

To be posted on CITY of Vancouver website

RETURN ADDRESS
CITY of Vancouver
CITY Clerk's Office
PO Box 1995
Vancouver, WA 98668-1995

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF VANCOUVER, WASHINGTON AND CLARK COUNTY,
WASHINGTON**

**TRANSPORTATION SYSTEM MANAGEMENT AND OPERATIONS (TSMO)
CORRIDOR IMPROVEMENTS, PHASE 2**

CONGESTION MITIGATION AND AIR QUALITY ("CMAQ") GRANT

THIS AGREEMENT is entered in by and between CLARK COUNTY, WASHINGTON (COUNTY), a municipal corporation of the State of Washington, and the CITY OF VANCOUVER (CITY), a first class charter city of the State of Washington.

WHEREAS, COUNTY and CITY are cooperating in the Transportation System Management and Operations (TSMO) Corridor Improvements, Phase 2, hereinafter the "PROJECT", and

WHEREAS, COUNTY, CITY, and the Washington State Department of Transportation (WDOT) applied jointly as Vancouver Area Smart Trek partners for a Congestion Mitigation and Air Quality, hereinafter "CMAQ", federal grant to fund the PROJECT, and

WHEREAS, the CMAQ funds awarded the PROJECT Four Hundred, Fifty Thousand Dollars (\$450,000.00) of which there is a 13.5% local match requirement. The total PROJECT's estimated cost is Five Hundred Twenty Thousand Dollars (\$520,000.00) of which Seventy Thousand Dollars (\$70,000.00) will be prorated for the match between COUNTY, CITY, and WDOT, and

WHEREAS, The COUNTY and WDOT have agreed to supply Forty-Six Thousand, Six Hundred, Sixty-seven Dollars (\$46,667.00) needed for the match requirements of the CMAQ funds and Project cost in equal amounts; and

WHEREAS, COUNTY and CITY wish to define the their respective responsibilities for the PROJECT, NOW, THEREFORE, pursuant to RCW 39.04.080 and RCW 47.28.140, and in consideration of the terms, conditions, and performances contained herein,

THE COUNTY AND THE CITY MUTUALLY AGREE AS FOLLOWS:

1. Services. The COUNTY shall be the lead agency for the Project. The CITY agrees to contribute a maximum amount of Twenty-Three Thousand, Three Hundred and Thirty Three Dollars (\$23,333.00) to the Project. This project will install devices on existing poles: County will furnish approximately 19

Bluetooth detection devices (9 COV, 6 WSDOT, and 4 County), two City radar count stations, and two Ethernet radios; furnishing and installing associated conduit, junction boxes, communications cables, power wires, and modification of traffic signal wiring and traffic signal cabinet wiring, within existing right-of-way along Andresen Road between 88th Street and Mill Plain Boulevard, and along Mill Plain Boulevard between Devine Road and 164th Avenue. Software to process, store, and provide reporting from the Bluetooth devices will be purchased and installed. An expansion to the County's Wavetronix Data Collector software will be purchased, to increase the total number of Wavetronix HD Count Station licenses from 25 to 50, of which the County will get half of the new licenses. Modifications to the Naztec system include modifications to the controller firmware, and the ATMS.now central system software will also be completed as part of this project.

2. Time/Ratification. The contract shall be deemed effective beginning January 1, 2012 and ending December 31, 2012. Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.

3. Compensation. CITY shall pay COUNTY for performing stated services upon receipt of a written invoice according upon completion of the project.

A. The parties mutually agree that in no event shall the aggregate amount of billing to the CITY exceed twenty-three thousand, three hundred and thirty-three dollars (\$23,333.00) without prior written approval of the CITY.

B. Invoices are due and payable to the COUNTY within thirty (30) days of receipt of the invoice by the Recipient. An invoice may be disputed within the thirty (30) day period. Payments that are not made within the allotted time period shall be considered delinquent. Delinquent charges shall accrue interest on the unpaid balance, from the date of delinquency until paid, at an interest rate of one percent (1%) per month

4. Termination. If for any cause, any party fails to fulfill its obligations under this Agreement in a timely and proper manner, or if a party violates the terms and conditions of this Agreement, then the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the failure or violation. If the failure or violation is not corrected within thirty (30) working days of the notice, then the party giving the notice may terminate the Agreement immediately upon giving written notice of termination to the other. Parties agree, however, that parties shall be reimbursed the costs of services provided through the date of termination of the Agreement.

