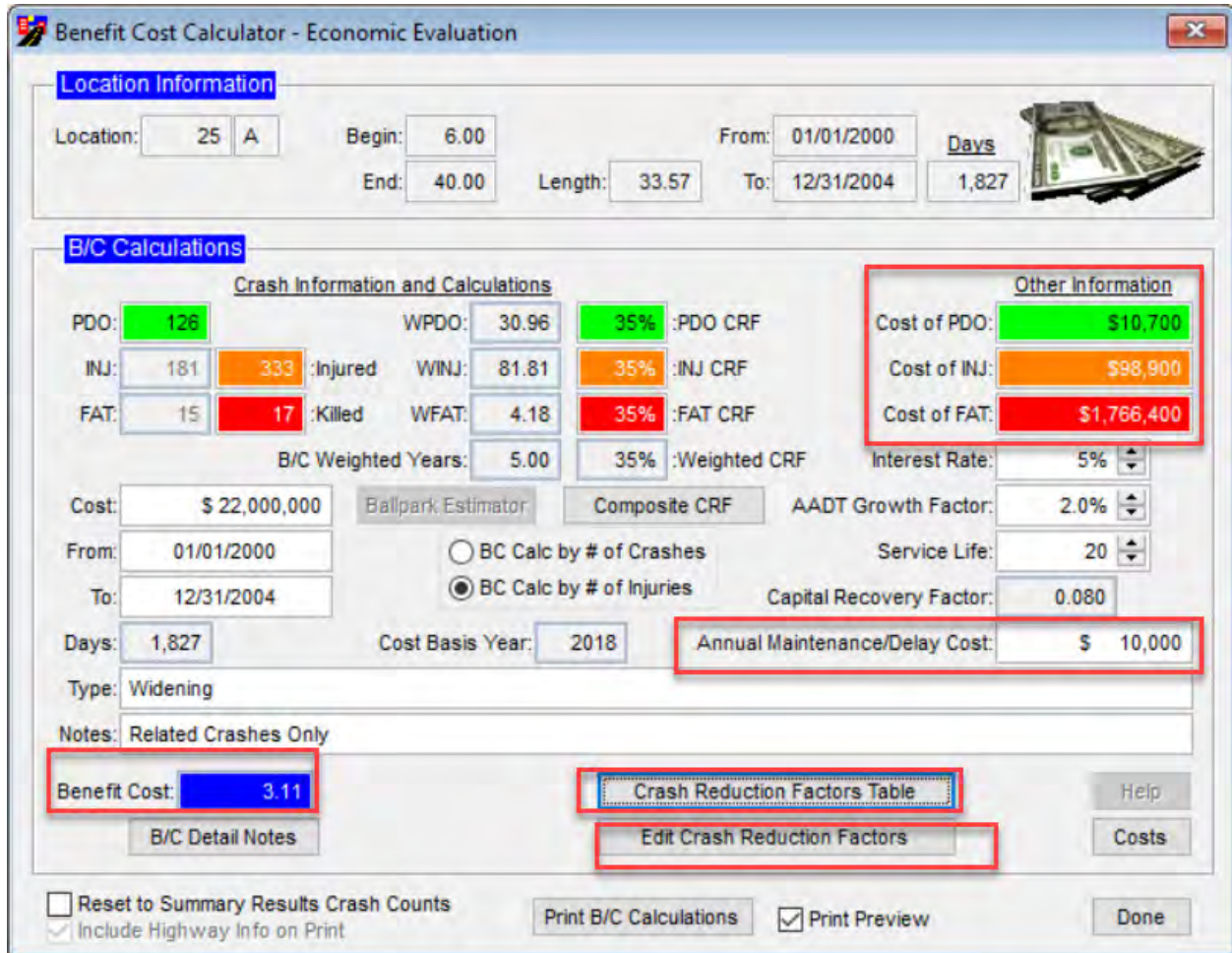


Figure 21 Economic Analysis Interface

5.4 | Software Capabilities

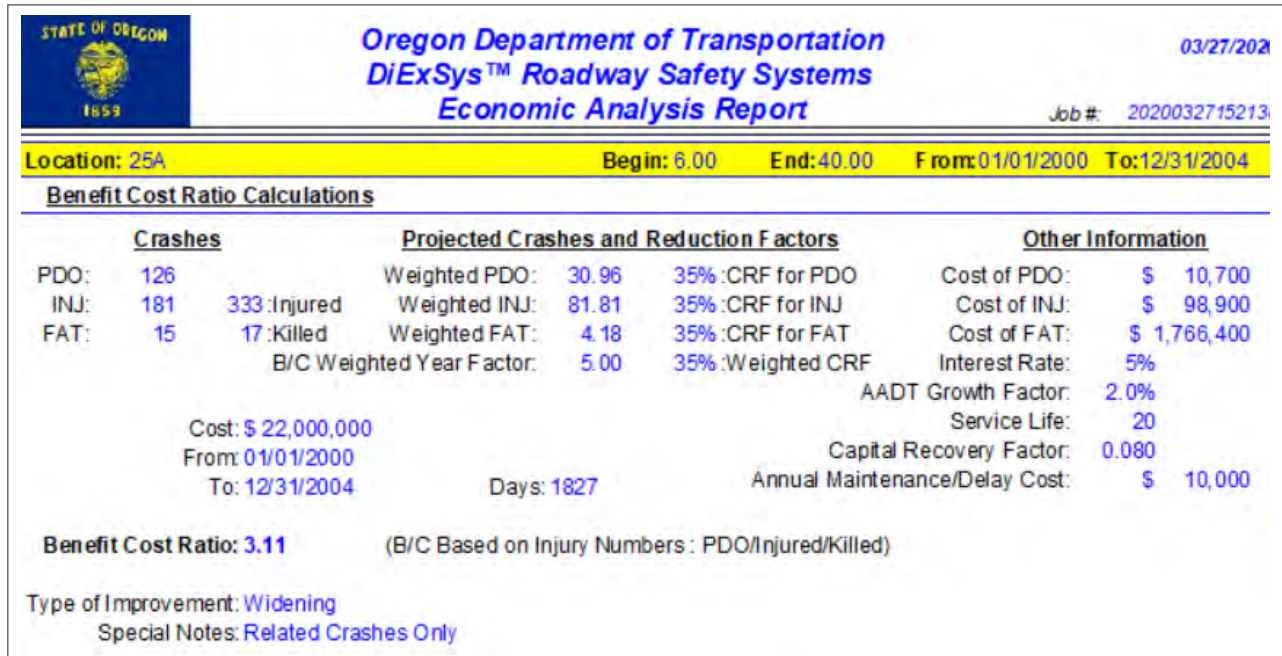


Figure 22 B/C Analysis Report

- Use of normative percentages

VZS is designed to use stratified normative percentages to enable diagnostic algorithms. It contains an extensive library of normative percentages. **Figure 23** shows the diagnostic user interface to select normative percentages for a specific facility type and **Figure 24** shows a library of normative percentages with its pull-down menu.



Figure 23 Diagnostic User Interface to Select Normative Percentages

