

**COOPERATIVE IMPROVEMENT AGREEMENT**  
**Region 1 Traffic Signal Upgrade Unit 4**  
**Oswego Highway at S.W. Breyman Avenue \S.W. Greenwood Road**

**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 the Multnomah County, acting by and through its elected officials, hereinafter referred to as "County," collectively hereinafter referred to as the "Parties."

**RECITALS**

1. Oswego Highway (OR 43), is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). The portion of OR 43 referenced herein is also designated as Riverside Drive, which passes through County jurisdiction. Breyman Avenue and S.W. Greenwood Road are a part of the county road system under the jurisdiction and control of the County.
2. By the authority granted in ORS 190.110, 366.572 and 366.576, State may enter into cooperative agreements with 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.
3. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic signal work on this Project will conform to the current State standards and specifications.
4. By the authority granted in ORS 374.305 and 374.310, State may regulate construction of any approach onto the state highway and require mitigation for approaches that the State determines to be in the best interest of the traveling public.
5. The purpose of this Agreement is to make safety improvements to reduce driver confusion and minimize potential vehicle conflicts when approaching the three-way intersection of OR 43 with SW Greenwood Road and SW Breyman Avenue by signal and intersection improvements to better direct vehicles into the correct travel lanes.

**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 and for the purpose of improving safety on public highways, State and County agree to intersection construction and signal improvements at OR 43 and its intersection with S.W. Breyman Avenue and S.W. Greenwood Road, hereinafter referred to as "Project". The Project shall include signal modifications, improved signing and striping, sidewalks, curbing, American Disabilities Act compliant curb ramps, adjustments to access, and retaining walls. 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 will be financed at an estimated cost of \$638,000 in state and federal funds. The estimate for the total Project cost is subject to change. State shall be responsible for any costs beyond the estimate.
3. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance and power responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed within ten (10) calendar years following the date of final execution of this Agreement by both Parties.

## **STATE OBLIGATIONS**

1. State, or its consultant, shall conduct the necessary field surveys, environmental studies, traffic investigations, preliminary engineering and design work required to produce and provide final plans, specifications and cost estimates for the highway Project; identify and obtain all required permits; any property acquisition necessary; perform all construction engineering, including all required materials testing and quality documentation; prepare all bid and contract documents; advertise for construction bid proposals; award all contracts; pay all contractor costs, provide technical inspection, project management services and other necessary functions for sole administration of the construction contract entered into for this Project. State shall design and construct the Project to State standards.
2. State shall be responsible for all costs associated with construction and installation of the Project. Upon completion of the Project, State shall retain ownership of all traffic signal equipment.
3. State shall lay out and paint the necessary lane lines and erect the required directional and traffic control signing for the Project.
4. State shall maintain the asphaltic concrete pavement surrounding the vehicle detector loops installed in OR 43 in such a manner as to provide adequate protection for said detector loops.
5. Consistent with the 2002 Policy Statement for Cooperative Traffic Control Projects, Agreement 19179, between State and the agencies belonging to the Association of Oregon

Counties (AOC) or the League of Oregon Cities (LOC), State and County shall each be responsible for fifty percent (50%) percent of the cost for maintenance, operation and electricity for the signal equipment, excluding the detector loops that are covered by the proceeding paragraph and County Obligation 8. State shall perform the maintenance and be responsible for payment for signal power to the power company. The power company shall send power bills directly to State. State shall annually bill County for their fifty percent (50 %) of the combined maintenance, operations and electricity for the Project.

6. Upon completion of the Project, State hereby grants the County or others designated by the County and approved by State District 2A permitting office, permission to access State right of way for the purpose of maintaining Project related sidewalks or retaining walls. In lieu of State district permits for each occasion, State grants County, or others designated by County, the right to enter and occupy State right of way for the purpose of routine maintenance for the County responsibilities listed for the Project improvements. All other activities beyond the listed routine maintenance or that may intrude upon the the state highway shall require State District 2A issued permits prior to said activities.
7. State may conduct periodic inspections during the life of the Project to verify that Project is being properly maintained.
8. State's Project Manager for this Project is Wayne Statler, 3700 SE 92nd Ave Rm 105, Portland, OR 97266-1951, Phone: 503-731-3197 or assigned designee upon individual's absence.

