

Approved: L. E. George

MCH:pf
12/23/80

Misc. Contracts & Agreements
No. 7417

PRELIMINARY ENGINEERING AND
CONSTRUCTION-FINANCE AGREEMENT
INTERSTATE TRANSFER PROJECT

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, Highway Division, hereinafter referred to as "State"; and the CITY OF PORTLAND, a municipal corporation within the State of Oregon, acting by and through its designated City Officials, hereinafter referred to as "City".

W I T N E S S E T H

RECITALS

1. N.E. Sandy Boulevard, State Primary Highway No. 59, is a part of the Federal Aid Urban System network under the jurisdiction and control of the Oregon Transportation Commission, and has been designated as FAU No. 9326.
2. By the authority granted in ORS 366.775, State and City may enter into agreements for the construction, reconstruction, improvement or repair of any street, highway, road or bridge upon such terms and conditions as are mutually agreeable to the contracting parties. Under said authority, State and City plan and propose to design and construct the Hollywood District Transportation Improvements, hereinafter referred to as "project". The location of said project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof. The project will be financed with Interstate Transfer (e)(4) Funds and local matching funds provided by the City of Portland with no expense to State.
3. By the authority granted in ORS 366.425, as amended by Chapter 365, Oregon Laws, 1979, any county or city may deposit monies, or an irrevocable letter of credit, with the Department of Transportation for performance of work upon any public highway within the State. When any money or a letter of credit is deposited, the state shall proceed with the project. Money so deposited shall be disbursed for the purpose for which it was deposited.
4. It is proposed that the project will consist of all work necessary to provide improvements which include synchronization of the existing traffic signals located on Sandy Boulevard at 37th, 40th, 41st, 42nd and 47th Avenues with 2 new traffic signals to be located at 39th and 43rd Avenues, significant rerouting of traffic patterns, closure of N.E. Hancock Street between 42nd and 43rd Avenues, sidewalk widening, landscaping, benches, transit shelters and illumination revisions. No additional right-of-way is anticipated. The State will perform the traffic signal design work. The City will perform the preliminary and construction engineering.

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

STATE OBLIGATIONS

1. State shall submit a program to the Federal Highway Administration with a request for approval of federal aid participation in all engineering, eligible utility relocations and construction work for the project. No work shall proceed on the project until said approval has been obtained. Said program shall include services to be provided by both State and City. State shall notify City in writing when authorized to proceed with each phase of the work.

2. State shall, as a participating expense, assign a liaison engineer to provide advice and guidance to City and to monitor the work in progress for compliance with acceptable procedures, standards and related report forms during development and construction of the project. All billings received from City must be approved by the liaison engineer prior to presentation to the Highway Division Accounting Office for payment.

3. State shall, as a participating preliminary engineering function, review and process any required environmental statements, perform the traffic signal design work, review and approve preliminary plans, specifications and estimates received from City, prepare the contract documents, advertise for bids, and award all contracts.

4. State shall, as a participating construction engineering function, perform all laboratory testing of materials, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during construction of the project.

5. State shall prepare an estimate of cost for preliminary engineering services to be provided by State and furnish City with a copy of said estimate. The actual cost of services to be provided by State will be included in the total project costs and, when the actual total cost of the project has been computed, City will be billed for the matching share of said costs.

6. State shall, upon receipt of monthly approved itemized statements for 100 percent of actual costs incurred by City on behalf of the project, promptly reimburse City for the full amount of federal aid participation in said costs.

7. State shall, in the first instance, pay all costs of the project, submit all claims for federal aid participation to the Federal Highway Administration in the normal manner, compile accurate cost accounting records and, when the actual total cost of the project has been computed, furnish City with an itemized statement of said costs.

CITY OBLIGATIONS

1. City shall not undertake any phase of the work prior to receiving written authorization from State. All work and records of such work shall be in conformance to Federal statutes, regulations and the Oregon Action Plan.