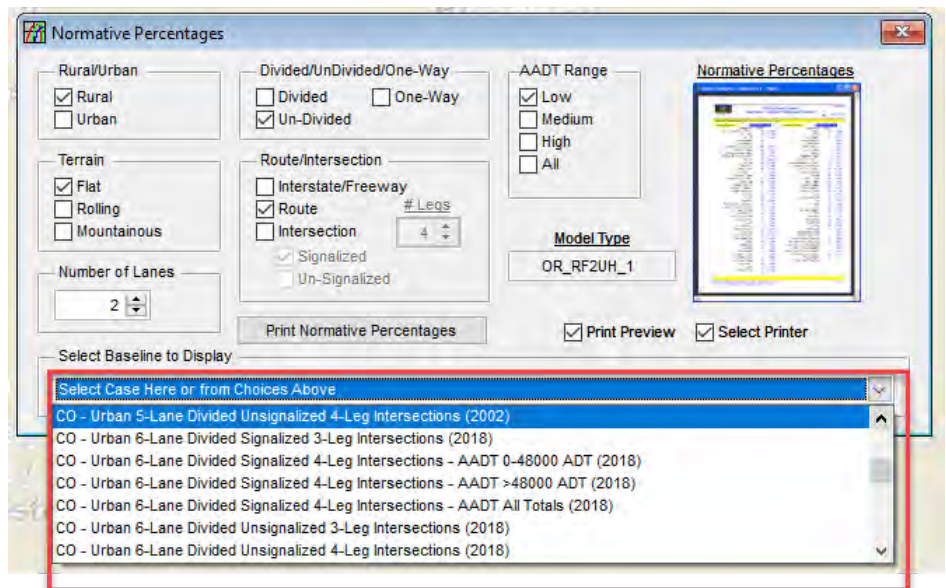


Figure 24 Library of Normative Percentages

5.4 | Software Capabilities

- **Ability to conduct direct safety diagnostics**

VZS is designed to provide direct diagnostics analysis capabilities for intersections and segments based on the methodology developed by Kononov. VZS' user interface and diagnostic module enable this augmented intelligence capability. **Figure 25** shows direct diagnostic button used to prepare the file for diagnostics on the main user interface and **Figure 26** shows direct diagnostic component of diagnostic module.

