RESOLUTION NO. 2009-2830

A RESOLUTION PRE-AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON THAT PROVIDES TRANSPORTATION STIMULUS FUNDING FOR PAVEMENT REHABILITATION OF SOME CITY STREETS

RECITALS:

1. The American Recovery and Reinvestment Act 2009 (ARRA) provides the State of Oregon about $334 million in federal transportation stimulus funding. 30% of this funding has to be sub-allocated by the Oregon Department of Transportation (ODOT) to the local governments.

2. Based on preliminary calculations according to the Surface Transportation Program (STP) formula, ODOT indicates that the City of Newberg may receive up to $484,754 in transportation stimulus funding (Exhibit "A"). The funding by reimbursements requires an Intergovernmental Agreement (IGA) between ODOT and the City.

3. On January 30, 2009, the City submitted Project Prospectus (Exhibit "B") to ODOT. The submittal grouped City streets at top and second levels of priority for request of stimulus funding. ODOT will formulate the IGA (Exhibit "C") once the review of all Project Prospectus is complete. Funding conditions will be stipulated in an IGA that is still being formulated by ODOT. The deadline for submittal of all IGAs is April 3, 2009 (Exhibit "D") which means the City will have a very short time to accept and sign the IGA.

4. By authority granted in Oregon Revised Statues (ORS) 190.110, 366.572 and 366.576, the State of Oregon 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.

5. Under such authority, the State of Oregon and the City of Newberg agree to allow the City to provide construction plans and documents to ODOT so that the project for pavement rehabilitation of some City streets may be advertised through the ODOT bid and award process and be in compliance with all applicable ARRA requirements.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. That the Intergovernmental Agreement which is still being formulated by ODOT will be duly accepted and approved by the City Council once it is presented to the City for approval.

2. That the City Council is delegating authority to the City Manager to review and sign said Agreement subject to approval of the City Attorney as to the legal sufficiency of the Agreement on short notice once ODOT presents it to the City.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: March 17, 2009.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of March 2009.

Norma I. Alley

Norma I. Alley, City Recorder

ATTEST by the Mayor this 19th day of March 2009.

Bob Andrews

Bob Andrews, Mayor

LEGISLATIVE HISTORY

By and through ________________ Committee at ___/___/2009 meeting. Or, X None.
(committee name) *(date)* *(check if applicable)*

EXHIBIT "A"

DRAFT CONFERENCE STIMULUS BILL DISTRIBUTIONS

Highway Funding (2008 STP)

All numbers are based on preliminary calculations by ODOT staff and are subject to modification.

		OR Funding
STIMULUS BILL	Total:	333,902,388
3% set aside for TE Projects		10,017,072
30% suballocation to local governments		100,170,716
State less 3% and Suballocated		223,714,600

STP Allocation		FY 2008 STP Apportionment	FY 2008 STP Distribution	30% Suballocation Percent	30% Suballocation 100,170,716
Portland TMA (Metro)		19,259,902	17,715,258	37.96%	38,022,870
Eugene TMA (Central Lane MPO)		3,322,686	3,056,207	6.55%	6,559,641
Salem TMA (SKATS)		3,073,242	2,826,768	6.06%	6,067,190
	Total TMAs	25,655,830	23,598,232	50.56%	50,649,701
Areas under 5,000					5,000,000
Other areas of the state					44,521,016
Working Agreement					
Counties		12,688,053	11,263,484		26,616,661
Cities		8,534,933	8,301,478		17,904,355
	Total Counties & Cities	21,222,986	19,564,962		44,521,016
	TOTAL	44,821,219	43,163,195		100,170,716

Counties		Suballocated Funding
BAKER	183,900	434,573
BENTON	207,313	489,900
CLACKAMAS	542,599	1,282,211
CLATSOP	229,161	541,530
COLUMBIA	329,878	779,532
COOS	371,111	876,970
CROOK	192,444	454,763
CURRY	199,690	471,885
DESCHUTES	441,997	1,044,479
DOUGLAS	653,493	1,544,265
GILLIAM	117,408	277,446
GRANT	165,098	390,143
HARNEY	183,308	433,174
HOOD RIVER	180,450	426,419
JACKSON	496,297	1,172,795
JEFFERSON	212,268	501,610
JOSEPHINE	474,317	1,120,856
KLAMATH	437,260	1,033,286
LAKE	174,508	412,379
LANE	738,889	1,746,064
LINCOLN	288,069	680,735
LINN	465,674	1,100,430
MALHEUR	331,520	783,412
MARION	610,314	1,442,228
MORROW	215,485	509,211
MULTNOMAH	171,239	404,655
POLK	192,091	453,929
SHERMAN	120,242	284,144
TILLAMOOK	265,139	626,548
UMATILLA	421,940	997,083
UNION	199,886	472,349
WALLOWA	171,902	406,219
WASCO	200,937	474,833
WASHINGTON	575,600	1,360,196
WHEELER	105,600	249,543
YAMHILL	396,458	936,866
total	11,263,484	26,616,661

EXHIBIT "A"

DRAFT CONFERENCE STIMULUS BILL DISTRIBUTIONS

Highway Funding

Cities	FY 2008 STP Distribution	Suballocated Funding
BEND	570,956	1,231,419
CORVALLIS	577,944	1,246,491
MEDFORD	1,278,187	2,756,752
RAINIER	16,744	36,113
45 Smaller		
ALBANY	484,060	1,044,004
ASTORIA	100,048	215,779
BAKER CITY	100,643	217,064
BROOKINGS	64,167	138,394
CANBY	150,518	324,632
COOS BAY	165,456	356,849
COTTAGE GROVE	93,745	202,186
DALLAS	152,453	328,807
EAGLE POINT	86,648	186,880
FLORENCE	93,398	201,437
GRANTS PASS	320,192	690,580
HERMISTON	159,600	344,219
HOOD RIVER	67,989	146,636
INDEPENDENCE	79,701	171,896
JUNCTION CITY	52,604	113,455
KLAMATH FALLS	211,460	456,069
LA GRANDE	128,384	276,895
LEBANON	150,717	325,060
LINCOLN CITY	78,162	168,578
MADRAS	65,904	142,140
MCMINNVILLE	321,582	693,576
MILTON-FREEWATER	65,309	140,856
MOLALLA	75,333	162,477
MONMOUTH	94,936	204,755
NEWBERG	224,760	484,754
NEWPORT	105,010	226,483
NORTH BEND	97,814	210,963
ONTARIO	113,496	244,785
PENDLETON	171,659	370,229
PRINEVILLE	102,926	221,987
REDMOND	252,551	544,693
ROSEBURG	210,765	454,571
SANDY	79,452	171,360
SCAPOOSE	65,309	140,856
SEASIDE	63,969	137,966
SHERIDAN	59,751	128,868
SILVERTON	94,688	204,220
ST. HELENS	122,330	263,837
STAYTON	77,567	167,293
SUTHERLIN	77,368	166,865
SWEET HOME	89,775	193,623
THE DALLES	130,717	281,926
UMATILLA	64,465	139,036
WINSTON	58,460	126,085
WOODBURN	231,807	499,953
total	5,857,647	17,904,355
TOTAL	8,301,478	

