

INTERSTATE AGREEMENT
Columbia River I-5 Northbound and Southbound
Lift Span Inspection and Evaluation
Oregon Bridge Numbers 01377A and 07333
Washington Bridge Numbers 000000PR and 0005216A

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 "ODOT," and the STATE OF WASHINGTON, acting by and through the Washington Department of Transportation, hereinafter referred to as "WSDOT," individually the "Party," and collectively called the "Parties."

RECITALS

1. By the authority granted in ORS 190.110 and 190.420, ODOT may enter into agreements with public agencies in other states for joint or cooperative actions to the extent that the laws of the other state permit.
2. By the authority granted in ORS 381.005, ODOT may construct, reconstruct, purchase, rent, lease or otherwise acquire, improve, operate and maintain bridges over the Columbia River into the State of Washington.
3. By the authority granted in ORS 381.010, ODOT may enter into agreements with the State of Washington for the purpose of carrying out or putting into effect the right, power and authority granted by ORS 381.005.
4. By the authority granted in Revised Code of Washington, chapter 39.34 RCW, RCW 47.52.020 and RCW 47.04.080, the Washington Department of Transportation may enter into agreements with public agencies in other states for joint or cooperative actions.
5. Interstate 5 (I-5) in Multnomah County, Oregon is an Interstate Highway under the jurisdiction and control of the Oregon Transportation Commission. I-5 in Clark County, Washington is an Interstate Highway under the jurisdiction and control of WSDOT. I-5 Northbound, near Portland, Oregon and I-5 Northbound, near Vancouver, Washington connect via the I-5 Northbound Bridge, Oregon Bridge Number 01377A and Washington Bridge Number 000000PR. I-5 Southbound, near Portland, Oregon and I-5 Southbound, near Vancouver, Washington connect via the I-5 Southbound Bridge, Oregon Bridge Number 07333 and Washington Bridge Number 0005216A. The bridges connect Clark County in Washington with Multnomah County in Oregon, which passes over the Columbia River and contains

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the boundary between the states at that point, as shown on Exhibit A, Project Location, attached hereto and made a part hereof.

6. These bridges are free bridges with no tolls charged by either state.

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

A. TERMS OF AGREEMENT

1. WSDOT and ODOT agree that there is a need to conduct a mechanical inspection and evaluation of the lift span machinery in the I-5 Northbound Bridge, Oregon Bridge Number 01377A and Washington Bridge Number 000000PR and the I-5 Southbound Bridge, Oregon Bridge Number 07333 and Washington Bridge Number 0005216A, over the Columbia River; hereinafter referred to as the "Project." The approximate location of the Project is shown on Exhibit A, attached hereto and by this reference made a part hereof.
2. The total Project cost is currently estimated at Two Hundred Seven Thousand Dollars (\$207,000.00). WSDOT and ODOT funding shares shall be based on the actual direct and related indirect total cost of the Project. Each Party shall provide fifty (50) percent of the actual direct and related indirect total cost of the Project. This cost shall include, without limitation, ODOT administrative costs, such as surveys, investigations, permitting, bidding/award, and contract administration.
3. WSDOT's estimated costs for the Project are One Hundred Three Thousand Five Hundred Dollars (\$103,500.00) which is fifty (50) percent of the estimated total cost of the Project.
4. ODOT's estimated costs for the Project are One Hundred Three Thousand Five Hundred Dollars (\$103,500.00) which is fifty (50) percent of the estimated total cost of the Project.
5. The Parties agree that Two Hundred Seven Thousand Dollars (\$207,000.00) is only a Project estimate. Prior to exceeding the Project estimate, the Parties agree to meet to determine whether to amend the Project scope to stay within the estimate or to pay their proportionate shares of the additional Project costs and approve the increased costs, by executing an amendment to this Agreement. The Parties further agree that additional Project costs may also include all costs associated with Project contractor claims and/or litigation, including arbitration damage awards or court judgments, including the costs of litigation, attorneys fees and expert fees.