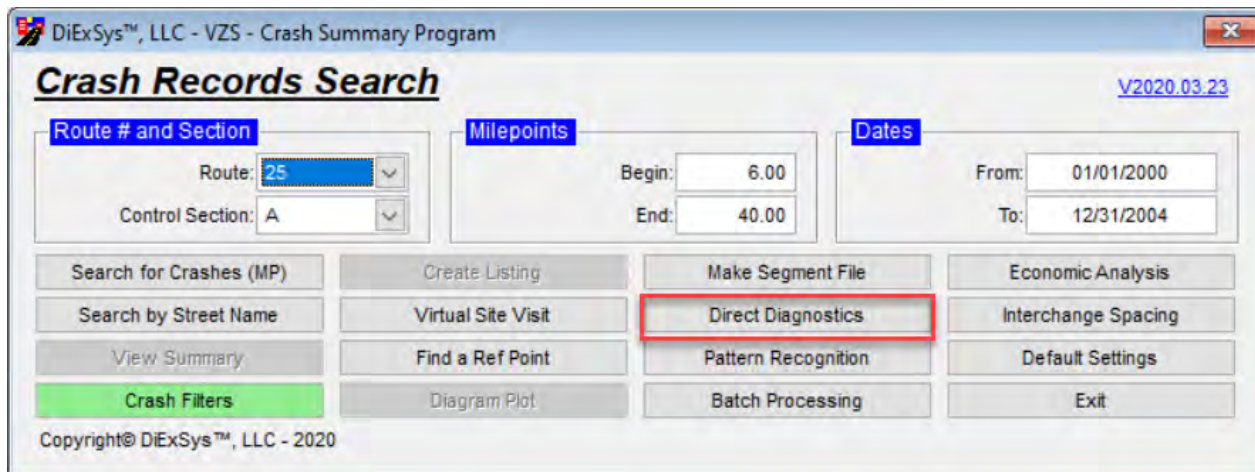


Figure 25 Direct Diagnostics on User Interface



Figure 26 Direct Diagnostics on Diagnostic Module

5.4 | Software Capabilities

- **Ability to conduct pattern recognition analysis**

VZS is designed to provide pattern recognition analysis capabilities for segments based on the methodology also developed by Kononov. VZS' user interface and diagnostic module enable this augmented intelligence capability.

Figure 27 shows the pattern recognition button used to prepare the file for pattern recognition analysis on the main user interface and **Figure 28** shows pattern recognition component of the diagnostic module.

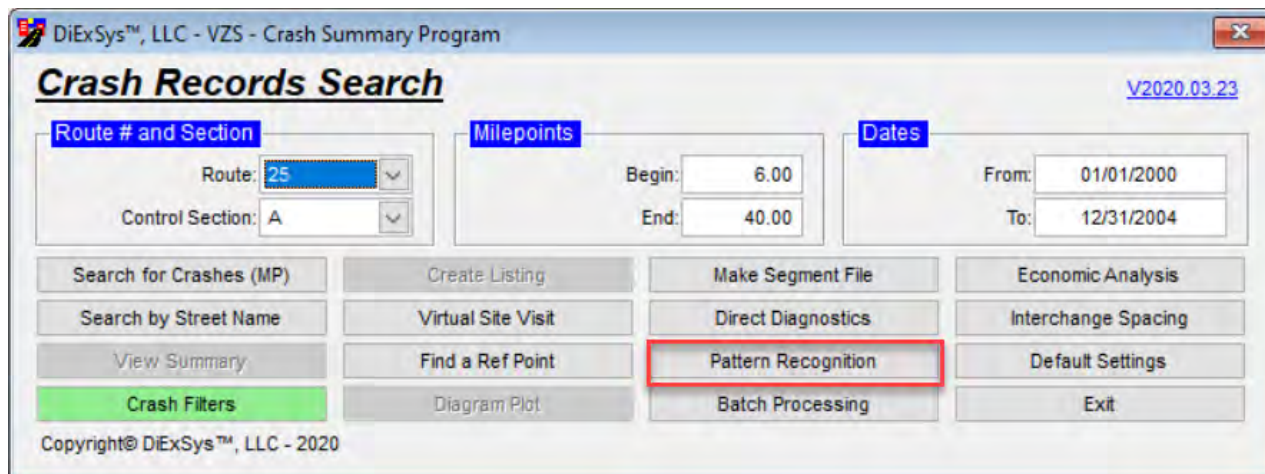


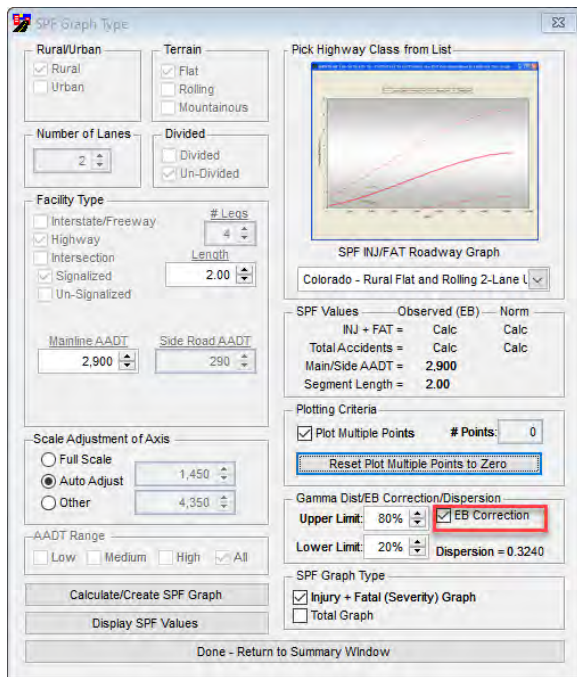
Figure 27 Pattern Recognition on User Interface



Figure 28 Pattern Recognition on Diagnostic Module

5.4 | Software Capabilities

- Use of Empirical Bayes correction for regression to the mean



VZS is designed to correct for Regression to the Mean (RTM) bias using the Empirical Bayes (EB) method, as a default mode for SPF/LOSS analysis. The EB Correction Box in **Figure 29** is checked, indicating that correction for RTM using the EB method will be applied automatically every time SPF/LOSS analysis is performed.

Figure 29 EB Correction Box Checked

If the EB Correction Box is unchecked, correction for RTM will not be applied and SPF will display raw or average number of observed accidents per mile per year for segments and per year for intersections. **Figure 30** shows safety performance from the crash severity standpoint of Oregon SR25 MP 38.00-40.00 with and without correcting for RTM using the EB method. As can be seen from **Figure 30** the correction for RTM is quite significant.