Funding to Oregon based on FY 2008 STP Apportionments

Section 133(d)(3)(A) title 23 United States Code requires that funds are to be distributed.
(i) in urbanized areas of the State with an urbanized area population over 200,000, and (ii) in other areas of the State in proportion to their relative share of the State's population.133(d)(3)(B) specifies that of the amounts distributed under (A)(ii) not less that 110 percent of the funds apportioned to the State for Federal-aid secondary system for fiscal year 1991 ($10.95 are to be expended in areas of less that 5,000 population.

EXHIBIT "B"

PROJECT PROSPECTUS

Part 1 — Project Request (Page 1 of 2)

Key Number:	Jurisdiction: City of Newberg

Section:	Region: 1	Area:	District:

State Highway No.: Not applicable	Highway Name: *(See "Road/Street Name" below right)*	Mile Point From:	To:	Length: (MI) 2.75
☑ Urban ☐ Rural	City: Newberg	MPO: P	Within UGB: ☑ Yes ☐ No	County: Yamhill County
Road/Street Name: Blaine-9th; College-4th-River; Meridian; Mtview, Villa, Spgbrk				
Route No.:	NHS ☐ YES ☑ NO	HPMS: 2	FC:	Applicant (If other than State): City of Newberg

US Congressional District:	State Senate District:	State Representative District:
1st	13th	25th

Cost Estimates (x $ 1,000)			Project Components		Right Of Way		
Preliminary Engineering		$ 40	Grading	No	Files	(#)	0
Right Of Way		$ -	Paving	Yes	Acres	(#)	0
Utility Reimbursement		$ -	Structures	No	Relocations	(#)	0
			Signing	No	Acquisitions	(#)	0
Roadway	$ 535		Signals	No	Easements	(#)	0
Structures	$ -		Illumination	No	**Work By: State / Consultant / Applicant**		
Signals	$ -		Detour	Yes	Preliminary Engineering	(S,C,A)	A
Illumination	$ -				Construction Engineering	(S,C,A)	A
Temp. Protection	$ -				Right of Way Descriptions	(S,C,A)	N/A
Const. Contingencies	$ 29				Right Of Way Acquisitions	(S,C,A)	N/A
Const. Engineering	$ 29		**Project Categories**		**Constructed By**		
Detour	$ 42		Environmental Class (1, 2, 3, PCE)		☑ Contract	☐ County Force	
			Design Category (1-7)		☐ State Force	☐ Other	
Total CE and Construction:		$ 635	Work Type Code (1-13)		☐ City Force		
Total Estimate:		**$ 675**	Primary STIP Work Type:				

Recommended Let Date By Federal Fiscal Year (Quarter-Year):

PE Fund:	R/W Fund:	UR Fund:	CE-CN Fund:
PE EA:	R/W EA:	UR EA:	CE-CN EA:

Item		Existing	Proposed
Travel Lanes	(#)	2	2
Structures	(#)	N/A	N/A
Signals	(#)	1	1
Bike Way	(#)	-	-
Average Daily Traffic		5774 *	-
Year of ADT		2007 *	-
Throughway	Y/N	N	N

*Note: * For Villa Road*

Define The Problem:

Funding for pavement rehabilitation has been falling behind over the years. The existing city streets (collector and above) desperately need an asphaltic overlay to preserve the pavement and extend the service life of travel lanes. The cost would be much higher if the pavement reaches beyond the point of rehabilitation and requires a total reconstruction.

Describe Proposed Solution: - Attach Sketch Map

An appropriate remedy is to provide a 2-inch asphalt concrete overlay to the streets that are identified with the highest priority in the attached map, named as ***Newberg Overlay - Priority No. 1*** .

Prepared By: Paul Chiu, PE, Senior Engineer	Date:	OTC Approval Date:	Program Year:	Funding Amount:
X				

(5-2003)

EXHIBIT "B"

