



M. BARBARA CARTMILL
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

November 09, 2016

Board of County Commissioner
Clackamas County

Members of the Board:

Approval of a Supplemental Project Agreement No. 31087 with
Oregon Department of Transportation for the
Canby (M.J. Lee) Ferry Bank Stabilization and Intelligent Transportation System (ITS) Project

Purpose/Outcomes	Using Ferry Boat Discretionary Program (FBDP) funds, this agreement allows Clackamas County to proceed with design and construction of Advance Traffic Management System (ATMS) to remotely control Canby Ferry boat ramps traffic signals and all associated electronic ferry signs. In addition, some slope bank stabilization work be done for north side roadway approach.
Dollar Amount and Fiscal Impact	Overall Project Cost Estimate: \$520,000 FBDP funds: \$341,094 County match (20% min): \$178,906
Funding Source	Ferry Boat Discretionary Program (FBDP) and County Road Funds.
Duration	Completion of the Project or ten (10) years following the date of final execution, whichever is sooner.
Previous Board Action	None
Strategic Plan Alignment	This project will provide advanced traveler information to motoring public so they can safely arrive at their destination. This project will build smart infrastructure (roads and ferry) and ensure safe, healthy and secure communities.
Contact Person	Bikram Raghubansh, Project Manager 503-742-4706

BACKGROUND:

This is a supplemental project agreement between Clackamas County and the Oregon Department of Transportation (ODOT) to construct Advanced Traffic Management System (ATMS) to remotely monitor and control Canby Ferry boat ramps traffic signals and existing advanced electronic roadway signs approaching the ferry ramps. The proposed ATMS will allow County staff and boat operators to remotely control, view, and monitor existing traffics signals at the two boat ramps and electronic signs approaching the ferry area using fiber optic network communication and CCTV surveillance cameras. In addition to ITS work, the project will complete minor road bank slope stabilization work on the northerly approach. This project will be administered by adhering to an existing Local Agency Certification Program (Certification Program) Agreement (No. 30923) with ODOT. This project will be financed mostly with FBDP funds and remaining with Local Agency match.

This agreement has been reviewed and approved by County Counsel.

RECOMMENDATION:

Staff respectfully recommends that the Board of County Commissioners approve the attached Supplemental Project Agreement with ODOT for the FBDP Canby Ferry Bank Stabilization and ITS Project as listed in the agreement.

Respectfully submitted,

Mike Bezner
Assistant Director

**OREGON DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY CERTIFICATION PROGRAM
SUPPLEMENTAL PROJECT AGREEMENT NO. 31087**

**FERRY BOAT DISCRETIONARY PROGRAM
CANBY (M.J. LEE) FERRY BANK STABILIZATION AND ITS PROJECT**

CLACKAMAS COUNTY

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

RECITALS

1. By the authority granted in Local Agency Certification Program Agreement No. 30923 ("Certification Agreement") incorporated herein and by this reference made a part hereof, State may enter into this Supplemental Project Agreement with Agency for the performance of work on this improvement Project. The Certification Program allows State to certify a Local Agency's procedures and delegates authority to the certified Local Agency, as defined in the Certification Agreement, to administer federal-aid projects.
2. Canby (M.J. Lee) Ferry ("Ferry") connects the communities of Canby and Wilsonville across the Willamette River, located in Clackamas County. Access to the Ferry's southerly termini is on Holly Street as it exits the City of Canby. Access to the northerly termini is on Mountain Road, which provides a link to I-205 and to I-5 by way of Advance Road. These roads carry an Agency functional classification of Rural Minor Arterials and are on the National Highway System. Canby Ferry is a part of the Agency's transportation system under the jurisdiction and control of Agency.
3. The Project in this Supplemental Project Agreement is one of the required test projects Agency must perform in order to obtain conditional certification in the area of Informal consultant selection, described in Local Agency Certification Program (Certification Program) Agreement No. 30923.

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

TERMS OF AGREEMENT

1. Under such authority, State and Agency agree to Agency:
 - extending the fiber optic cable from the Agency's CBX (Computerized Branch Exchange) System on the north side of the Willamette River to the Ferry location and south to mutually agreed upon locations;
 - connecting the ferry OPEN/CLOSED electronic signs with the option for a potential connection to City of Canby offices;
 - installing up to two (2) pan/tilt/zoom cameras

- installing ferry notification signs located on Advance Road east of Stafford Road, Mountain Road south of Stafford Road, Holly Avenue north of Territorial Road, and on Territorial Road west of Highway 99E, as identified in Exhibit A, to display green “OPEN” and red “CLOSED”;
- installing an electronic fare collection method; and
- enhancing the north side bank roadway approach by removing hazards and providing bank stabilization, as identified on page 2 of Exhibit A.

The above listed tasks described in this section shall be hereinafter referred to as the “Project” and include the design and engineering of the elements. The location of the Project is shown on the sketch maps attached hereto, marked “Exhibit A” and by this reference made a part hereof.