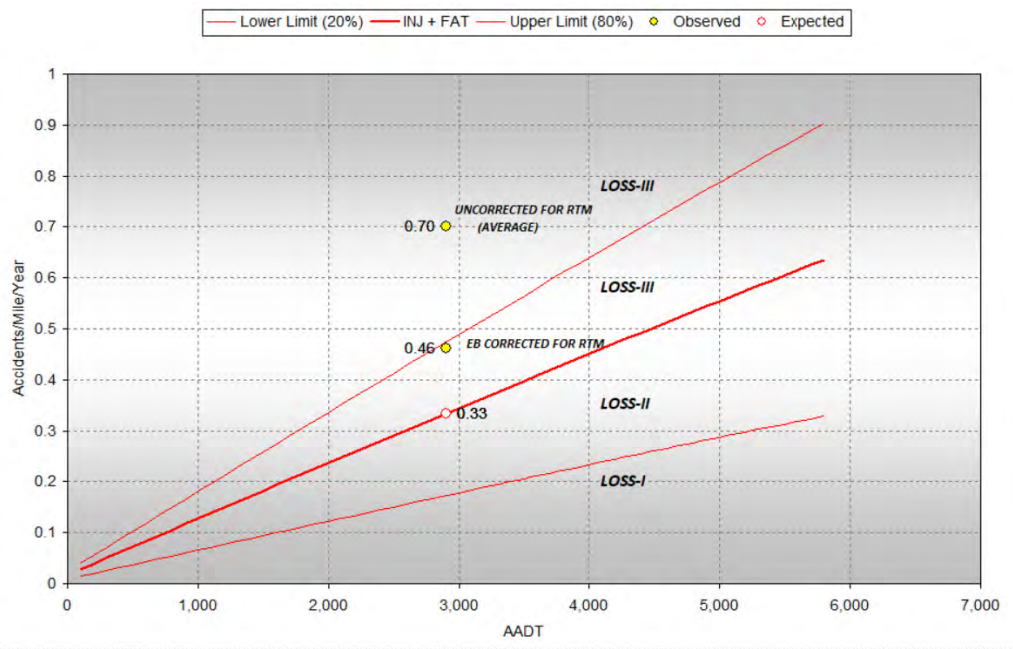


Figure 30 Oregon SR25 MP 38.00-40.00 Severity SPF with and without Correcting for RTM

5.4 | Software Capabilities

e. Integration - Software must have:

Ability to integrate Oregon DOT's crash data, Ability to integrate the County's roadway and traffic count data

VZS can presently integrate crash, roadway and traffic data for Oregon DOT and Clackamas County using a universal converter utility designed for this purpose.

Additional Capability

Even though the **ability to conduct observational before and after studies** is not explicitly identified in the software requirements, VZS is now able to perform this function in just a few simple steps. VZS automatically corrects safety performance for RTM using the EB method for the before period and compares it with safety performance in the after period in the SPF framework. **Figure 30A** shows VZS generated SPF graph showing before and after safety performance following construction of improvements at an urban signalized intersection.

Before and after analysis capability has been recently added to the program and it will **NOT require any additional compensation**.