City Of Newberg Overlay Map

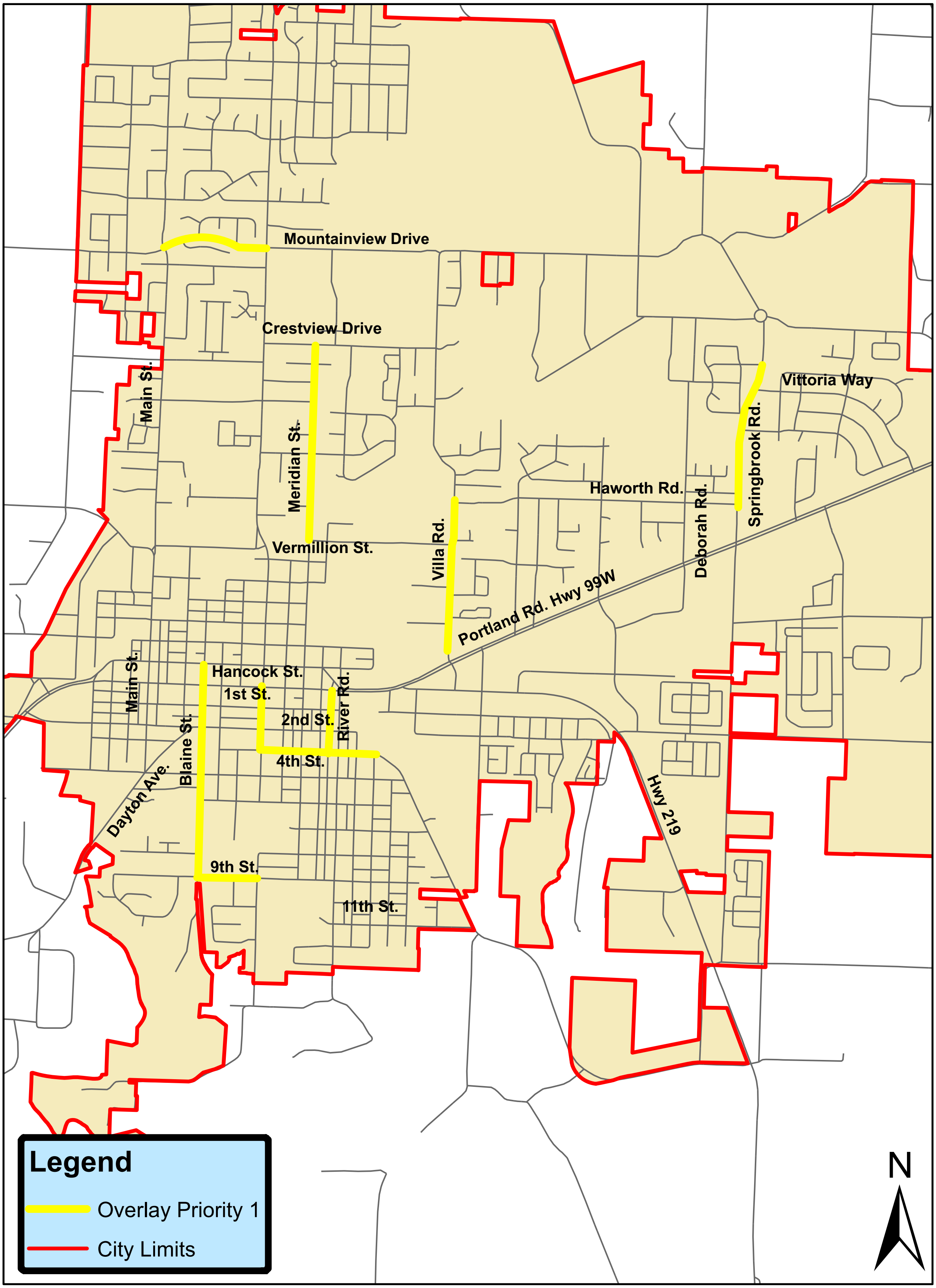

EXHIBIT "B"

PROJECT PROSPECTUS

Part 1 — Project Request (Page 1 of 2)

Key Number:	Jurisdiction: City of Newberg

Section:	Region: 1	Area:	District:

State Highway No.:	Highway Name:	Mile Point From:	To:	Length: (MI)
Not applicable	*(See "Road/Street Name" below right)*			3.08

☑ Urban / ☐ Rural	City: Newberg	MPO: P	Within UGB: ☑ Yes ☐ No	County: Yamhill County

Road/Street Name: Dayton-Main; 11th; 2nd-Meridian; Haworth-Deborah; Vittoria

Route No.:	NHS: ☐ YES ☑ NO	HPMS: 2	FC:	Applicant (If other than State): City of Newberg

US Congressional District:	State Senate District:	State Representative District:
1st	13th	25th

Cost Estimates (x $ 1,000)			Project Components		Right Of Way	
Preliminary Engineering		$ 45	Grading	No	Files (#)	0
Right Of Way		$ -	Paving	Yes	Acres (#)	0
Utility Reimbursement		$ -	Structures	No	Relocations (#)	0
			Signing	No	Acquisitions (#)	0
Roadway	$ 592		Signals	No	Easements (#)	0
Structures	$ -		Illumination	No	**Work By: State / Consultant / Applicant**	
Signals	$ -		Detour	Yes	Preliminary Engineering (S,C,A)	A
Illumination	$ -				Construction Engineering (S,C,A)	A
Temp. Protection	$ -				Right of Way Descriptions (S,C,A)	N/A
Const. Contingencies	$ 32				Right Of Way Acquisitions (S,C,A)	N/A
Const. Engineering	$ 32		**Project Categories**		**Constructed By**	
Detour	$ 46		Environmental Class (1, 2, 3, PCE)		☑ Contract	☐ County Force
			Design Category (1-7)		☐ State Force	☐ Other
Total CE and Construction:		$ 702	Work Type Code (1-13)		☐ City Force	
Total Estimate:		**$ 747**	Primary STIP Work Type:			

Recommended Let Date By Federal Fiscal Year (Quarter-Year):

PE Fund:	R/W Fund:	UR Fund:	CE-CN Fund:
PE EA:	R/W EA:	UR EA:	CE-CN EA:

Item	Existing	Proposed
Travel Lanes (#)	2	2
Structures (#)	-	-
Signals (#)	-	-
Bike Way (#)	-	-
Average Daily Traffic	1752 *	-
Year of ADT	2007 *	-
Throughway Y/N	N	N

*Note: * For Vittoria Way*

Define The Problem:

Funding for pavement rehabilitation has been falling behind over the years. The existing city streets (collector and above) desperately need an asphaltic overlay to preserve the pavement and extend the service life of travel lanes. The cost would be much higher if the pavement reaches beyond the point of rehabilitation and requires a total reconstruction.

Describe Proposed Solution: - Attach Sketch Map

An appropriate remedy is to provide a 2-inch asphalt concrete overlay to the streets that are identified with the 2nd highest priority in the attached map, named as ***Newberg Overlay - Priority No. 2***.

Prepared By: Paul Chiu, PE, Senior Engineer	Date:	OTC Approval Date:	Program Year:	Funding Amount:
X				

(5-2003)

EXHIBIT "B"

