

MCH:pf
12/30/81

Misc. Contracts & Agreements
No. 7623

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. By the authority granted in ORS 366.770 and 366.775, State may enter into cooperative agreements with the various counties and cities for the performance of work on certain types of projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties. Under said authority, State and City plan and propose to place overlays on certain Federal-Aid Urban System Routes within the City of Portland to be known as the Arterial Street Overlay Project No. 3, hereinafter referred to as "project". The project will be financed with Interstate Transfer (e)(4) Funds and local matching funds provided by State and City.

2. It is proposed that the project will consist of all work necessary to place pavement overlays on the arterial Federal-Aid Urban System routes. This is the third project of an ongoing program to upgrade the arterial street system within the City of Portland. The specific streets to be treated will be selected during the preliminary engineering phase of the project. No additional right-of-way is required. The City will perform the preliminary and construction engineering. The required 15 percent local matching funds will be provided by the State (9%) and the City of Portland (6%), approximately. The State shall provide 9 percent of local matching funds only for that portion of federal-aid funds allocated to the project from the "FAU Replacement Fund".

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 the preliminary engineering and construction phases 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 preliminary engineering function, review and approve all preliminary plans, specifications and estimates received from City, prepare the contract documents, advertise for construction bid proposals and award all contracts.

4. State shall, as a construction engineering function, perform all necessary laboratory testing of materials, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during the construction phase 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 all services to be provided by State shall be eligible for federal-aid participation, and will be included in the total project costs. City will be billed for the local matching share when the actual total cost of the project has been computed.

6. State shall, upon receipt of monthly approved itemized statements for 100 percent of actual costs incurred by City on behalf of the project to date, promptly reimburse City for the full amount of federal-aid and State participation in such 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 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 State and Federal Highway Administration. When the actual total cost of the project has been computed, an adjustment will be made in the City matching share. 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. No advance deposit for preliminary engineering services to be provided by State will be requested if the anticipated amount of said deposit is less than \$2,500; however, City will be billed for its share of such costs upon completion of the preliminary engineering phase.

3. 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.

4. City shall conduct the necessary field surveys, 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.

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

6. 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.

7. 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.

8. 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.

9. 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's actual costs eligible for federal-aid participation shall be those allowable under the provisions of Office of Management and Budget Circulars Nos. A-87 and A-102, Attachments G and P.

10. REQUIRED STATEMENT FOR USDOT FINANCIAL ASSISTANCE AGREEMENT:

If as a condition of assistance the recipient has submitted and the U.S. Department of Transportation has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the U.S. Department of Transportation shall impose such sanctions as noted in Title 49, Code of Federal Regulations, Part 23, Subpart E, which sanctions may include termination of the agreement or other measures that may affect the ability of the recipient to obtain future U.S. Department of Transportation financial assistance.

The recipient further agrees to comply with all applicable civil rights laws, rules and regulations, including Section 504 of the Rehabilitation Act of 1973 and the Vietnam Era Veterans' Readjustment Act.

11. 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.

12. 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.

13. City shall adopt an ordinance authorizing its designated City Officials to enter into and execute 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 State and City shall contribute 100 percent of the difference between the actual total cost of the project and the amount contributed by the Federal Highway Administration. Said contribution shall be on the basis of 9 percent by State and 6 percent by City, approximately. City shall contribute 100 percent of the cost of any portion of the project in which federal funds do not participate. Non-participation of federal funds in any portion of the project occurs when federal rules and regulations exclude an item or the available federal funds are depleted. State participation shall be limited to 9 percent matching funds for that portion of federal aid funds allocated to the project from the "FAU Replacement Fund".

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; Titles 2 and 3 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; and the Oregon Action Plan.

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 _____, 1982.

This project was approved by the State Highway Engineer on December 3, 1981 under delegated authority from the Oregon Transportation Commission.

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

ORDINANCE No. 152960

An Ordinance authorizing the City to enter into an agreement with the Oregon Department of Transportation, Highway Division, providing for design, construction, maintenance and finance of the Portland Arterial Street Overlay Project (1982), and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Construction of overlays on Arterial streets which are designated Federal Aid Routes has been identified as a project which may utilize Interstate Withdrawal, e(4) funds.
2. The Metropolitan Service District has included the 1982 element of the proposed overlay project in the adopted Transportation Improvement Program.
3. The project will be funded with 85% Federal e(4) funds, 9% State Funds and 6% City of Portland funds.
4. There are sufficient funds available in the budget of the Maintenance Bureau for the local share of the estimated \$1,452,000 total cost for this project.
5. The State has submitted an agreement for Council approval providing for design and construction of these overlays.

NOW, THEREFORE, the Council directs:

- a. That 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 that an emergency exists because this agreement is needed to authorize design, which must begin in the next several weeks in order to achieve the planned May 1982 contract award by ODOT for this project; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, MAR 10 1982

Commissioner Mike Lindberg
Steve T. Riddell:jw
February 1, 1982

Attest:


Auditor of the City of Portland

Calendar No. **616**

ORDINANCE No. 152960

Title

An Ordinance authorizing the City to enter into an agreement with the Oregon Department of Transportation, Highway Division, providing for design, construction, maintenance, and finance of the Portland Arterial Street Overlay Project (1982), and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
JORDAN	1	
LINDBERG		1
SCHWAB	1	
STRACHAN	1	
IVANCIE	1	

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

INTRODUCED BY
Commissioner Mike Lindberg

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

BUREAU APPROVAL
Bureau: Street & Structural Engineering
Prepared By: Steve T. Riddell:jw Date: 2-1-82
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	Regular <input checked="" type="checkbox"/>

NOTED BY
City Attorney
City Auditor
City Engineer: <i>John M. Lang</i> John M. Lang, P.E.

Filed **MAR 4 1982**

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *George Yerkovich*
Deputy