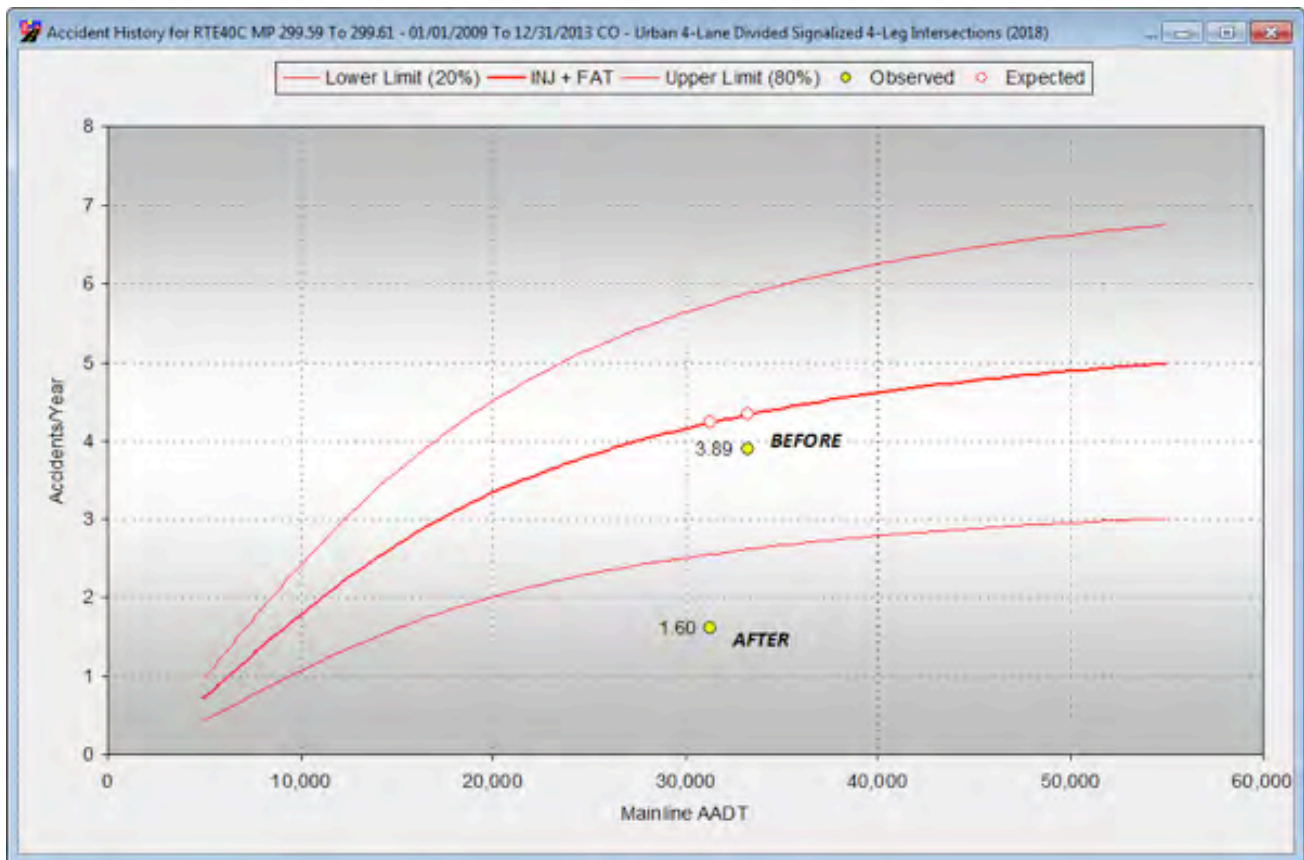


Figure 30A VZS Generated Before After Analysis Graph

5.4 | Software Capabilities

f. Maintenance and Support:

Maintenance & Support must begin first business day following software deployment on County-owned computers.

Provide training for up to twenty (20) County and other public personnel including representatives from Traffic Safety, law enforcement and public health.

Support to be via email and telephone support Monday through Friday 8:00-5:00 PM with response time of one (1) hour or less

Maintenance and Support: DiExSys is committed and has requisite manpower to commence maintenance and support beginning first business day following deployment.

Training: DiExSys staff is highly experienced in providing VZS training for engineers, planners, law enforcement and public health professionals.

Initially DiExSys will prepare training materials and deliver a 2-day VZS Training class for up to 20 Clackamas County employees, including representatives from traffic safety, law enforcement and public health. This training class will offer a methodological foundation and analytical framework for the explicit consideration of safety in highway design, traffic operations, transportation planning, and law enforcement using VZS software. It will provide a practical approach to solving a complex problem of road safety by integrating elements of geometric design, traffic operations, statistics and risk analysis. Clackamas County engineers, planners and law enforcement staff taking the course will gain a comprehensive understanding of the relationships between geometric design and road safety, safety performance of various roads, principles of diagnostics and pattern recognition, benefit cost analysis and optimization strategies. Throughout the course, real life case histories that include roads in Clackamas County will be used to illustrate the application of the introduced concepts. Day 1 will be used to learn modern safety analysis methodology and Day 2 to learn how to use VZS software. Training will include the following:

- Philosophy of explicit consideration of safety in highway design, traffic operations and transportation planning.
- Review of selected design standards from the safety perspective
- Problems with using crash rates
- How to measure safety
- Oregon Safety Performance Functions and Level of Service of Safety
- Relationship between safety and congestion and safety to the number of lanes
- Regression to the Mean (RTM) bias and its correction using Empirical Bayes method
- Diagnostic analysis using statistical pattern recognition with Oregon-specific Diagnostic Tables
- Overview of DiExSys Vision Zero Suite
- Safety assessment analysis and report preparation
- Review and analysis of case histories in Clackamas County using Oregon predictive and diagnostic tools
- Network screening

It is anticipated that additional 2 (two) separate **1-day** Refresher Training sessions will be required over the contract term.

5.4 | Software Capabilities

Support and Response Time: DiExSys is committed and has requisite manpower to provide support to Clackamas County users via email or telephone Monday through Friday 8:00-5:00 PM with response time of one (1) hour or less. Historically DiExSys response time has been within 30 minutes timeframe.

g. Documentation needed to be provided under the proposed contract:

- Full PDF Software manual with license to distribute copies to all County Users

The VZS Software Manual in PDF format is included with each download of VZS software and will be made available to all Clackamas County users. It is accessed by clicking a link in the upper right-hand corner of the main user interface (**Figure 28**) and then opened by clicking Help Manual for VZS-Crash Summary Program (**Figure 29**).