## **COUNTY OBLIGATIONS**

1. County hereby grants State, and/or its contractor, the right to enter onto and occupy County right of way within the Project limits for the performance of field work, Project construction, as well as future maintenance of the traffic signal equipment constructed on County right of way.
2. County shall identify and, at no expense to the Project, provide State with any and all County required permits for the Project. County shall expedite the processing of electrical permits required by State and/or its contractors as needed for the Project.
3. County and State shall work jointly in resolving any conflicts with private utilities presently located on County or State right of way, to be relocated or reconstructed at the utility's expense.
4. County shall relocate or cause to be relocated, at no expense to the Project, all County-owned utility conduits, lines, poles, mains, pipes, and other such facilities where such relocation is necessary in order to conform said utilities and facilities with the plans and ultimate requirements of the Project. State will arrange for utility relocations/adjustments in areas lying within jurisdiction of State, if State is performing the preliminary engineering. County

shall follow established State utility relocation policy and procedures. In the event that State performs the necessary utility relocations or needed improvements on behalf of the County, County shall reimburse State the total estimated cost of said relocations at the time of the request. State shall notify the County in writing of any County-owned utility that needs relocation at County expense. In the event that the County performs any work on behalf of State, State shall reimburse the County the total cost of services upon receipt of invoice and accounting records. Should the County need utility improvements and desire State to perform the improvement, the County shall pay State the total cost of the improvement at the time the County's request and final payments made after all requested work has been completed.

5. County shall close or cause to be closed the access onto County right of way located in the north west quadrant of the intersection of OR 43 and SW Breyman Ave, at no expense to the Project. State shall construct curb and proceed to physically close the subject access at the location approximately as shown on the sketch map attached hereto, marked Exhibit B, and by this reference made a part hereof.
6. County shall be responsible for 50% of the combined costs for the maintenance, operations and electricity for the Project after contract completion and signal turn on. Upon receipt from State of an itemized statement of the actual total annual costs for maintenance, operation and power for the Project signal equipment, County shall pay, the amount equal to 50% of the listed costs.
7. County shall be responsible for the sidewalk and retaining wall improvements identified on Exhibit C, plan sheet number 2, located by arrows, and by this reference made a part hereof. The sidewalks and retaining walls constructed as part of the Project shall be maintained at the same level as are similar facilities owned by County. County may require adjacent property owners to fund or perform maintenance of the behind the curb improvements, as may be provided by County charter or ordinance. County shall remain responsible for compliance with the terms of this Agreement, and responsible for the performance of such work, even when maintenance is performed by County contractors or property owners, or if right of way behind the curb is partly or in whole on State right of way.
8. County shall, upon completion of the Project and at its own expense, maintain the pavement surrounding the vehicle detector loops installed as part of the Project in the County roads in such a manner as to provide adequate protection for said detector loops. Failure to do so may result in State requiring County to repair or replace the damaged loops at County expense. Future County roadwork activities involving the detector loops may also result in the same State requirements. County shall also adequately maintain the pavement markings and signing installed in County roads in accordance with current Manual of Uniform Traffic Control Devices (MUTCD) standards.
9. County certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of County, under the direction

or approval of its governing body, commission, board, officers, members or representatives, and to legally bind County.

10. County's Project Manager for this Project is Brian Vincent, County Engineer, 1620 SE 190<sup>th</sup> Ave, Portland, OR 97233, phone: (503) 988-5050 x29642, email: [brian.s.vincent@co.multnomah.or.us](mailto:brian.s.vincent@co.multnomah.or.us), or assigned designee upon individuals absence.

