

LOCAL AGENCY AGREEMENT
HAZARD ELIMINATION PROGRAM PROJECT
NE 238th Drive @ NE Treehill Drive (Wood Village)

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 MULTNOMAH COUNTY, acting by and through its elected officials, hereinafter referred to as "Agency", hereinafter individually referred to as the "Party" or collectively referred to as the "Parties."

RECITALS

1. NE 238th Drive is a part of the county road system under the jurisdiction and control of Multnomah County.
2. By the authority granted in ORS 190.110, 366.572 and 366.576, State may enter into cooperative agreements with the counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

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 widen the roadway for improved sight distance, install sidewalk replacement, vegetation removal, and the installation of warning signs on NE 238th Drive at Treehill Drive, hereinafter referred to as "Project". The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.
2. The Project shall be conducted as a part of the Hazard Elimination System Program under Title 23, United States Code. The total Project cost is estimated at \$340,000. The estimated HEP funds for the Project are limited to \$310,000. Agency shall be responsible for the match for the federal funds and any portion of the Project which is not covered by federal funding. The estimate for the total Project cost is subject to change.

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3. 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. The Catalog of Federal Domestic Assistance (CFDA) number for this Project is 20.205, Highway Planning and Construction. Agency is considered a sub-recipient of the federal funds under this Agreement.
4. The term of this Agreement will begin upon execution and will terminate upon completion of the Project and final payment or ten (10) calendar years following the date of final execution, whichever is sooner. The attached Special Provisions may contain additional termination conditions.
5. This Agreement may be terminated by mutual written consent of both Parties.
6. 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 State is prohibited from paying for such work from the planned funding source.
7. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

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8. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The Parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2.
9. 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 State to return funds to the Federal Highway Administration, 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.
10. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
11. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
12. 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.
13. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in 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.

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The Parties, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

This Project is in the 2008-2011 Statewide Transportation Improvement Program, (Key #13156) that was approved by the Oregon Transportation Commission on November 14, 2007.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

Signature Page to Follow

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On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates authority to the Deputy Director for Highways, to approve and execute agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program, other system plans approved by the Commission such as the Traffic Safety Performance Plan, or in a line item in the approved biennial budget.

MULTNOMAH COUNTY, by and
through its elected officials

By _____
Chair

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
County Counsel

Date _____

Agency Contact:

Adam Soplop
Multnomah County
1620 SE 190th Ave
Portland, OR 97233
503-988-5050 (ex22604)
adam.soplop@co.multnomah.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
Technical Services Manager/
Chief Engineer

Date _____

By  _____
Region 1 Manager

Date 11/19/09

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

State Contact:

Tom Weatherford
123 NW Flanders
Portland, OR 97209
503-731-8238
Thomas.L.Weatherford@odot.state.or.us

EXHIBIT A – Vicinity Map