2. The total estimated cost of the Project is \$520,000, which is subject to change.
3. The Project shall be conducted as a part of the Ferry Boat Discretionary Program (FBDP) under Title 23, United States Code. FBDP funds for this Project shall be limited to \$341,094. The Project will be financed with FBDP funds at the maximum allowable federal participating amount, with County providing the twenty (20) percent match and any non-participating costs, including all costs in excess of the available federal funds.
4. Agency shall make all payments for work performed on the Project, including all construction costs, and invoice State for 100 percent of its costs. State shall reimburse Agency invoices at the pro-rated federal share. All costs beyond the federal and state reimbursement, any deposited local funds, and any non-participating costs will be the responsibility of the Agency. State shall simultaneously invoice FHWA and Agency for State's Project costs, and Agency agrees to reimburse State for the federal-aid matching state share and any non-participating costs as determined in accordance with paragraph number 2, above upon receipt of invoice. Failure of Agency to make such payments to State may result in withholding of Agency's proportional allocation of State Highway Trust Funds until such costs are paid. Agency understands that State's costs are estimates only and agrees to reimburse State for the actual amount expended.
5. a. Information required by 2 CFR 200.331(a), except for (xiii) Indirect cost rate, shall be contained in the USDOT FHWA Federal Aid Project Agreement for this Project, a copy of which shall be provided by ODOT to Agency with the Notice to Proceed.
b. The indirect cost rate for this project at the time the agreement is written is 79.27% and may change upon notice to State and ODOT's subsequent written approval. Agency may have other indirect cost rates for departments and or disciplines that have been approved for use by their cognizant agency and ODOT and these rates may be used on the Project, as applicable.
6. If State performs work throughout the duration of the Project, State will provide a preliminary estimate of State costs for said work to Agency. Prior to the start of each Project phase State will provide an updated estimate of State costs from that phase to Agency. Such phases generally consist of Preliminary Engineering, Right of Way, Utility, and Construction. Agency understands that State's costs are estimates only and agrees to reimburse State for actual cost incurred per the Terms of this Agreement.
7. Agency shall perform informal consultant selection, design, advertise, bid, award the construction contract, and perform construction administration. Agency understands that this

Project is a test project for informal consultant selection and a certified project in all other phases of the Project. Agency agrees to comply with all of the terms and conditions found in Certification Program Agreement No. 30923.

8. State will submit request for federal funding to FHWA. The federal funding for this Project is contingent upon approval by the FHWA. Any work performed prior to acceptance by FHWA will be considered nonparticipating and paid for at Agency expense. State's Regional Local Agency Liaison or designee will provide Agency with a written notice to proceed when FHWA approval has been secured and funds are available for expenditure on this Project.
9. State considers Agency a subrecipient of the federal funds it receives as reimbursement under this Agreement. The Catalog of Federal Domestic Assistance (CFDA) number and title for this Project is 20.205, Highway Planning and Construction.
10. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.
11. This Agreement is subject to the terms and provisions of the Local Agency Certification Program Agreement No. 30923.
12. Agency shall, at its own expense, maintain and operate the Project upon completion and throughout the useful life of the Project at a minimum level that is consistent with normal depreciation and/or service demand. State and Agency agree that the useful life of this Project is defined as twenty (20) years.
13. State may conduct periodic inspections during the life of the Project to verify that the Project is being properly maintained and continues to serve the purpose for which federal funds were provided.
14. This Agreement may be terminated by mutual written consent of both Parties.
15. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If 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 if State is prohibited from paying for such work from the planned funding source.
16. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
17. Agency, as a recipient of federal funds, pursuant to this Agreement with 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 State to return funds to the FHWA, hold harmless and indemnify 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.
18. State and Agency 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.
19. Agency certifies and represents that the individual(s) signing this Agreement have (has) been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
20. 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.
21. This Agreement and the Local Agency Certification Program (Certification Program) Agreement No. 30923, as amended and all attached exhibits constitutes the entire agreement between the Parties on the subject matter hereof. In the event of conflict, the body of this Agreement and the attached Exhibits will control over Project application and documents provided by Agency to State. 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.
22. State's Project Liaison for the Agreement is Mahasti V. Hastings, Local Agency Liaison, 123 NW Flanders Street, Portland, OR 97209, (503) 731-8595, mahasti.v.hastings@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

Agency/State
Agreement No. 31087

23. Agency's Project Liaison for this Agreement is Joel Howie, Civil Engineering Supervisor, 150 Beavercreek Road, Oregon City, OR 97045, (503) 742-4658, JHowie@co.clackamas.or.us or assigned designee upon individual's absence. Agency shall notify the other Party in writing of any contact information changes during the term of this Agreement.

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

This Project is in the 2015-2018 Statewide Transportation Improvement Program, (Key No. 19641) that was adopted by the Oregon Transportation Commission on December 18, 2014 (or subsequently approved by amendment to the STIP).