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6. This Agreement shall be effective on the last written date all required signatures of the Parties have been obtained and shall remain in effect until ODOT has completed the Project and accepted all amounts to be reimbursed by WSDOT under this Agreement or five (5) years from the date of execution, whichever occurs first, unless earlier terminated or extended by amendment, as provided herein.

B. ODOT OBLIGATIONS

1. ODOT shall furnish all necessary labor, materials, and equipment required to perform the necessary oversight for the inspections.
2. ODOT shall conduct the necessary field survey and investigations, obtain all permits required for the Project and submit all data to WSDOT for its approval.
3. ODOT shall award a contract to the lowest bidder if bidding requirements are met. In the event the bid exceeds the cost estimate as provided by this Agreement, ODOT shall request WSDOT approval prior to contract award. ODOT shall ensure its contractor complies with all applicable federal and State of Oregon laws and regulations. ODOT shall also advise the contractor that the contractor is required to comply with the laws of the State of Washington with respect to that portion of work to be done and materials to be furnished within the State of Washington.
4. ODOT shall not enter into any subcontracts pursuant to the performance of this Agreement without obtaining prior written approval from WSDOT.
5. ODOT shall assume responsibility for administration of the contract, supervision of the Project, and certification of compliance with specifications.
6. ODOT shall furnish a monthly progress report to the WSDOT Project Liaison throughout the Project. The monthly progress report shall briefly state the progress achieved during the previous one-month period and the overall progress to date, including costs incurred.
7. ODOT shall submit monthly invoices to WSDOT requesting reimbursement for fifty (50) percent of all actual direct and related indirect Project costs incurred during the previous month. Such invoices shall be in a form identifying the Project and WSDOT Agreement number, and shall itemize all expenses for which reimbursement is claimed.
8. ODOT shall submit proposed change orders in excess of \$10,000.00 to WSDOT's Project Liaison for review and approval prior to issuance of a change order to the contractor. ODOT has the right to issue change orders necessary to preserve

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public safety without first obtaining WSDOT approval. WSDOT agrees that ODOT may issue change orders of \$10,000.00 or less without WSDOT approval and WSDOT further agrees to reimburse ODOT for WSDOT's share of all change orders as provided in this Agreement, pursuant to ODOT Obligations, Paragraph 7. The ability to issue change orders under this provision does not eliminate the necessity to amend this Agreement, pursuant to Terms of Agreement, Paragraph 5, and General Provisions, Paragraph 11, when costs, including proposed change orders, are expected to exceed the established Project cost estimate.

9. ODOT hereby grants to WSDOT a right of entry upon all land in which ODOT has an interest, within or adjacent to the right of way of the highway during the course of the Project.
10. ODOT shall comply with all federal and Oregon state laws applicable to the Project, including, without limitation, the federal Davis-Bacon Act and Miller Act. For those portions of the Project performed within the State of Washington. ODOT shall require its contractor to comply with the laws of the State of Washington.
11. ODOT shall compile and retain accurate cost accounting records for all phases of the Project. ODOT shall provide a written statement of its costs to date any time upon request by WSDOT. Overhead, supervision and other administrative costs related to the work performed under this Agreement shall be accumulated and computed in accordance with accepted accounting procedures.
12. All Project documents, invoices, and reports required by this Agreement shall be delivered to WSDOT's Project Liaison at the following address: WSDOT, Attention: Casey Liles P.O Box 1709, Vancouver, Washington 98668-1709.
13. ODOT's Project Engineer for this Agreement is Steve Lovejoy, 355 Capitol St NE, Salem OR, Room 301; phone: (503) 986-3326 or approved designee. Any change to ODOT's Project Engineer and/or address shall be submitted to WSDOT in writing.