5. Notices. Any notices to be given under this Agreement shall be in writing and shall, at a minimum, be delivered electronically and postage prepaid, addressed to:

If to the County:

CLARK COUNTY

Attention: Susan Wilson, Capital Programs Spec.
Clark County Public Works
P.O. Box 5000
Vancouver, Washington 98666-5000

and to

Peter Capell, County Engineer and Director
Clark County Public Works
P.O. Box 5000
Vancouver, Washington 98666-5000

If to the City:

CITY OF VANCOUVER

Attention: Chris Christofferson
P.O. Box 1995
Vancouver, Washington 98668-1995

and to:

Eric Holmes, City Manager
P.O. Box 1995
Vancouver, WA 98668-1995

6. Indemnification Clause. The COUNTY does release, indemnify and promise to defend and save harmless the CITY, its elected officials, officers, employees and agents from and against any and all liability, loss, damages, expense, action, and claims, including costs and reasonable attorney's fees incurred by the CITY, its elected officials, officers, employees and agents in defense thereof, asserting or arising directly or indirectly on account of or out of the performance of services by the COUNTY pursuant to this Agreement. In making such assurances, the COUNTY specifically agrees to indemnify and hold harmless the CITY from any and all bodily injury claims brought by employees of the COUNTY and expressly waives its immunity under the Industrial Insurance Act (Title 51 RCW) as to those claims which are brought against the CITY. Provided, however, in any action, claim, or loss alleging liability for damages arising out of bodily injury to persons or damage to property, this indemnity section shall not apply to the extent such liability arises from the negligence of the CITY. (including its elected officials, officers, employees and agents).

7. Wage and hour compliance. COUNTY shall comply with all applicable provisions of the Fair Labor Standards Act and any other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall always save CITY free, clear and harmless from all actions, claims, demands and expenses arising out of said act and the rules and regulations that are or may be promulgated in connection therewith.

8. Social Security and Other Taxes. The COUNTY assumes full responsibility for the payment of all payroll taxes, use, sales, income or other form of taxes, fees, licenses, excises, or payments required by and COUNY, federal or state legislation that is not or may during the term of this Agreement be enacted as to all persons employed by the COUNTY in performance of work pursuant to this agreement and shall assume exclusive liability therefore, and meet all requirement's there under pursuant to any rules and regulations that are now and may be promulgated in connection therewith.

9. Public Works. To the extent any work performed pursuant to this Agreement constitutes a public work as that term is defined under state law or City or County ordinance, such work shall be done in conformance the applicable public bidding law.

10. Changes. COUNTY may, from time to time, request changes in the scope of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the CITY'S compensation, which are mutually agreed upon by and between COUNTY and the CITY, shall be incorporated in the written amendments to this agreement.

11. Confidentiality. With respect to all information relating to the PROJECT of the COUNTY that is confidential and clearly so designated by the COUNTY, CITY agrees to keep such information confidential, subject to the provisions of this Section. This section shall not apply to any records related to the PROJECT which the COUNTY has not clearly marked on their face "Confidential" or to any record or portion thereof which is not exempt from disclosure pursuant to a requirement of a governmental agency or applicable law. In the event of a Ch. 42.56 RCW public disclosure request to the CITY for records which the COUNTY has identified as "Confidential," the CITY shall notify the COUNTY of such request within five (5) days of receipt and, if immediately requested by COUNTY, and insofar as permitted by Ch 42.56 RCW, withhold disclosure of the records for ten (10) business days to permit the COUNTY to seek court protection of such records. CITY shall cooperate in such court proceeding. COUNTY shall indemnify and hold harmless the CITY for any court award under Ch. 42.56 RCW to the requesting party(s) of their attorney fees, costs and penalties on account of the CITY'S alleged delay or refusal to timely disclose the requested records.

12. Conflict of Interest. The COUNTY covenants that it has had no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services

hereunder. COUNTY further covenants that in the performance of this agreement, no person having such interest shall be employed.

13. General Terms.

A. Waiver. No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision. Any waiver of any term or condition of this Agreement must be in writing signed by a person with authority to make such waiver.