## **GENERAL PROVISIONS**

1. This Agreement may be terminated by mutual written consent of both Parties.
2. State may terminate this Agreement effective upon delivery of written notice to County, or at such later date as may be established by State, under any of the following conditions:
  - a. If County fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - b. If County 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 thirty (30) days or such longer period as State may authorize.
  - 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.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
4. Both Parties shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless each other, their officers and employees from any and all claims, suits, and liabilities which may occur in their respective performance of this Project.
5. Notwithstanding the foregoing defense obligations under the paragraph above, neither Party nor any attorney engaged by either Party shall defend any claim in the name of the other Party or any agency/department/division of such other Party, nor purport to act as legal representative of the other Party or any of its agencies/departments/divisions, without the

prior written consent of the legal counsel of such other Party. Each Party may, at anytime at its election assume its own defense and settlement in the event that it determines that the other Party is prohibited from defending it, or that other Party is not adequately defending its interests, or that an important governmental principle is at issue or that it is in the best interests of the Party to do so. Each Party reserves all rights to pursue any claims it may have against the other if it elects to assume its own defense.

6. If County fails to maintain facilities in accordance with the terms of this Agreement, State, at its option, may maintain the facility and bill County, seek an injunction to enforce the duties and obligations of this Agreement or take any other action allowed by law.
7. 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.
8. 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.

**The Parties**, by execution of this Agreement, hereby individually acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2006-2009 Statewide Transportation Improvement Program, (Key #10874) that was approved by the Oregon Transportation Commission on August 17, 2005, or subsequently approved by amendment to the STIP.

The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission, or in a line item in the biennial budget approved by the Director.

Multnomah County  
Agreement No. 25,209

**Multnomah County**, by and through its elected officials

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

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By \_\_\_\_\_  
County Counsel

Date \_\_\_\_\_

**County Contact:**

Brian Vincent, County Engineer

1620 SE 190<sup>th</sup> Ave

Portland, OR 97233

(503) 988-5050 x29642

[brian.s.vincent@co.multnomah.or.us](mailto:brian.s.vincent@co.multnomah.or.us)