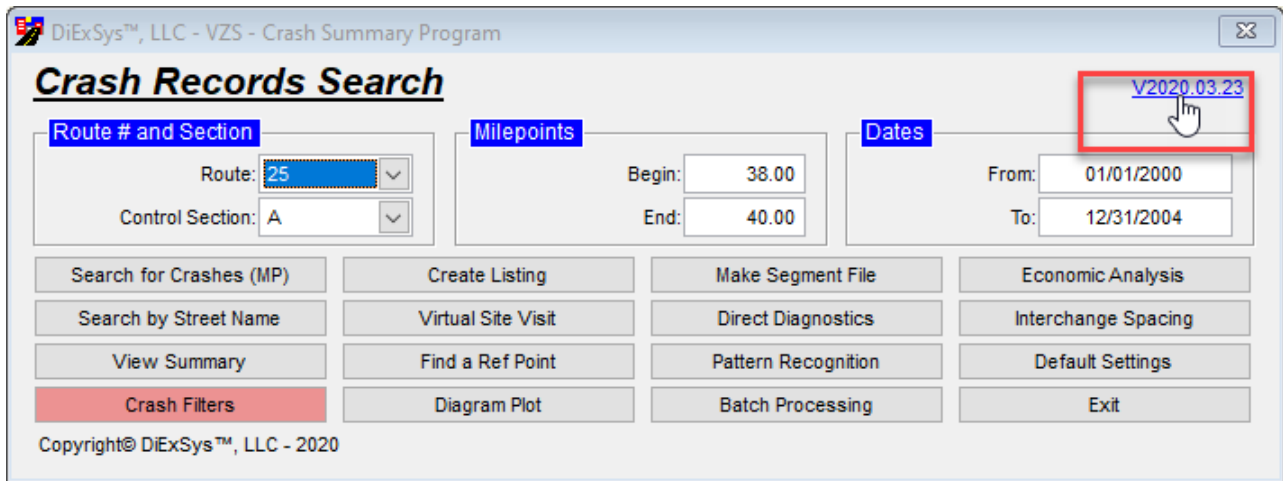


Figure 28 Access to Manual

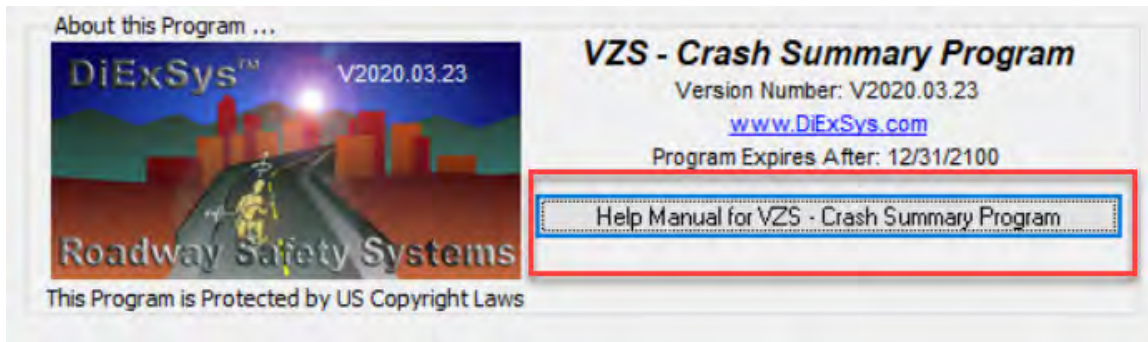


Figure 29 Opening VZS Manual

5.4 | Software Capabilities

h. Data to be migrated and or added into the system shall be included but not limited to:

- **Oregon DOT crash data for all of the County – last 10 years and will be continually uploaded annually throughout the life of the contract.**
- **Annual average daily traffic within the County**
- **Road functional classifications within the County**
- **Road widths, bike lane widths, shoulder widths, and clear zone widths for all public roads within the County**
- **Number of lanes for all public roads within the County**
- **Divided/undivided for all public roads within the County**
- **Signalized/not signalized intersections within the County**
- **Curb/no curb on all public roads**
- **Stripe/no stripe on all public roads**
- **Edge line/no edge line on all public roads**

VZS is designed to easily migrate all of the Oregon and Clackamas County data elements described in Item h of Section 3.3.1 of the Scope.

i. Expandability - Must Accommodate annual updates of roadway data, traffic count data and crash data from both Clackamas County and the Oregon DOT.

VZS is designed to be expandable and will seamlessly and easily update Clackamas and the Oregon DOT roadway, traffic count and crash data annually.

j. Software Licensing:

- **Enterprise level license and support for five (5) years, with the option for additional renewals thereafter. License covers unlimited software installation on County-owned computers and all maintenance and support needed to keep software running throughout the life of the contract.**

DiExSys will provide an enterprise level VZS license and support for 5 years, with the option for additional renewals thereafter. Paying the annual license fee allows Clackamas County and its employees to network the software or otherwise use it or make it available for use on more than one computer at the same time. Its use, however, is restricted to the County employees only (this includes all departments) using the County's computers and working on County projects or programs. A detailed Software License Agreement is provided in our response to Section 5.5 Software Service Level Agreement.

5.5 | Software Service Level Agreement

- **Provide detail of how software is maintained and updated based on new research and development of new SPF's.**

DiExSys will provide secure on-line downloads with updates to Clackamas County IT group or to all users directly depending on the preference of Clackamas County IT professionals.

If new Oregon-specific SPFs are developed by others during the Contract term DiExSys will encode them into VZS and update all users at no charge. If new Crash Reduction Factors relevant to Clackamas County with star rating 4 or greater from the FHWA CMF Warehouse are developed by others during the Contract term DiExSys will encode them into VZS at no charge.

If Clackamas County's data sample size is found to be sufficiently large, DiExSys will develop new SPF models for selected segments and intersections and encode them into VZS as part of this project prior to deployment.