B. Assignment/Subcontracting. Neither CITY nor COUNTY shall transfer or assign, in whole or in part, any or all of its rights or obligations under this Agreement without the prior written consent of the other.

C. Non-Discrimination. In connection with the provision of services pursuant to this Agreement, the Parties shall not discriminate against any employee or applicant for employment or against any consumer of or applicant for services because of age, sex, race, creed, religion, color, national origin, marital status, pregnancy, veteran status, the presence of any physical, mental or sensory disability, or perceived or actual sexual orientation. The Parties certify that they are Equal Employment Opportunity Employers.

D. No Third-Party Beneficiary. The parties do not intend there be any third-party beneficiary under this Agreement. Neither party intends, by this Agreement, to assign any contractual obligations to or assume any contractual obligations by any party other than between the CITY and COUNTY. However, this does not limit or restrict the COUNTY from engaging a third-party to provide similar services under separate agreements.

E. Forum Selection/Choice of Law. This Agreement has been and shall be construed as having been made and delivered in the state of Washington. It is mutually agreed by the Parties that this Agreement shall be governed by the laws of the State of Washington. Venue for any lawsuit shall be Clark County.

F. Entire Agreement. This Agreement constitutes the entire, final, complete and exclusive statement of the terms of the Agreement between the Parties on the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements, representations and understandings of the Parties.

G. Severability. If any section or part of this Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

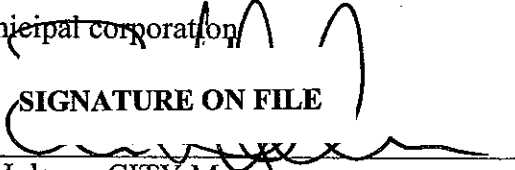
H. Document Execution and Posting. The parties agree that there shall be two (2) duplicate originals of this Agreement procured and distributed for signature by the necessary officials of the parties. Upon execution, one executed original of this Agreement shall be retained by the Vancouver City Clerk and one shall be retained by each of the other parties. The Vancouver City Clerk shall cause a copy of this Agreement to be posted on the City website pursuant to Chapter 32, Laws of Washington 2006 (RCW 39.34.040). Upon execution of the originals and posting of a copy on the City's website, each such duplicate original shall constitute an agreement binding upon all parties.

IN WITNESS WHEREOF, the CITY and COUNTY have caused this Agreement to be executed in their respective names by their duly authorized officers and have caused this Agreement to be dated as of the 19 day of March, ~~2011~~ 2012

CITY OF VANCOUVER, WASHINGTON

a municipal corporation

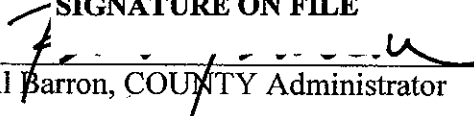
SIGNATURE ON FILE


Eric Holmes, CITY Manager

CLARK COUNTY, WASHINGTON

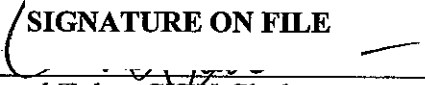
a Washington subdivision

SIGNATURE ON FILE


Bill Barron, COUNTY Administrator

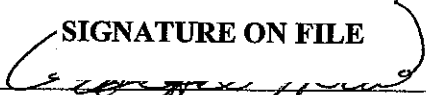
Attest:

SIGNATURE ON FILE


R. Lloyd Tyler, CITY Clerk
By: Carrie Lewellen, Deputy CITY Clerk

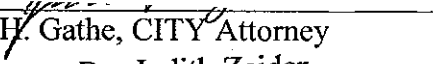
Approved as to form:

SIGNATURE ON FILE


Tony Golik, Prosecuting Attorney
By: Chris Horne, Deputy Prosecuting Attorney





Approved as to form:

SIGNATURE ON FILE


Ted H. Gathe, CITY Attorney
By: Judith Zeider
Chief Assistant City Attorney
Attachments: Vicinity Map

TSMO Corridor Improvement- Phase 2 CRP #313722

Legend

-  Bluetooth (WSDOT) (6)
-  Bluetooth (Clark County) (4)
-  Bluetooth (City of Vancouver) (9)
-  Radar (City of Vancouver) (2)