City Of Newberg Overlay Map

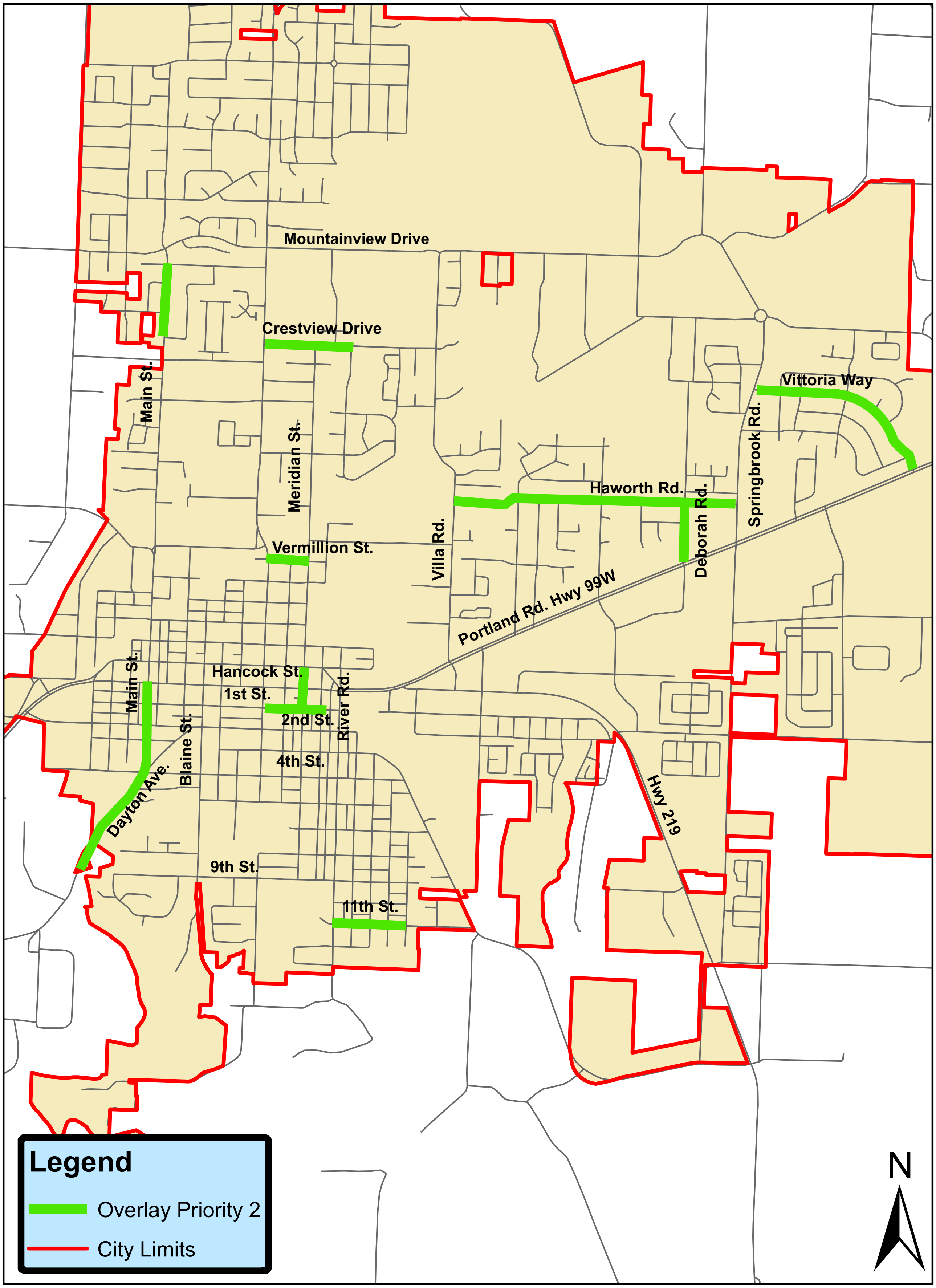

EXHIBIT "C" (Sample IGA)
Misc. Contracts and Agreements
No. XX,XXX

COOPERATIVE IMPROVEMENT AGREEMENT

Federal Transportation Stimulus Program
Pavement Rehabilitation Project on Major Collector Streets
City of Newberg

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 CITY OF NEWBERG, acting by and through its designated officials, hereinafter referred to as "City," collectively hereinafter referred to as the "Parties".

RECITALS

1. The American Recovery and Reinvestment Act 2009 (ARRA) provides the State of Oregon about $334 million in federal highway stimulus funding. 30% of this funding has to be sub-allocated by the Oregon Department of Transportation (ODOT) to the local governments. Based on calculations according to the Surface Transportation Program (STP) formula, the City will receive $484,754 in this highway stimulus funding.

2. By the authority granted in Oregon Revised Statutes (ORS) XXX.XXX, funds received from the ARRA are to be expended by the State and the various counties and cities for the establishment of plans to create jobs and improve Oregon's transportation system. For purposes of Article XXX, Section XXX, of the Oregon Constitution, the establishment and maintenance of such plans are for highway, road, and street purposes when constructed within the right of way.

3. 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.

4. State's District 3 Office will administer and disburse ARRA program funds toward approved Project. All local government highway program funding under the ARRA must be obligated (which happens when plans, specifications, and estimates are sent to State) by December 18, 2009, or within one year of apportionment of funds. Obligation occurs before the Project goes to bid on January 21, 2010. These funds are received by State to provide economic stimulus opportunities and shall be expended on this Project prior to June 30, 2010, or funds will be lost. The funding shall be used for construction contracting that meet the ARRA program requirements associated with this Project.

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 agrees to allow City to design and provide plans for pavement overlay on the following City collector streets: Blaine-9th, College-4th-River, Meridian,

Mountainview, Villa, and Springbrook, hereinafter referred to as "Project." The location of the Project is approximately as shown on the detailed map attached hereto, marked "Exhibit A," and by this reference made a part hereof.

2. City has determined that the total cost of the Project is estimated to be $500,000. State contributions toward Project will consist of a maximum amount of $484,754 in State ARRA funds. These funds shall be used by City on a reimbursement basis. All costs incurred in excess of the State fund amount will be the sole responsibility of City.

3. The Parties agree that, since ARRA program funds are being utilized on the Project, the selected contractor to perform the Project must meet all federal requirements and guidelines.

4. The work is to begin upon execution of this Agreement by both Parties and shall be completed no later than June 30, 2010, or funds will be lost. The Agreement will terminate six (6) months after that date unless extended by a fully-executed amendment. Maintenance responsibilities shall survive any termination of this Agreement.

CITY OBLIGATIONS

1. City shall conduct the necessary preliminary engineering and design work required to produce final plans, specifications, and cost estimates; obtain all required permits; be responsible for all utility relocations; perform all construction engineering; follow the schedule for advancement of plans and specifications to State as shown in "Exhibit B", attached hereto and by this reference made a part hereof; pay all contractor costs and forward all eligible expenditures for State reimbursements; provide technical inspection, project management services and other necessary functions for joint administration of the construction contract entered into for this Project.

2. City shall obtain all necessary and applicable permits prior to the commencement of construction, including any permit to occupy State right of way through the State District 3 Office.

3. City shall submit a copy of the plans and specifications to State through the State's Project manager identified in State Obligations, paragraph 7, for review, concurrence and advertising for a construction contract. Concurrence must be received from State's District 3 and Region 2 Technical Center offices prior to proceeding with the Project. The Project design, signing, and marking shall be in conformance with the current Manual on Uniform Traffic Control Devices and the Oregon Supplement.