- **Provide detail of annual software update method and timeframe.**

DiExSys will provide secure on-line downloads with updates to Clackamas County IT group or to all users directly depending on the preference of Clackamas County IT professionals. We expect to complete this work within 4 weeks from receiving data from Clackamas County, under the assumption that database structures and crash coding schemes are unchanged.

- **Provide your Service Legal Agreement that provides details of the technical support plan offered within the proposal to include, issue response and resolution times.**

DiExSys Software License and maintenance Agreement is as Follows:

SOFTWARE LICENSE AND MAINTENANCE AGREEMENT

This Software License and Maintenance Agreement (hereinafter referred to as "Agreement") is entered into by and between DiExSys LLC (hereinafter referred to as "Contractor"), with offices at 8608 W. Mountain View Lane, Littleton, CO 80120 and Clackamas County, Oregon.

TERM

DiExSys will provide enterprise level VZS license and support for 5 years, with option for additional renewals thereafter. The license covers unlimited software installation on County-owned computers. The license covers all maintenance and support needed to keep software running throughout the life of the contract.

APPLICABLE LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the STATE of Oregon.

GRANT OF LICENSE

Contractor hereby grants to the Clackamas County a non-transferable non-exclusive license to use Vision Zero Suite software for its own internal purposes for a period of 5 years.

OWNERSHIP

Vision Zero Suite Software is owned by the Contractor and is protected by United States copyright laws and International treaty provisions. Paying the license fee allows the Clackamas County and its employees to network the Software or otherwise use it or make it available for use on more than one computer at the same time. Its use, however, is restricted to the County employees only, using the County's computers and working on the County projects. All users of this software may not rent, lease or give the Software, nor may modify, adapt, translate, reverse engineer, decompile, or disassemble the Software. If any user of this software violates any part of this agreement, the user's right to use this Software terminates automatically and user must then destroy all copies of the Software in user's possession.

COPIES

Other than copies for internal use only, Licensee shall not distribute copies of the product or documentation, or any part thereof, without the express written consent of the Contractor. Documentation shall be defined as any information about the Product distributed with the product.

5.5 | Software Service Level Agreement

MAINTENANCE AND SUPPORT

License fee includes 5 years of maintenance. Maintenance shall include technical support consisting of following: e-mail as well as telephone-based support to users, providing a number to call. The support service will include technical consultation, Monday through Friday 9:00 a.m. to 6:00p.m. MST, with 1 hr. or less response time. Maintenance will begin on the first business day following the deployment of the software on the County computers.

ISSUES RESPONSE AND RESOLUTION TIME

Contractor expects to resolve most technical issues during technical consultations with Clackamas County VZS users, however some issues may require programming changes. Contractor will make all commercially reasonable efforts to resolve these issues within 72 hours.

WARRANTIES

Contractor warrants that all services shall be performed in a workmanlike manner, and according to its current description contained in this Agreement. Contractor warrants that Contractor will make all commercially reasonable efforts not to include any Unauthorized Code in any software provided hereunder. "Unauthorized Code" means any virus, Trojan horse, worm or other software routine or component designed to permit unauthorized access to disable, erase, or otherwise harm software, equipment, or data, or to perform any other such actions.

TRAINING

Initially DiExSys will prepare training materials and deliver a 2-day VZS Training class for up to 20 Clackamas County employees, including representatives of traffic safety, law enforcement and public health This training class will offer a methodological foundation and analytical framework for the explicit consideration of safety in highway design, traffic operations, transportation planning, and law enforcement using VZS software. Day 1 will be used to learn modern safety analysis methodology and Day 2 to learn how to use VZS software.

It is anticipated that additional 2 (two) separate *1-day Refresher Training Sessions* may be required over the 5-year contract term.

5.6 | Fees

Provide a detailed fee schedule of all features/options listed in the proposal. Said fee schedule must list a total not to exceed price for the base period and break out clear set pricing for the optional renewal. This total price must reflect all fees associated with every feature/function/option that is listed within the proposal. Additionally the fee for the software must be structured as enterprise licensing pricing vs. per license/user. Fees should be sufficiently descriptive to facilitate acceptance of a Proposal. Additionally the fee schedule must include the following information and clearly identify the costs associated with each of these items: Subscription/Licensing Annual Cost, All Implementation Fees, Renewal Fee Maximum Escalation (Percentage or fixed amount after the initial term). Any other fees not contemplated above.

FEES - COST SUMMARY TABLE

VZS License Enterprise wide for Clackamas County	5 Years at \$25,000 Annually (0% Escalation)	\$125,000
Annual Data Upload	Obtain and upload Clackamas County crash data annually	No Charge
Maintenance/Support and Updates	5 Years of Technical Support via Phone and E-mail	No Charge
System Integration, Encoding of Oregon Safety Knowledge Base, New SPFs and Diagnostic Norms	Data Migration, Conversion, Data Uploading, Quality Control, Encoding Oregon DOT SPFs. Estimation of Model Parameters for New SPFs and Development of Diagnostic Norms	\$50,000
Initial 2-day Training	Initial Training (2 days), Class Materials, Travel Expenses and Per-diem, 2 Instructors per Class	\$10,000
2 Follow up 1-day Refresher Classes	2 Follow up 1-day Refresher Classes at \$5,000 each, 2 Instructors per Class. Includes Class Materials, Travel Expenses and Per-Diem	\$10,000
TOTAL	Not to Exceed Amount for Base Period of 5 years	\$195,000

After Expiration of the Base Period County will have an option to renew VZS Enterprise wide license at \$25,000 Annually.