2. City shall assign the City Engineer and his staff to be in responsible charge of the project, and to review, approve and forward to the State Liaison Engineer all billings due the City. City shall certify that all materials used are in substantial compliance with the controlling specifications and that the completed project meets the quantity requirements of the contract.

3. City shall conduct the necessary field surveys and traffic investigations, obtain all permits, perform all preliminary engineering and design work necessary to prepare preliminary plans, specifications and estimates and, upon award of a contract, furnish all construction engineering, field testing of materials, technical inspection and resident engineer services for administration of the contract.

4. City shall identify and obtain the required permits and any easements that may be necessary for construction of the project.

5. City shall forward to State, through its Metropolitan Administrator, all preliminary plans, specifications and estimates and all pertinent field data for use by State in preparation of the contract documents. Plans shall be submitted on "federal-aid" sheets as prescribed by State.

6. City shall present properly certified bills for 100 percent of actual costs incurred by City on behalf of the project directly to the State Liaison Engineer for review and approval. Said bills shall be in a form acceptable to State and documented in such a manner as to be easily verified. Billings shall be presented for periods of not less than one month duration, based on actual expenses to date. City shall be reimbursed for the full amount of federal aid participation in said eligible expenses. City's actual costs, direct and indirect, shall be those allowable under the provisions of Federal Management Circular 74-4 and OMB Circular A-102, Attachments G and P.

7. City shall prior to proceeding with each phase of work covered by this agreement, forward to State an advance deposit, or irrevocable letter of credit, in the amount of 100 percent of the difference between the estimated total cost of said work and the amount anticipated to be contributed by the Federal Highway Administration. When the actual total cost of the project has been computed, an adjustment will be made in the City matching share of costs. In the event that City elects to perform certain phases of the work with its own forces, no advance deposit will be requested for said work nor will an advance deposit for preliminary engineering services to be provided by State be requested if the anticipated amount is less than \$2,500. City will be billed for its share of local matching funds upon completion of the preliminary engineering phase.

8. City shall relocate, or cause to be relocated, all utility conduits, lines, poles, mains, pipes and such other facilities where such relocation is necessary in order to conform said utility and other facilities with the plans and ultimate requirements of the project. Only those utility relocations which are eligible for federal participation under Federal Aid Highway Program Manual, Volume 1, Chapter 4, Section 4, shall be included in the total project costs and participation; all other utility relocations shall be at the sole cost of City or others.

9. City shall, five weeks prior to the bid opening, furnish State with an estimate, based on the plans for the project, of the cost of eligible reimbursable utility relocation work so the work can be properly coordinated into the project and receive proper authorization.

10. Upon completion of the project, City shall not permit any encroachment upon the project right-of-way which will cause more than a temporary obstruction to the free and convenient flow of traffic over the project; and City shall not impose any regulations of traffic which shall unduly hinder the flow of traffic upon the project by granting preference to traffic entering from other intersecting roads or streets.

11. City shall, upon completion of said project, control all parking on this project. Any alterations in regard to traffic control measures shall have concurrence of State.

12. Upon completion of the project, City shall thereafter, at its own cost and expense, maintain and operate the project in a manner satisfactory to State and/or the Federal Highway Administration. City shall, in the first instance, perform all necessary maintenance operations associated with the traffic signal equipment and pay all costs of electrical energy consumed in operation of the traffic signals. The costs of maintenance and power shall be shared by State and City as negotiated on an annual basis.

13. City agrees that should it cancel or terminate the project prior to its completion, it will reimburse State for any costs that have been incurred by State in behalf of the project.

14. City hereby accepts responsibility for any claims for damages from grade changes. Approval of plans by State shall not subject State to liability under ORS 105.760 for change of grade.

15. City shall adopt an ordinance authorizing its City Officials to enter into this agreement and the same shall be attached hereto and become a part hereof.

GENERAL PROVISIONS

1. The parties hereto mutually agree and understand that City shall contribute 100 percent of the difference between the actual cost of the project and the amount contributed by the Federal Highway Administration.