4. City shall not proceed with the construction until State's Project manager has reviewed and approved a State contract with a selected contractor through a public bidding process.

5. City shall, upon completion of Project, submit to State's Project manager, an itemized invoice of the final actual total cost of the Project for review and approval. Such invoice will be in a form

identifying the Project, the Agreement number, invoice number or account number or both, and will itemize all expenses for which reimbursement is claimed. Under no conditions shall State's obligations exceed $484,754, including all expenses. Travel expenses will not be reimbursed.

6. City represents that this Agreement is signed by personnel duly authorized to do so by its City Council.

7. City shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, City expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) the American Recovery and Reinvestment Act of 2009; (v) all regulations and administrative rules established pursuant to the foregoing laws; and (vi) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

8. If City chooses to assign its contracting responsibilities to a consultant or contractor, The Special Provisions for the construction contract (Contract) work for this Project shall include the following stipulations:

   a. Contractor shall indemnify, defend and hold harmless City, State of Oregon, and Oregon Department of Transportation 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 Contractor or its officers, employees, sub-contractors, or agents under the Contract.

   b. Commercial General Liability. Contractor shall obtain, at contractor's expense, and keep in effect during the term of the Contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage's that are satisfactory to State and City. This insurance shall include personal and advertising 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 $1,000,000 for each job site or location. Each annual aggregate limit shall not be less than $2,000,000.

   c. Automobile Liability. Contractor shall obtain, at contractor's expense, and keep in effect during the term of the 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.

d. 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 State and City and its divisions, officers and employees as Additional Insured but only with respect to the contractor's activities to be performed under the Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

e. 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 State and City. 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 the Contract.

9. City shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation, its officers and employees from any and all claims, suits, and liabilities which may occur in the performance of this Project.

10. Notwithstanding the foregoing defense obligations under the paragraph above, neither City nor any attorney engaged by City shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that City is prohibited from defending the State of Oregon, or that City is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue, or that it is in the best interests of the State of Oregon to do so. The State of Oregon reserves all rights to pursue any claims it may have against City if the State of Oregon elects to assume its own defense.

11. City shall be responsible for all costs not covered by State funding. State funding is limited to $484,754.

12. City shall be responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement, including but not limited to, retirement system contributions, workers' compensation, unemployment taxes, and state and federal withholdings.

13. All employers, including City, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage unless such employers are exempt under ORS 656.126. City shall ensure that each of its subcontractors complies with these requirements.

14. City shall, upon completion of Project, maintain all improvements conducted as part of this Agreement.

15. City's Project manager for this Agreement is Howard Hamilton, Public Works Director, PO Box 970, Newberg, Oregon 97132, phone (503) 537-1211, or assigned designee upon individual's absence.

STATE OBLIGATIONS

1. State grants authority to City to enter upon State right of way for the construction and maintenance of this Project as shall be provided for in a miscellaneous permit to be issued by State District 3 Office.

2. State's District 3 Office and Region 2 Technical Center staff shall review and must concur in the plans prepared by City before the Project is advertised for a construction contract. State's District 3 Office shall process all billings submitted by City for reimbursements.

3. State shall advertise the Project through the ODOT bid and award process.

4. In consideration for the work performed, State agrees to pay City within forty-five (45) days of receipt of the invoice, up to a maximum amount of $484,754 in State funds. Said maximum amount shall include reimbursement for all expenses. Travel expenses shall not be reimbursed.

5. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of current biennial budget.

6. Upon request from City, State will conduct or assist with final technical inspection of the completed Project.

7. State's Project manager of this Agreement is _____________, District 3 Transportation Maintenance Manager, ODOT McMinnville Yard, 1502 Highway 99W, McMinnville, Oregon 97128; phone (503) 474-1462, or assigned designee upon individual's 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 City, or at such later date as may be established by State, under any of the following conditions:

   a. If City fails to provide services called for by this Agreement within the time specified herein or any extension thereof.

   b. If City 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 City 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.

3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

4. State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of City which are directly pertinent to the specific 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. Payment for costs of copies is reimbursable by State.

5. 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.

6. 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 State 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 a party to enforce any provision of this Agreement shall not constitute a waiver by a party of that or any other provision.

IN WITNESS WHEREOF, the Parties hereto have set their hands as of the day and year hereinafter written.

On June 18, 2003, the Oregon Transportation Commission approved Delegation Order No. 4 which delegates to the Director, Deputy Director, Highways, Deputy Director, Central Services and Chief of Staff the authority to approve and execute agreements up to $75,000 not included in the Statewide Transportation Improvement Program or not included in a line item in the biennial budget approved by the Commission.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 2, in which day-to-day authority is delegated to the Region Managers for their respective region, which includes the authority to approve and sign agreements up to $75,000 when the work is related to a project included in the Statewide Transportation Improvement Program, other system plans approved by the Oregon Transportation Commission such as the Traffic Safety Performance Plan, or in a line item in the biennial budget approved by the Director.

CITY OF NEWBERG, by and through its designated officials

By ______________________________
City Manager

Date ____________________________

By ______________________________
Mayor

Date ____________________________

APPROVED AS TO FORM

By ______________________________
City Legal Counsel

Date ____________________________

City Contact:
Howard Hamilton, Public Works Director
PO Box 970
Newberg, Oregon 97132
Phone (503) 537-1211
Email: howard.hamilton@ci.newberg.or.us

STATE OF OREGON, by and through its Department of Transportation

By ______________________________
Region 2 Manager

Date ____________________________

APPROVAL RECOMMENDED

By ______________________________
Region 2 Maintenance & Operations Manager

Date ____________________________

By ______________________________
District 3 Manager

Date ____________________________

***State Contact*:**
______________, District 3 Transportation Maintenance Manager
ODOT McMinnville Yard
1502 Highway 99W
McMinnville, Oregon 97128
Phone: (503) 474-1462
Cell: (503) 510-5066
Email: david.a.kubishta@odot.state.or.us

EXHIBIT A
City of Newberg Major Collectors
Pavement Rehabilitation Project on Major Collector Streets

EXHIBIT B
Schedule for Advancement of Plans and Specifications to Contract Letting

EXHIBIT "D"

Schedule for Advancement of Plans and Specifications to Contract Letting

Section Simple project time line - No ESA consultation and no ROW

Designer ______________________ Spec Writer ______________________

Project Manager ______________________ EA ______________________

Key No. ______________________ Funding ______________________

Data	Comments	Weeks Prior To Bid	Deadline Date	Done
IGA, Prospectus, STIP Amend	Complete and signed	42 Fri	04/03/09	
Select Consultant		40 Fri	04/17/09	
Start Design work	Notice to proceed given	35 Fri	05/22/09	
Preliminary Plans		25 Fri	07/31/09	
Advance Plans - Spec.s	Enviro no-effect doc.s complete	19 Fri	09/11/09	
Final Plans & Specs Submittal	Submit PSE to office of Pre-Letting	10 Fri	11/13/09	
Print Plans & Specs	Done by ODOT	5 Fri	12/18/09	
Obligate Fed funds	"	5 Fri	12/18/09	
Write Ad Letter/List	"	4 Fri	12/25/09	
Publish Ad & Mail Plans	"	3 Thu	01/01/10	

Bid Letting Date 01/21/10 3 Week AD

Cost estimates for 2" grind and overlay of City Streets.