C. WSDOT OBLIGATIONS

1. WSDOT shall timely review and approve change orders in excess of \$10,000.00 and advise ODOT of its approval or recommended modifications within one (1) week of receipt. WSDOT agrees to reimburse ODOT for WSDOT's share of all change orders as provided in this Agreement pursuant to ODOT Obligations, Paragraph 8. WSDOT agrees that ODOT has the right to issue change orders necessary to preserve public safety without first obtaining WSDOT approval. In the event WSDOT does not approve a change order, WSDOT agrees to provide written justification. The Parties agree and acknowledge that delays in change

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order approval may increase the over-all cost of the Project, for which each Party has a fifty (50) percent obligation as provided in this Agreement.

2. WSDOT agrees to pay all adequately detailed and documented monthly invoices within thirty (30) days of receipt. Upon completion of the Project, WSDOT agrees to pay the final itemized invoice from ODOT within forty-five (45) days from receipt of ODOT's invoice. The final invoice shall show a detailed summary of costs incurred, pursuant to ODOT Obligations, Paragraph 7, including final payments to contractor.
3. WSDOT certifies, at the time it executes this Agreement, sufficient funds have been appropriated and allotted within the current biennial budget to finance the current estimated costs pursuant to the Terms of Agreement, Paragraph 3, of this Agreement.
4. WSDOT hereby grants to ODOT, its contractors and their subcontractors, a right of entry upon all land in which WSDOT has an interest, within or adjacent to the right of way of the highway during the course of the Project.
5. WSDOT shall assign a Project Liaison to periodically review progress of the Project and assure the quality of work and materials. All contact between WSDOT's Project Liaison and ODOT's contractor shall be through ODOT's Project Engineer. The WSDOT Project Liaison shall be delegated the authority to review and approve proposed change orders over \$10,000.00.
6. WSDOT's Project Liaison for this Agreement is Casey Liles, PO Box 1709, Vancouver, Washington 98688-1709, phone: (360) 905-1537 or designated representative. Any change of WSDOT's Project Liaison and/or mailing address shall be submitted to ODOT in writing.

D. GENERAL PROVISIONS

1. Upon completion of the Project, representatives of ODOT and WSDOT shall confer with respect to the acceptance of the Project.
2. Upon final approval of this Agreement, two (2) originals will be provided to ODOT and one (1) original to WSDOT.
3. ODOT and WSDOT, as recipients of federal funds, pursuant to this Agreement shall assume joint liability for any breach of any federal statutes, rules, and program requirements and grant provisions applicable to the federal funds. Upon any breach of any condition that requires the return of funds to the Federal

Highway Administration, the Parties shall share the responsibility for repayment in the same ratio as originally received from FHWA and contributed to the Project.

4. The Special Provisions for the contract work for this Project shall include the following stipulations:
 - a. Contractor shall indemnify ODOT and WSDOT and name ODOT and WSDOT as third party beneficiaries of the inspection and evaluation contract, and to obtain and keep in effect during the term of the contract Comprehensive or Commercial General Liability Insurance covering bodily injury and property damage. This insurance shall include personal injury coverage and contractual liability coverage for the indemnity provided under this contract and products/completed operations liability.
 - b. Contractor shall indemnify, defend and hold harmless WSDOT, ODOT and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of the Contractor or its officers, employees, sub-contractors, or agents under this contract.
 - c. Commercial General Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to ODOT and WSDOT. This insurance shall include personal injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage shall be written on an occurrence basis. If written in conjunction with Automobile Liability the combined single limit per occurrence shall not be less than \$3,000,000.00 for each job site or location. Each annual aggregate limit shall not be less than \$ 3,000,000.00.
 - d. Automobile Liability. Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence shall not be less than \$1,000,000.00.
 - e. Additional Insured. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the contract shall include ODOT and WSDOT and its divisions, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under this contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