2. The parties hereto agree and understand that they will comply with all applicable Federal and State statutes and regulations, including but not limited to: Title 6, U.S.C., Civil Rights Act; Title 18, U.S.C., Anti-Kickback Act; Title 23, U.S.C., Federal Aid Highway Act; and Titles 2 and 3 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

3. Provisions of state and federal law applicable to public contracts and agreements of this type are hereby incorporated by reference as if fully set forth herein.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written. City has acted in this matter pursuant to Ordinance No. _____, adopted by its City Council on the _____ day of _____, 19 ____.

This project was approved by the Oregon Transportation Commission on May 20, 1980 as a part of the Six Year Highway Improvement Program (page 14).

The Oregon Transportation Commission, by a duly adopted delegation order, authorized the State Highway Engineer to sign this agreement for and on behalf of the Commission. Said authority is set forth in the Minutes of the Oregon Transportation Commission.

APPROVAL RECOMMENDED

Metropolitan Administrator

STATE OF OREGON, by and through
its Department of Transportation,
Highway Division

State Highway Engineer

Date _____

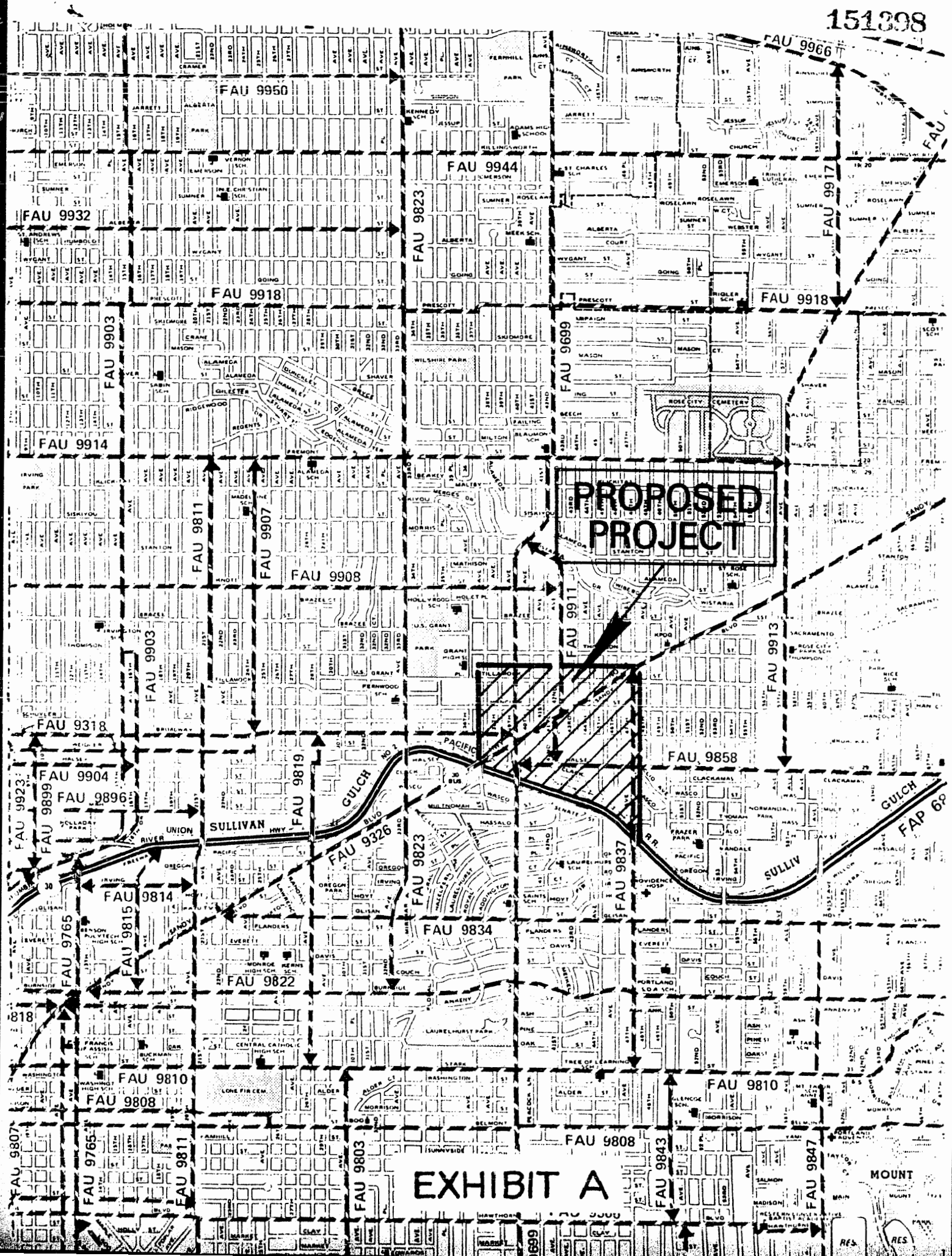
APPROVED AS TO FORM

City Attorney

CITY OF PORTLAND, by and through
its designated City Officials

By _____
Auditor

By _____
Commissioner of Public Works



**PROPOSED
PROJECT**

EXHIBIT A

ORDINANCE No. 151398

An Ordinance authorizing the City to enter into an agreement with the Oregon Department of Transportation Highway Division providing for preliminary engineering, construction, operation and maintenance of Hollywood District Transportation Improvements; and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Resolution 32460 adopted by the Council June 28, 1979 adopted Plan D (as amended) of the Hollywood District Transportation Study.
2. Resolution 32460 further directed staff to submit Plan D to the Metropolitan Service District and the Department of Transportation for authorization to begin preliminary engineering.