Street	Length	Width	CY Material	Grind Price	Pave Price	Constr Total	Prelim Eng	Constr Eng	Project Total	Priority 1	Priority 2
Dayton Ave (city limit - 5th)	1020	32	201	$5,016.89	$28,094.58	$38,740.42	$2,711.83	$1,937.02	$45,326.29		$45,326.29
Main St. (5th - 1st)	1250	32	246	$6,148.15	$34,429.63	$47,476.00	$3,323.32	$2,373.80	$55,546.92		$55,546.92
Blaine St. (9th – Hancock)	3000	32	590	$14,755.56	$82,631.11	$113,942.40	$7,975.97	$5,697.12	$133,312.61	$133,312.61	
9th St. (College – Blaine)	850	32	167	$4,180.74	$23,412.15	$32,283.68	$2,259.86	$1,614.18	$37,771.91	$37,771.91	
11th St. (River – Pacific)	1000	32	197	$4,918.52	$27,543.70	$37,980.80	$2,658.66	$1,899.04	$44,437.54		$44,437.54
4th St. (College – Willamette)	1600	32	315	$7,869.63	$44,069.93	$60,769.28	$4,253.85	$3,038.46	$71,100.06	$71,100.06	
River St. (4th - 1st)	820	32	161	$4,033.19	$22,585.84	$31,144.26	$2,180.10	$1,557.21	$36,438.78	$36,438.78	
College St. (4th - 1st)	840	32	165	$4,131.56	$23,136.71	$31,903.87	$2,233.27	$1,595.19	$37,327.53	$37,327.53	
2nd st. (College – River)	1200	32	236	$5,902.22	$33,052.44	$45,576.96	$3,190.39	$2,278.85	$53,325.04		$53,325.04
Meridian (2nd – Hancock)	530	32	104	$2,606.81	$14,598.16	$20,129.82	$1,409.09	$1,006.49	$23,551.89		$23,551.89
Vermillion St. (College – Meridian)	500	32	98	$2,459.26	$13,771.85	$18,990.40	$1,329.33	$949.52	$22,218.77		$22,218.77
Meridian (Fulton – Crestview)	1900	34	397	$9,929.26	$55,603.85	$76,673.74	$5,367.16	$3,833.69	$89,708.28	$89,708.28	
Main St. (Crestview – Melody)	1250	32	246	$6,148.15	$34,429.63	$47,476.00	$3,323.32	$2,373.80	$55,546.92		$55,546.92
Crestview (College – Hoskins)	1900	34	397	$9,929.26	$55,603.85	$76,673.74	$5,367.16	$3,833.69	$89,708.28		$89,708.28
Mountainview Dr. (Main – College)	1500	36	332	$8,300.00	$46,480.00	$64,092.60	$4,486.48	$3,204.63	$74,988.34	$74,988.34	
Villa Rd. (99 – Haworth)	2000	34	418	$10,451.85	$58,530.37	$80,709.20	$5,649.64	$4,035.46	$94,429.76	$94,429.76	
Haworth Rd. (Villa – Springbrook)	4000	34	836	$20,903.70	$117,060.74	$161,418.40	$11,299.29	$8,070.92	$188,859.53		$188,859.53
Deborah Rd. (99 – Haworth)	820	32	161	$4,033.19	$22,585.84	$31,144.26	$2,180.10	$1,557.21	$36,438.78		$36,438.78
Springbrook Rd. (Haworth – Middlebrook)	2000	36	443	$11,066.67	$61,973.33	$85,456.80	$5,981.98	$4,272.84	$99,984.46	$99,984.46	
Vittoria Way (Springbrook – 99)	2800	34	585	$14,632.59	$81,942.52	$112,992.88	$7,909.50	$5,649.64	$132,201.67		$132,201.67
Grand Total			6297	$157,417.19	$881,536.24	$1,215,575.50	$85,090.29	$60,778.78	**$1,422,223.34**	**$675,061.72**	**$747,161.62**
Priority 1	14,510	2.75		$74,718.44	$418,423.29	$576,975.83	$40,388.31	$28,848.79	**$675,061.72**		
Priority 2	16,270	3.08		$82,698.74	$463,112.95	$638,599.68	$44,701.98	$31,929.98	**$747,161.62**		

"Construction Total" includes mobilization, traffic control, contingency, & misc. work.

EXHIBIT "E"

EXHIBIT "F" (Additional Background Information)

Federal-Aid Highway Program
Requirements for Stimulus Projects

All stimulus funding coming to Oregon for highway projects is subject to the requirements of the federal-aid highway program. This document briefly explains these requirements.

Eligible Uses of Funds

Highway program funds can be used for projects eligible under the Surface Transportation Program. This includes:

- Road construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements.
- Bridge projects.
- Bicycle and pedestrian infrastructure.
- Highway safety infrastructure projects, including rail-highway grade crossings.
- Intelligent Transportation Systems.
- Transit capital projects, including vehicles and facilities used to provide intercity bus passenger service.
- Transportation enhancement activities.
- Carpool projects.

Road projects other than bridge and safety projects must generally be located on the federal-aid highway system, which does not include roads functionally classified as local or rural minor collectors. (For a complete list of STP eligible activities, please refer to Section 133(b) of title 23 of the U.S. Code.)

Eligibility for use of highway funds under the ARRA is expanded to include passenger and freight rail and port infrastructure.

Timeline for Availability of Funds and Obligation

Local governments will have funds made available to them when FHWA issues apportionments, which is expected to occur in early March. All local government highway program funding under the ARRA must be obligated (which happens when plans, specifications, and estimates are sent to the Federal Highway Administration) within one year of apportionment of funds. Any funds not obligated within this timeline will be redistributed to states that have obligated their funds.