- f. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from the Contractor or its insurer(s) to ODOT and WSDOT. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of contract and shall be grounds for immediate termination of this contract.
 - i. Before the contract is executed, the Contractor shall furnish to ODOT and WSDOT, a certificate of insurance for the limits which will be in force and applicable to the Project.
5. ODOT and WSDOT acknowledge and agree that ODOT and WSDOT, the Secretary of State's Office of the State of Oregon, The State Auditor's office of the State of Washington, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of ODOT and WSDOT 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. The Party requesting access to the records shall bear the cost of copying such records. If any litigation, claim, or audit is commenced, the records and accounts along with the supporting documentation shall be retained until all litigation, claim or audit findings has been resolved even though such litigation, claim or audit continues past the six year (6) retention period.
6. ODOT acknowledges that WSDOT is subject to Washington public contracting laws and regulations. In the event the public procurement(s) must conform to Washington law, the Parties agree that this Agreement may be amended to include provisions to comply with the laws governing WSDOT if the amendment provisions do not conflict with Oregon laws governing ODOT.
7. In the event that a dispute arises under this Agreement, it shall be resolved as follows; ODOT and WSDOT shall each appoint a member to a disputes board. These two members shall select a third member not affiliated with either Party. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute. Each Party shall be responsible to pay all costs of their own member to participate on the disputes board. The Parties agree that all costs incurred by the appointed third party to this disputes board will be shared equally with each Party paying fifty (50) percent of the costs.
8. This Agreement may be terminated by either Party upon thirty (30) days notice in writing and delivered by certified mail or in person to the other Party, or at such

later date as may be established by that Party, under any of the following conditions:

- a. If the Party other than the terminating Party fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If the terminating Party fails to receive funding, appropriation, limitation or other expenditure authority sufficient to allow the Party to fulfill the obligations required by this Agreement.
 - c. 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 either Party is prohibited from paying for such work from the planned funding source.
9. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
 10. In the event of termination of this Agreement, resulting in the termination of the Project contract, each Party shall be responsible for paying fifty (50) percent of the cost (1) to restore the bridge to a safe and sound condition and (2) the termination costs of the Project contract, including any subcontracts.
 11. No amendment to this Agreement shall be effective unless in writing and signed by authorized representatives of each Party, and all necessary approvals have been obtained. Any such amendment, waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.
 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 exhibit 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 ODOT or WSDOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT or WSDOT 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 amended into the 2008-2011 Statewide Transportation Improvement Program, (Key #15756) that was approved by the Oregon Transportation Commission on February 11, 2008.

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. 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, in which the Director delegates to the Deputy Director, Highways; the authority to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

STATE OF WASHINGTON, by and through its Washington Department of Transportation

By Brian A. Holt
Regional Engineering Manager

Date 6-20-09

APPROVED AS TO FORM

By Ann E. Salay
Assistant Attorney General

Date 6-12-08

WSDOT Contact:

Casey Liles
PO Box 1709
Vancouver, WA 98668-1709
(360) 905-1537

ODOT Contact:

Steve Lovejoy
355 Capitol Street, NE, Room 301
Salem, OR 97301
(503) 986-3326

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

By Y.H. Chen
Deputy Director, Highways

Date 032408

APPROVAL RECOMMENDED

By A. Johnson
Technical Services Mgr/Chief Engineer

Date 7/2/08

By A. Johnson
State Bridge Engineer

Date 7/2/08

By _____
Region 1 Manager

Date _____

APPROVED AS TO LEGAL SUFFICIENCY

By W. H. Johnson
Assistant Attorney General

Date: 6/26/08

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates to the Deputy Director, Highways; the authority to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

STATE OF WASHINGTON, by and through its Washington Department of Transportation

By 
Regional Engineering Manager

Date 6-20-08

APPROVED AS TO FORM

By 
Assistant Attorney General

Date 6-12-08

WSDOT Contact:

Casey Liles
PO Box 1709
Vancouver, WA 98668-1709
(360) 905-1537

ODOT Contact:

Steve Lovejoy
355 Capitol Street, NE, Room 301
Salem, OR 97301
(503) 986-3326

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

By _____
Deputy Director, Highways

Date _____

APPROVAL RECOMMENDED

By _____
Technical Services Mgr/Chief Engineer

Date _____

By _____
State Bridge Engineer

Date _____

By 
Region 1 Manager

Date 7/1/08

APPROVED AS TO LEGAL SUFFICIENCY

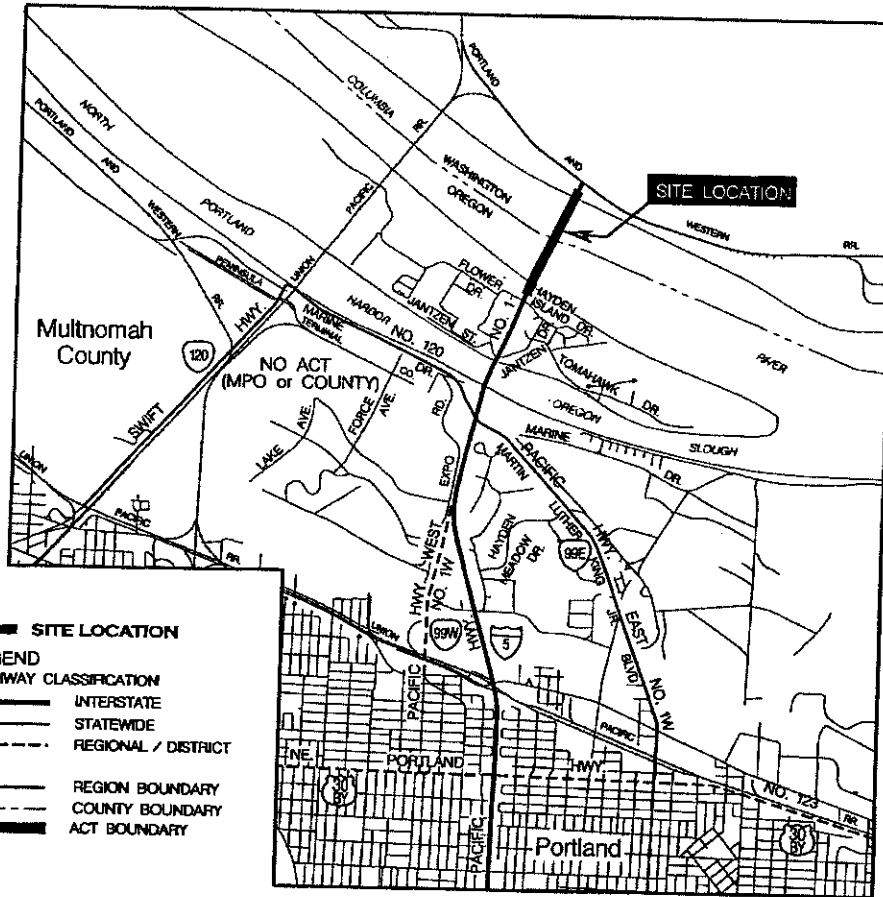
By 
Assistant Attorney General

Date: 6/26/08

EXHIBIT A

STIP PROJECT LOCATION

ODOT REGION 1



- LEGEND**
- | | |
|-------------------------------------|----------------------|
| | SITE LOCATION |
| STATE HIGHWAY CLASSIFICATION | |
| | INTERSTATE |
| | STATEWIDE |
| | REGIONAL / DISTRICT |
| REGION BOUNDARY | |
| | COUNTY BOUNDARY |
| | ACT BOUNDARY |

**I-5: COLUMBIA RIVER NB/SB (INTERSTATE) BRIDGES, LIFT SPAN
 BRIDGE # 01377A (NB) AND BRIDGE # 07333 (SB)
 KEY NO. 15756**

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

0 SCALE 1 MILE
 SPECIAL PROJECT # 2008
 JANUARY 2008