Note in Reference to Section 2.29 Intergovernmental Cooperative Statement: DiExSys accepts in principle the provisions of section 2.29 Intergovernmental Cooperative Statement. We anticipate being able to provide goods and services awarded under this contract to most public agencies in Oregon at the same prices and terms as those extended to Clackamas County. From time to time, however, at larger agencies the number of VZS software users, the amount of work required to complete data migration and to develop new SPF models and diagnostic norms may significantly exceed the work effort estimated in Clackamas County. Under these rare circumstances DiExSys reserves the right to make adjustment in fee to reflect this difference.

5.7 | References

Provide at least three (3) references from clients your firm has served similar to the County in the past three (5) years, for similar services, including one client that has newly engaged the firm in the past thirty-six (36) months and one (1) long-term client. Provide the name, address, email, and phone number of the references. Please note the required three references may not be from County staff, but additional references may be supplied. Points awarded for this criteria are based on both the providing of references as well as information gleaned from the provided contacts. Evaluation Committee members may contact references at their sole discretion.

1 *5 Years Reference*

Karl Packer, PE

Traffic Operations Manager, Arapahoe County, Colorado
KPacker@arapahoegov.com, 303 204-4414

2 *36 Months Reference*

Sean Yeates, PE

County Traffic Engineer, Mesa County, Colorado
sean.yeates@mesacounty.us, 970-462-1076, 970-254-4151

3 *Long-term Client*

David Swenka, PE

State Safety Engineer, Colorado DOT, Colorado
david.swenka@state.co.us, 720 227-1523

Additional References

4 **Yelena Ohnen**

Traffic Section Supervisor, Jefferson County, Colorado
yonnen@co.jefferson.co.us, 303 271-8497

5 **Dan Magri**

Under Secretary for Planning, LADOTD (Louisiana)
Dan.Magri@LA.GOV), 225-907-5248

PROPOSAL CERTIFICATION
RFP # 2020-58 Traffic Safety Software

Submitted by: DiEx Sys LLC, Colorado
(Must be entity's full legal name, and State of Formation)

The undersigned, through the formal submittal of this Proposal response, declares that he/she has examined all related documents and read the instruction and conditions, and hereby proposes to provide the services as specified in accordance with the RFP, for the price set forth in the Proposal documents.

Proposer, by signature below, hereby represents as follows:

- (a) That no County elected official, officer, agent or employee of the County is personally interested directly or indirectly in this contract or the compensation to be paid hereunder, and that no representation, statement or statements, oral or in writing, of the County, its elected officials, officers, agents, or employees had induced it to enter into this contract and the papers made a part hereof by its terms;
- (b) The Proposer, and each person signing on behalf of any Proposer certifies, in the case of a joint Proposal, each party thereto, certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:
 - 1. The prices in the Proposal have been arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restraining competition as to any matter relating to such prices with any other Proposer or with any competitor;
 - 2. Unless otherwise required by law, the prices which have been quoted in the Proposal have not been knowingly disclosed by the Proposer prior to the Proposal deadline, either directly or indirectly, to any other Proposer or competitor;
 - 3. No attempt has been made nor will be made by the Proposer to induce any other person, partnership or corporation to submit or not to submit a Proposal for the purpose of restraining trade;
- (c) The Proposer fully understands and submits its Proposal with the specific knowledge that:
 - 1. The selected Proposal must be approved by the Board of Commissioners.
 - 2. This offer to provide services will remain in effect at the prices proposed for a period of not less than ninety (90) calendar days from the date that Proposals are due, and that this offer may not be withdrawn or modified during that time.
- (d) That this Proposal is made without connection with any person, firm or corporation making a bid for the same material, and is in all respects, fair and without collusion or fraud.
- (e) That the Proposer shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.
- (f) That the Proposer accepts all terms and conditions contained in this RFP and that the RFP and the Proposal, and any modifications, will be made part of the contract documents. It is understood that all Proposals will become part of the public file on this matter. The County reserves the right to reject any or all Proposals.
- (g) That the Proposer holds current licenses that businesses or services professionals operating in this state must hold in order to undertake or perform the work specified in these contract documents.
- (h) That the Proposer is covered by liability insurance and other insurance in the amount(s) required by the solicitation and in addition that the Proposer qualifies as a carrier insured employer or a self-insured employer under ORS 656.407 or has elected coverage under ORS 656.128.
- (i) That the Proposer is legally qualified to contract with the County.
- (j) That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

(k) The Proposer agrees to accept as full payment for the services specified herein, the amount as shown in the Proposal.

Resident Bidder, as defined in ORS 279A.120
 Non-Resident Proposer, Resident State Colorado
Oregon Business Registry Number 165600694

Contractor's Authorized Representative:

Signature:  Date: 9-8-2020
Name: Konomov, Jake Title: Principal
Firm: DiEx Sys, LLC
Address: 8608 W. Mountain View Lane
City/State/Zip: Littleton, CO 80125 Phone: (303) 910-1401
e-mail: jake.konomov@diexsys.com Fax: _____

Contract Manager:

Name Konomov, Jake Title: Principal
Phone number: 303-910-1401
Email Address: jake.konomov@diexsys.com