Matching Funds

Stimulus funds do not require a non-federal match.

Funding

Funding under the federal-aid highway program is administered on a reimbursable basis. ODOT will reimburse project costs for any amount up to the cumulative funding received.

EXHIBIT "F" (Additional Background Information)

Intergovernmental Agreement (IGA)

All federal-aid highway program projects must have an IGA executed and federal obligation prior to incurring reimbursable expenditures. Federal funds identified for the project may be used to pay for the scoping effort and complete all parts of the project prospectus.

Environmental Requirements

All projects using federal-aid transportation funds must conform to the requirements of NEPA, the National Historic Preservation Act - Section 106, the US Department of Transportation Act – Section 4 (f), Section 404 of the Clean Water Act, Section 7 of the Endangered Species Act and the Americans with Disabilities Act. The required environmental documentation must be completed and approved. Details regarding federal environmental requirements can be found at the FHWA website, http://environment.fhwa.dot.gov/projdev/tdmpdo.htm. Smaller projects may qualify as Categorical Exclusions (CEs). CEs are defined as actions which do not individually or cumulatively result in significant environmental effects, and are therefore excluded from the requirement to prepare an environmental document such as an Environmental Impact Statement.

Right-of-Way (Property) Acquisitions

All projects that have been awarded federal-aid highway program funds must follow the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act), as amended and all applicable FHWA reimbursement regulations and requirements for the acquisition of right-of-way for the project. This applies to the acquisition of real property, either in fee or by easement, and whether or not federal funds are used for this activity. It is important to follow this process because failure to do so could render all project phases ineligible for federal funds. ODOT will certify all right of way files and procedures.

Transportation Improvement Program/ Statewide Transportation Improvement Program

Sponsors of projects located in areas covered by a Metropolitan Planning Organization (MPO) will need to ensure that the project is added to the local Transportation Improvement Program (TIP) prior to advertisement. After a project has been added to the appropriate TIP, ODOT will ensure that the project is added to the Statewide Transportation Improvement Program (STIP). Projects outside metropolitan areas will need to be added to the STIP before funding can be made available. Projects seeking the use of federal transportation funds will not be approved by ODOT or FHWA until they are included in these programming documents, as required under federal law. In addition if the project is in an air quality maintenance area or non-attainment area the project will need to be modeled for air quality conformity.

Advertisement

All projects sponsored by non-certified agencies will be advertised for construction through the ODOT bid and award process. Only projects sponsored by certified agencies will be allowed to be advertised and contracted by those agencies. Information regarding the package of plans, specifications, and estimates, and other materials required, including permits, is available through the ODOT Region local liaison staff.

EXHIBIT "F" (Additional Background Information)

TRANSPORTATION FUNDING IN THE AMERICAN RECOVERY AND REINVESTMENT ACT

ODOT has been working closely with local governments to develop plans to put economic stimulus money to work creating jobs and improving Oregon's transportation system. ODOT has prepared this frequently asked questions document to explain how the agency plans to handle this significant infusion of funding.

How much highway program funding will Oregon receive?

The American Recovery and Reinvestment Act (ARRA, HR 1) provides $27.5 billion for the federal highway program, and $26.66 billion of this will be distributed to the states by formula. Oregon will receive about 1.25 percent of total federal highway program funding distributed to the states. This translates into about $334 million for Oregon.

What requirements will this money come with?

Transportation projects funded with stimulus resources will be subject to all normal federal requirements, including environmental reviews, right of way acquisition, and design standards; the ARRA does not waive or streamline any of these normal requirements. The ARRA requires that half of each state's funding (excluding funding allocated to local governments) be obligated within 120 days, while the remainder must be obligated within one year. There is also a "maintenance of effort" requirement under which funding must be used to supplement and not supplant the state's existing resources at the programmatic level. Transparency and accountability provisions will require regular reporting on use of funds.

What types of projects will likely meet these requirements?

Meeting the requirement to get half of all funding within 120 days will involve building projects that require minimal additional design, do not require buying right of way, and have minimal need for additional environmental analysis and mitigation; most viable projects will be classified as a Categorical Exclusion under NEPA. Most projects that meet these criteria will involve preservation of the existing road and highway system, such as paving, bridge repairs, and safety measures.

What has ODOT done to get ready for a potential infusion of resources?

ODOT's Highway Division has identified $191 million in highway and bicycle/pedestrian projects on the state highway system that can be under construction during the 2009 construction season and meet the requirement to obligate half of the state's funds within 120 days. ODOT's project list focuses on construction projects that create jobs rather than environmental studies or right of way acquisition. In December, the Oregon Transportation Commission allocated $2 million to do the necessary work to get these projects ready to go to construction, and ODOT will start going to bid on projects in late February.

How will funding flow to local government projects?

The ARRA requires that states allocate 30 percent of funds to local governments through the Surface Transportation Program (STP) formula. In Oregon, this amounts to about $100 million that will be shared with local governments. Under the formula ODOT has worked out with cities and counties, Metropolitan Planning Organizations (MPOs), all 36 Oregon counties, and cities over 5000 that are not in an MPO will receive allocations of funding

Oregon Department of Transportation

Each jurisdiction that receives an allocation of funds would be responsible for selecting one or more eligible projects to build. ODOT will also set aside $5 million for jurisdictions that do not receive STP allocations, including small cities, tribal governments, and ports, and ODOT will select projects from those proposed by eligible agencies. Because all federal highway program funds through state DOTs, ODOT will administer the funds and oversee projects. Each project will require signing an Intergovernmental Agreement (IGA) between ODOT and the local government sponsor. ODOT will work closely with local governments to move projects forward quickly through the federal highway process.

How long will local governments have to obligate their funds?
All funds allocated to local governments must be obligated within one year of distribution.

Is there a matching requirement?
There is no requirement to provide matching funds.

Is funding for public transportation included in the stimulus legislation?
The ARRA contains $8.4 billion for public transportation, including $6.9 billion for the urban and rural formula grant programs. Under the Federal Transit Administration's programs, funding for transit systems in communities with populations greater than 50,000 flows to the transit districts, while ODOT's Public Transit Division administers funding for non-urbanized areas. Transit districts in six urban areas in Oregon-- Portland, Salem/Keizer, Eugene/Springfield, Corvallis, Medford, and Bend-- will split about $65.8 million. ODOT will distribute about $14.6 million to rural transit projects. Half of all funds for each urban transit district and of each state's allocation of funding for nonurbanized areas must be obligated within 180 days.