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

By \_\_\_\_\_  
Deputy Director, Highways

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

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

Date \_\_\_\_\_

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

Date \_\_\_\_\_

By \_\_\_\_\_  
District 2A Manager

Date \_\_\_\_\_

By \_\_\_\_\_  
State Traffic Engineer

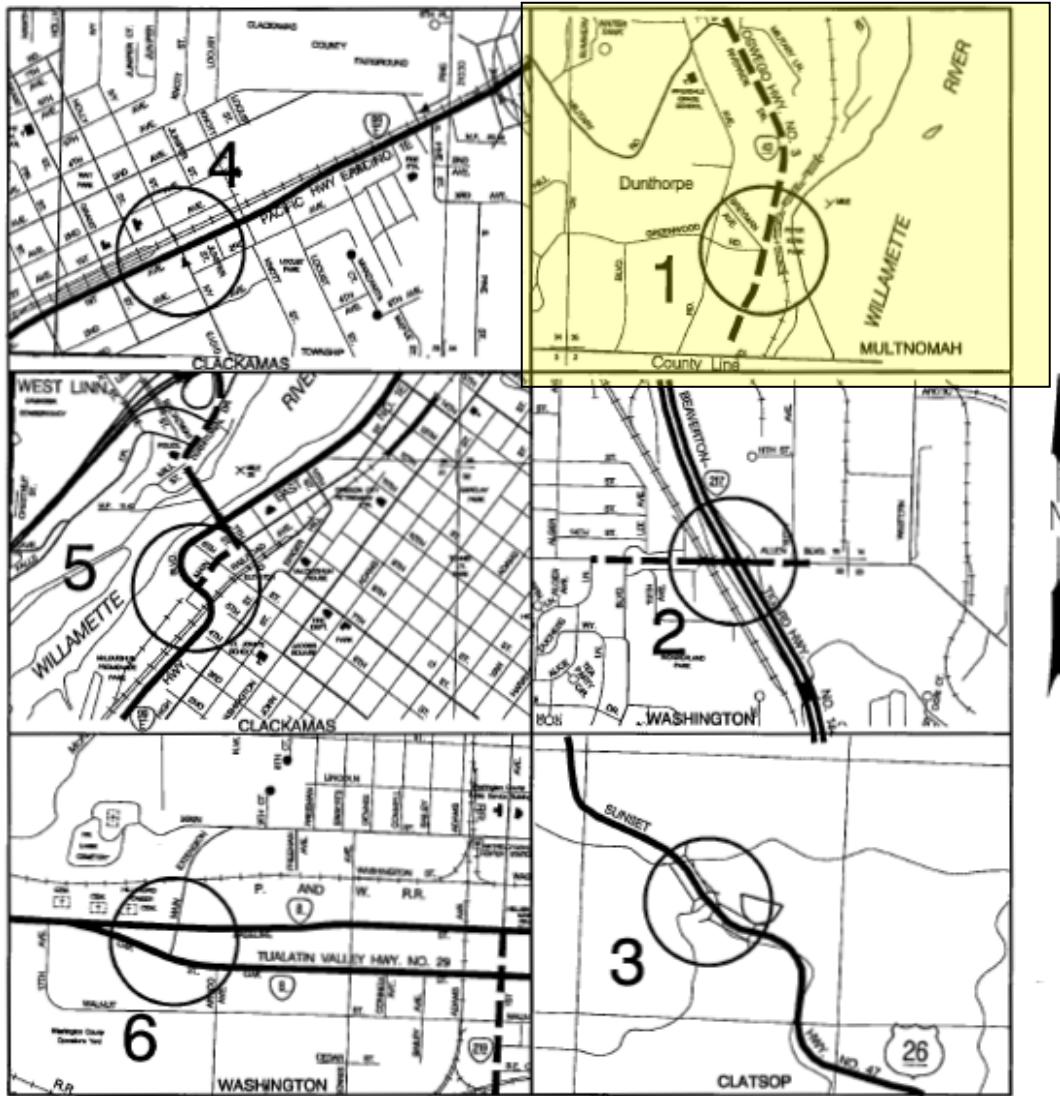
Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

