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190924

Ordinance

Authorize Intergovernmental Agreement with Oregon Department of Transportation for Planning and Preliminary Design services for the Interstate-5 Rose Quarter Project

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, the State may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. On May 5, 2010, the Portland City Council adopted an Intergovernmental Agreement with the State for facilitation services on the Central City 2035 NE Quadrant Plan and I-5 Broadway/Weidler Interchange Project (Ordinance No 183731).
3. On October 25, 2012, the Portland City Council adopted the N/NE Quadrant Plan and the I-5 Broadway-Weidler Facility Plan (Resolution No. 36972). The N/NE Quadrant Plan and I-5 Broadway/Weidler Facility Plan contain a recommended design concept for the subject I-5 Rose Quarter Improvement Project (Project).
4. On June 6, 2018, the Portland City Council adopted the Central City 2035 Plan and Transportation System Plan amendments that include the Project as conceptualized within the N/NE Quadrant and Facility plan (Transportation System Plan Projects #20119, #20120, #20121) as well as an Action Item (Ordinance No. 189000 and Resolution No. 37360). The Council adopted action item placed conditions on the City's participation and support for the Project contingent upon: inclusion of all major elements of the project as described in the Facility Plan, including bicycle and pedestrian improvements, development of equity strategies and other efforts that benefit communities originally impacted by freeway construction, direction for the future use of any requested City funds on Project elements, and

Introduced by

[Commissioner Jo Ann Hardesty](#)

Bureau

[Transportation](#)

Contact

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

July 13, 2022

implementation of congestion pricing and transportation demand management strategies.

5. In July 2020, the City withdrew from participation in the Project, with a City Council-issued Suspend Work directive to all City Bureaus (July 6, 2020). The suspend work directive was issued due to the City's belief that the Project did not fully align with City values or conditions of approval.
6. In July 2021, an Independent Cover Assessment (ICA) Team submitted a Final Report to the State with recommendations for ways to use highway covers to lay the groundwork for restorative justice for the Black Albina community as part of the Project.
7. In January 2022, Governor Brown and local government partners, which include City, Metro and Multnomah County elected official representatives, signed a Letter of Agreement to demonstrate shared understanding and support for the proposed Hybrid 3 highway cover design concept as part of the I-5 Rose Quarter Improvement Project (Project). The signed Letter of Agreement within Exhibit A provides the factual and historical background of the Project and expresses the parties' mutual understandings regarding their preference for the proposed Hybrid 3 highway cover design concept, with technical conditions of agreement, as a modification to the original Project design concept.
8. The State is designing and delivering the Project to improve the safety and operations of I-5 between I-84 and I-405 by adding auxiliary lanes and shoulders to I-5, reconstructing surface streets within the Broadway/Weidler interchange and improving community connections and reconnecting neighborhood streets to enhance public spaces and promote economic development opportunities.
9. The State is also advancing the evaluation of the proposed Hybrid 3 highway cover design concept as part of the Project, with a proposed highway cover that can accommodate up to 3 story buildings and an option for up to 6 story buildings with additional cost and design constraints, including additional design and technical and supplemental environmental analyses.
10. The State acknowledges the harms to people of color, especially to the Black community in Oregon past and present, from the construction of the interstate highway system. The State is committed to helping address past wrongs by centering the Project on the voices of the Black community and working collaboratively and transparently with the Historic Albina Advisory Board (HAAB), the Community Oversight Advisory Committee (COAC), the Albina Vision Trust (AVT), and other partners to create a rejuvenated neighborhood with new community space and reconnected local streets over I-5.
11. The State is developing multiple work packages for possible Project construction, contingent upon the results of the supplemental

National Environmental Protection Act (NEPA) process to evaluate the proposed Hybrid 3 highway cover design concept.

12. The State desires to engage the City's services to perform certain planning and engineering services in support of the Project's preliminary design phase, as well as services supporting the State's supplemental environmental review of the proposed Hybrid 3 highway cover design concept under NEPA. The City will provide services to State regarding State's work on City facilities and any modifications to the State's system that impact City facilities and Exhibit A lays out the terms of the collaboration.
13. The State also desires to engage the City's services to advance recommendations in the ICA Final Report and as defined in Exhibit A and the Governor's Letter of Agreement, with the City leading the preparation of the scope of work for the future highway cover land use, programming and development process, including highway cover development control and ownership of remnant lands, for the Community Framework Agreement.
14. This is an extremely large and important transportation project. The City of Portland's participation is crucial to ensure a successful project and that the interests of the City of Portland are represented.
15. Specific State and City tasks and obligations are laid out in an Intergovernmental Agreement, attached as Exhibit A. The City Attorney has reviewed this agreement and approved as to form.
16. The Bureau's level of confidence in the cost estimates for this project in this phase is high. It is typical of major transportation projects to require amendments to staff services agreements between the parties. The State and City will enter into separate agreements or an amendment to this agreement in the future to engage City services regarding City review of and permitting approvals for subsequent design phases, as well as future construction support, right of way, public utilities, and maintenance and operation of the constructed Project facilities.
17. The PBOT project number is T00697. The grant number will be TR000340.