Will Oregon be able to take advantage of the funding for passenger rail?
The ARRA contains $9.3 billion for passenger rail, including $8 billion for high-speed passenger rail corridors. ODOT partners with the Washington State DOT and Amtrak to operate the Cascades Amtrak service on the Northwest high-speed rail corridor. This corridor runs from Eugene through Portland and Seattle on to Vancouver, British Columbia and is one of the nation's top passenger rail corridors in terms of ridership. ODOT would seek a federal investment from the stimulus program to improve the speed and reliability of passenger rail service on the corridor and build capacity to allow for the eventual addition of a third daily roundtrip train between Eugene and Portland.

For additional information, please contact Travis Brouwer, ODOT Federal Affairs Advisor, at (503) 986-3448 or by e-mail at travis.brouwer@odot.state.or.us.

Oregon Department of Transportation

EXHIBIT "F" (Additional Background Information)

Transportation Funding for Oregon in the American Recovery and Reinvestment Act

All figures are tentative and subject to modification.

Highway Program

State Funding: $27.5 billion is provided for the highway program. After takedowns of about $840 million, $26.66 billion will be distributed by formula to states. Oregon will receive about 1.25 percent of this funding, or about $334 million. After suballocation to local governments and funding for Transportation Enhancements, ODOT would have about $224 million.

Local Funding: States are required to suballocate 30 percent of the highway program funds to local governments according to the Surface Transportation Program formula, including metropolitan planning organizations, cities and counties. In Oregon, the amount suballocated will total about $100 million. Metro would receive about $38 million, Central Lane MPO would receive about $6.5 million, and Salem/Keizer Area Transportation Study would receive about $6 million. Cities not in an MPO, counties, and the state's three other MPOs (Corvallis, Bend, and Medford) would receive a total of about $50 million.

Eligible Uses of Highway Program Funds: Local governments and the state can use highway program funds for projects eligible under the Surface Transportation Program, including road and bridge projects, bicycle and pedestrian infrastructure, and transit capital projects. Eligibility for use of highway funds under the ARRA is expanded to include passenger and freight rail and port infrastructure.

Transportation Enhancements: 3 percent of the total highway program funds for each state are set aside for Transportation Enhancements, which include pedestrian/bicycle infrastructure, landscaping and scenic beautification, transportation-related historic preservation, and environmental mitigation. In Oregon, this would amount to about $10 million. Oregon's Transportation Enhancements committee will recommend projects from those that have been through the scrutiny of the TE application process or similar grant processes.

Forest Highways: The Forest Highways program will receive $60 million, and about 10 percent of this will come to Oregon for use on county and state roads designated as forest highways that provide access to national forests.

Obligation Deadlines: 50 percent of the highway funding retained by the state would need to be obligated within 120 days of apportionment (which must occur within 21 days of enactment). In Oregon, this amounts to about $117 million. The remainder of funding, including all funding suballocated to local governments, must be obligated within one year. Funding not obligated by these timelines will be redistributed to states that have met the obligation requirements.

Eligibility: Highway program funds can be used for projects eligible under the Surface Transportation Program. This includes roads, bridges, pedestrian/bicycle projects, public transportation capital projects, and Intelligent Transportation Systems. Eligibility is expanded to include passenger and freight rail and port infrastructure.

Public Transportation
Formula Funding: $6.9 billion is provided for the formula transit capital programs for urban and rural areas, which funds vehicle purchases, equipment purchase/upgrades, preventive maintenance, and construction of maintenance and passenger facilities. 80 percent of the formula funds would go to urban areas, 10 percent would go to rural areas, and 10 percent would be split between urban and rural areas under a high growth/high density states formula.

The state's six urban areas would receive a total of about $65.9 million directly from the Federal Transit Administration (FTA). Based on preliminary numbers from FTA, the state's urban transit districts will receive approximately the following amounts:

- Portland area (Tri-Met and SMART): $49.8 million
- Lane Transit District: $6.5 million
- Salem-Keizer Transit: $5.2 million
- Rogue Valley Transit District: $2.4 million
- Corvallis: $1.05 million
- Bend: $.9 million

Based on preliminary numbers from the FTA, ODOT's Public Transit Division will distribute about $14.6 million to rural transit districts through a grant program structured and managed in a manner similar to ODOT's existing transit grants.

Obligation Deadlines: 50 percent of funding to each urban transit district and state must be obligated in 180 days, and all funds must be obligated in one year. Funding not obligated by these timelines will be redistributed to transit districts and states that have met the obligation requirements.

Transit Rail Funding: $750 million is provided for the Fixed Guideway Modernization program; TriMet will get about $1.1 million under this formula program. An additional $750 million is allocated to the New Starts program for fixed guideway projects, and FTA may provide some of this to projects in Oregon.

Passenger Rail
The stimulus provides $1.3 billion to Amtrak for capital projects as well as $8 billion for passenger rail grants to states, with priority given to improving high-speed rail service. ODOT partners with the Washington State DOT and Amtrak to offer the Cascades Amtrak service on the Northwest high-speed rail corridor. This corridor, which runs from Eugene through Portland and Seattle on to Vancouver, British Columbia, is one of the nation's top intercity passenger rail corridors in terms of ridership. ODOT will seek a federal investment from the stimulus program to improve the speed and reliability of passenger rail service on the corridor and build capacity to allow for the eventual addition of a third daily roundtrip train between Eugene and Portland.

Discretionary Surface Transportation Grants
The stimulus provides $1.5 billion for a multi-modal surface transportation discretionary program that could fund highways, transit, intercity passenger rail, freight rail, and port infrastructure. Projects must have a significant impact at the national, regional, or metropolitan level, and priority is given to projects that will be complete within three years. Grants would range from $20-300 million, and matching funds are not required. As this is a new program, US DOT will have to develop criteria and request grant applications. ODOT will work with partners to determine which projects would make good candidates for funding under this program.

Maintenance of Effort
Each Governor is required to certify that the state will "maintain its effort" by not using federal funds to supplant state funding for transportation programs. States that do not spend the amount of state resources on transportation they planned to spend as of enactment of the ARRA are prohibited from receiving redistributed funds.

Reporting Requirements
Each recipient of transportation funds must submit reports on their use of funds that outlines their progress in putting the money to use and estimates the direct and indirect jobs created by these projects. Reports are due at 90 days, 180 days, one year, two years, and three years after enactment.

Updated February 19, 2009.