SIGNATURE PAGE TO FOLLOW

CLACKAMAS COUNTY, acting by and through its elected officials

By _____

Title _____

Date _____

By _____

Title _____

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By _____

Agency Legal Counsel

Date _____

Agency Contact:

Joel Howie, Civil Engineering Supervisor
Clackamas County
150 Beavercreek Road
Oregon City, OR 97045
(503) 742-4658
JHowie@co.clackamas.or.us

State Contact:

Mahasti Hastings, Local Agency Liaison
Oregon Department of Transportation
123 NW Flanders Street
Portland, OR 97209
(503) 731-8595
Mahasti.v.hastings@odot.state.or.us

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

By _____

Highway Division Administrator

Date _____

APPROVAL RECOMMENDED

By _____

Certification Program Manager

Date _____

By _____

Region 1 Manager

Date _____

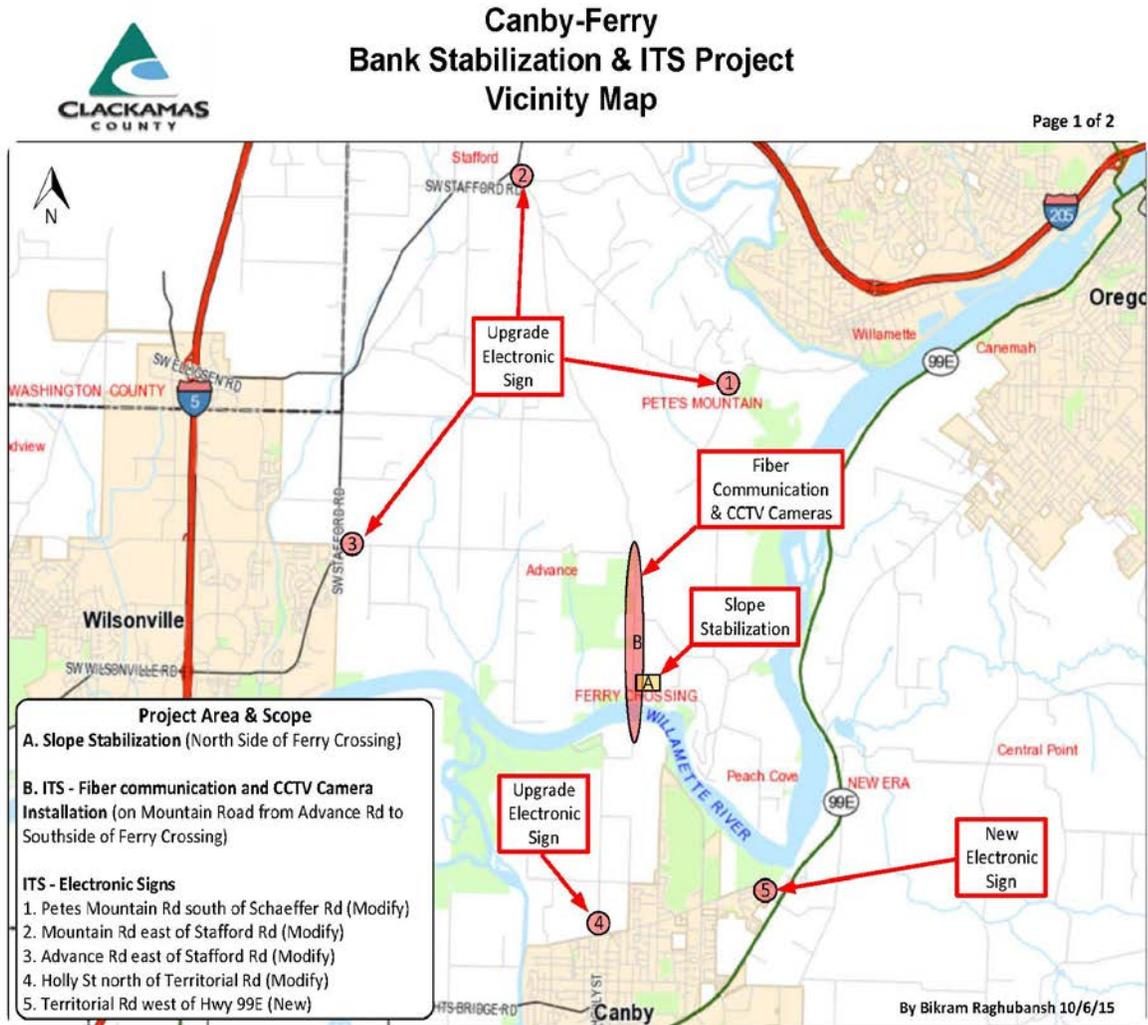
APPROVED AS TO LEGAL SUFFICIENCY

By _____

Assistant Attorney General

Date _____

Exhibit A – Project Location Map





Canby-Ferry Bank Stabilization Vicinity Map