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

Date: \_\_\_\_\_

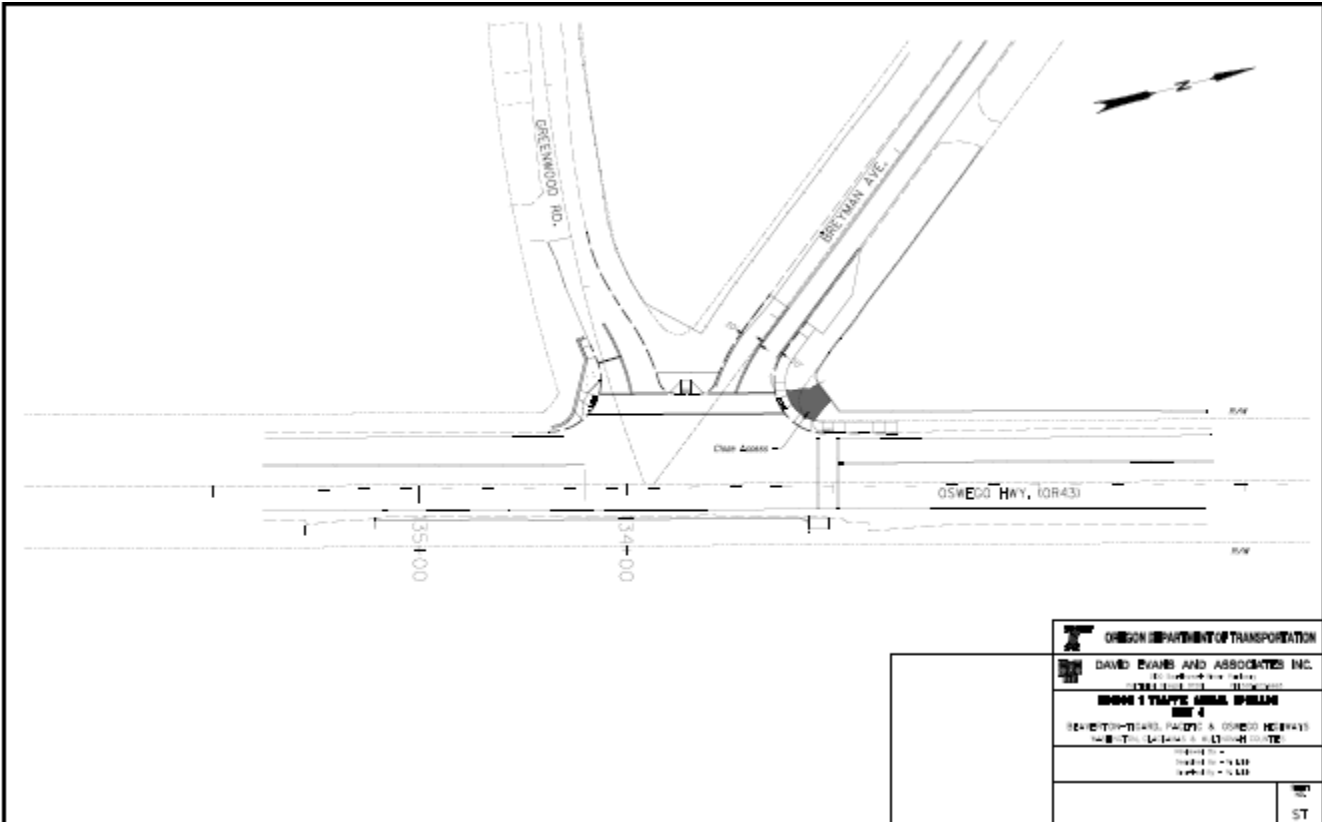
**EXHIBIT A – M.C. & A. No. 25,209 (highlighted map)**  
**Region 1 Traffic Signal Upgrade Unit 4**  
**Oswego Hwy at S.W. Breyman Avenue \S.W. Greenwood Road**