3. The Highway Division of the Oregon Department of Transportation has submitted an agreement to the City which must be executed by the City prior to the City receiving authorization to begin preliminary engineering.
4. There are \$75,665 in the 1980-81 FY Budget of the Bureau of Street and Structural Engineering for Preliminary Engineering work for this project.
5. There is a further \$110,232 in the 1981-82 FY Bureau Budget Request.

NOW, THEREFORE, the Council directs:

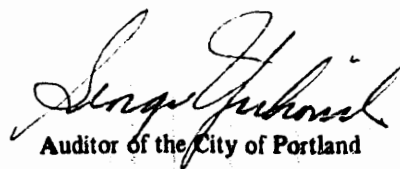
- a. The Commissioner of Public Works and the Auditor are authorized to execute on behalf of the City an agreement similar in form to the agreement attached to the original of this Ordinance and by this reference made a part hereof.

Section 2. The Council declares an emergency exists because preliminary engineering for this project must be completed prior to completion of design work for the Banfield project; therefore, this Ordinance shall be in force and effect from and after it's passage by the Council.

Passed by the Council, **APR 15 1981**

Commissioner Mike Lindberg
ST Riddell:
April 2, 1981
BUC 15900253/Job6109

Attest:


Auditor of the City of Portland

Calendar No. 1162

ORDINANCE No. 151398

Title

An Ordinance authorizing the City to enter into an agreement with the Oregon Department of Transportation Highway Division providing for preliminary engineering, construction, operation and maintenance of Hollywood District Transportation Improvements; and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Jordan	/	
Lindberg	/	
Schwab	/	
Strachan	/	
Ivancie	/	

FOUR-FIFTHS CALENDAR	
Jordan	
Lindberg	
Schwab	
Strachan	
Ivancie	

Filed APR 9 1981

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *Gordon A. [Signature]*
Deputy

INTRODUCED BY
Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <i>m/m</i>

BUREAU APPROVAL	
Bureau: Street & Structural Engineering	
Prepared By: Steve Riddell	Date: 4/6/81
Budget Impact Review:	
<input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not required	
Bureau Head: <i>R.O. Schmidt</i> R.O. Schmidt, Chief	

CALENDAR	
Consent <input checked="" type="checkbox"/>	Regular <input type="checkbox"/>

NOTED BY
City Attorney
City Auditor
City Engineer
<i>John M. Lang</i> John M. Lang