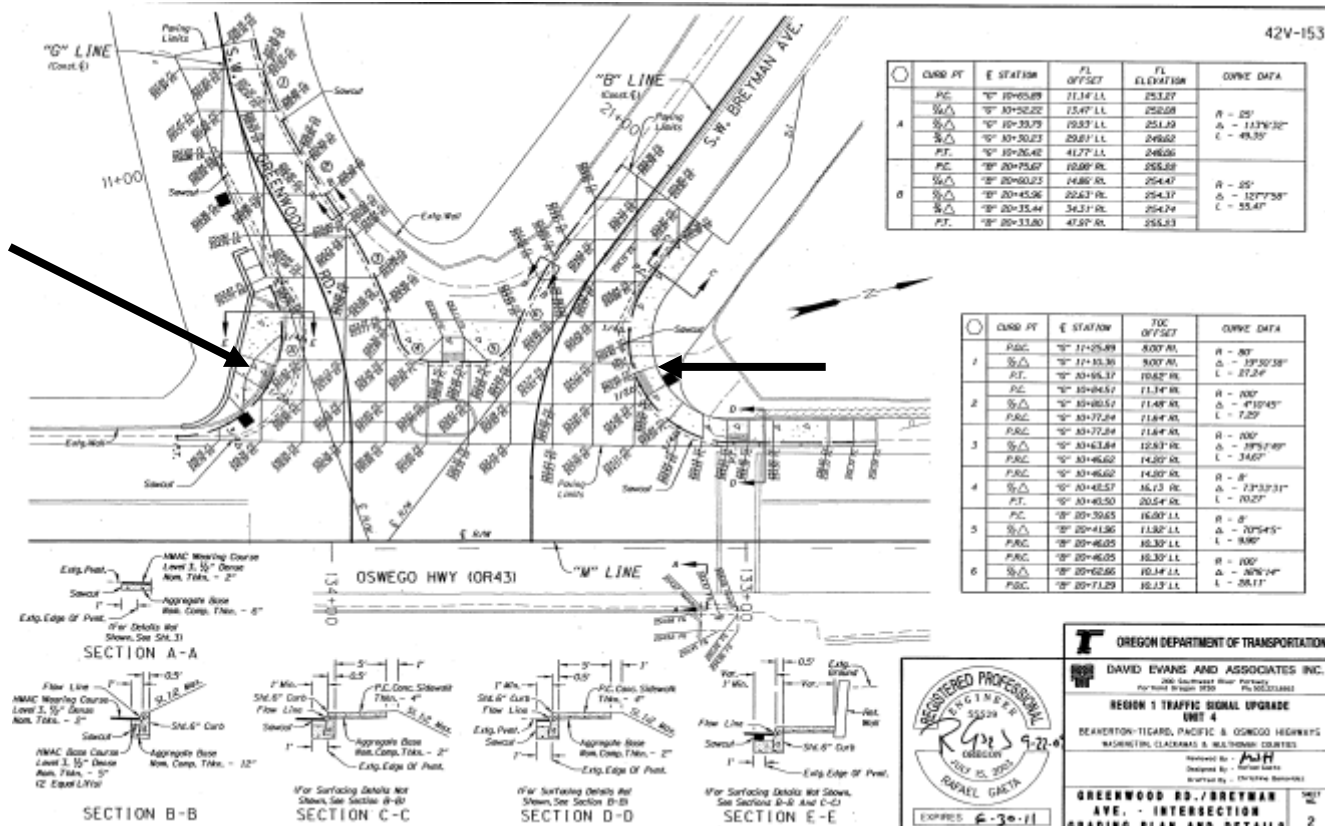
PROJECT	R-1 TRAFFIC SIGNAL UPGRADE UNIT 4
COUNTY	CLACKAMAS, CLATSOP, MULTNOMAH & WASHINGTON
DATE	MARCH 2006
PROJECT SITES	
1	ORE 43 M.P. 4.90, Greenwood Rd.
2	ORE 217 M.P. 2.48, Allen Blvd.
3	US 26 M.P. 24.38, Meinig
4	ORE 99E M.P. 21.14, Ivy St.
5	ORE 99E M.P. 12.56, Main Street (5th)
6	ORE 8 M.P. 13.92, Main St. @ (Baseline)
KEY NUMBER 10874	



**EXHIBIT B – M.C. & A. No. 25,209**  
**Region 1 Traffic Signal Upgrade Unit 4**  
**Oswego Hwy at S.W. Breyman Avenue (S.W. Greenwood Road**  
**Location of Access Closure.**



**EXHIBIT C – M.C. & A. No. 25,209**  
**Region 1 Traffic Signal Upgrade Unit 4**  
**Oswego Hwy at S.W. Breyman Avenue [S.W. Greenwood Road**  
**Behind the Curb – Sidewalk and Retaining Wall Improvement Maintenance**



**OREGON DEPARTMENT OF TRANSPORTATION**

**DAVID EVANS AND ASSOCIATES INC.**  
 400 Southwest River Parkway, Portland, OR 97204  
 Phone: 503.224.1234, Fax: 503.224.1235

**REGION 1 TRAFFIC SIGNAL UPGRADE UNIT 4**  
 BEARINGTON-TIGARD, PACIFIC & OSWEGO HIGHWAYS  
 WASHINGTON, CLATSOP & MULTNOMAH COUNTIES

Reviewed By: **EAH**  
 (Designed By: David Evans)

**GREENWOOD RD./BREYMAN AVE. - INTERSECTION**  
**GRADING PLAN AND DETAILS**

**2**