NOW, THEREFORE, the Council directs:

- A. That the Commissioner-in-Charge is hereby authorized to enter into an Intergovernmental Agreement with ODOT in the amount of \$4,976,320 (Four Million Nine Hundred Seventy-Six Thousand and three Hundred and Twenty Dollars) to reimburse the City for its costs in performing tasks as outlined in a form substantially similar to that attached as Exhibit A and, by reference, made a part hereof.
- B. The Commissioner-in-Charge is authorized to execute amendments, approved as to form by the City Attorney, to the

scope of services or the terms and conditions of this Agreement, provided the changes do not increase the City's financial risk by twenty percent (20%) or greater.

- C. Based on terms of agreement within Exhibit A, including technical conditions defined in the Governor's Letter of Agreement, the Suspend Work Directive issued by City Council on July 6, 2020, is hereby rescinded. The City of Portland asserts its right to continue to comment on and participate in all major decisions in furtherance of the policies and objectives outlined in Exhibit A.
- D. Based on terms of the agreement within Exhibit A, including the Governor's Letter of Agreement, City staff are directed to work with ODOT on next steps identified in the ICA Final Report regarding highway cover development control and ownership of remnant lands, with intent to structure a transfer of ownership and/or development rights to a community-based governing entity such as the Albina Vision Trust or a Community Development Corporation.
- E. The Office of Management and Finance Grants Office is authorized to perform all administrative matters in relation to the grant application, grant agreement or amendments, requests for reimbursement from the grantor, and to submit required online grant documents on the Commissioner-in-Charge's behalf.

Documents and Exhibits

 [Exhibit A](#) (2.04 Mb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
July 13, 2022

Auditor of the City of Portland
Mary Hull Caballero

Impact Statement

Purpose of Proposed Legislation and Background Information

The State desires to engage the City's services to perform certain planning and engineering services in support of the I-5 Rose Quarter Project (I5RQ) preliminary design phase, as well as services supporting the State's supplemental environmental review of the proposed Hybrid 3 highway cover design concept under the National Environmental Protection Act.

The City will provide services to the State regarding State's work on City facilities and any modifications to the State's system that impact City facilities and the IGA agreement lays out the terms of the collaboration.

This project has had a long and controversial history (see RQ summary attachment to this Impact Statement). This IGA is the beginning of re-engagement under clear terms, conditions and roles & responsibilities between the State, City and how to engage the community. At this time, the City of Portland's participation is crucial to ensure a successful project that stays accountable to the commitments the State has made, and to ensure the interests and values of the City of Portland are represented.

This IGA will facilitate reimbursement for the City's involvement as of the effective date of the agreement, as well as allow the City to recuperate costs incurred from January 2019 – July 2020. The total amount authorized is not to exceed \$4,976,320 from the execution date to July 31, 2024.

Financial and Budgetary Impacts

All services to be provided for the Project are to be reimbursed by ODOT via terms of the IGA.

The State has financial responsibility to design and deliver the Project and has approved the total amount authorized for services under this IGA to not to exceed \$4,976,320 from time of execution to July 31, 2024.

The project cost code is T00697 and should be set-up to track per phase (planning/environmental phase, design, construction).

City staff services budget (total \$4,976,320) was determined based on the information provided by the State and associated requested tasks. The Scope of work is provided in Exhibit C of the IGA.

PBOT Major Projects & Partnerships will act as the lead City agency in carrying out the City's obligations and working with Bureau liaison and project management leads of each partner agency.

The City and State agree that the City Staff Plan may be modified to include the service needs during supplemental environmental review and preliminary design phase of the Project and as may be necessary.

This IGA is for environmental planning (NEPA) and preliminary engineering only. It is typical of major transportation projects to require amendments to staff services agreements between the parties. The State and City will enter into separate agreements or an amendment to this agreement in the future to engage City services regarding City review of and permitting approvals for subsequent design phases, as well as future construction support, right of way, public utilities, and maintenance and operation of the constructed Project facilities.

PBOT costs for this project will be posed to Capital Project T00697 and should be set-up to track per phase (planning/environmental phase, design, construction). Partner Bureau costs must be posted to Bureau specific cost

object and billed via OMF City Grants Office.

The project cost code is T00697 and should be set-up to track per phase (planning/environmental phase, design, construction).

All services provided to be covered by this agreement terms and submitted for reimbursement from total amount authorized by this IGA.

There is no additional funding requested.

Community Impacts and Community Involvement

This major regional project was contemplated in the City and State's joint planning effort from in 2010-2012, the N/NE Quadrant Plan and and I-5 Facility Plan and adopted by City Council in 2012.

In 2018 City Council adopted Central City 2035 that included the Project, with conditions (summarized):

- Include all local street transportation elements
- ODOT implement congestion pricing / tolling first
- Address past impacts including involuntarily displaced Black community; integrate low-income housing solutions and MWESB benefits
- Transparency and public discussion about funding
- Coordinate City Bureaus to maximize public benefits (Greater Rose Quarter Coordinating Group)

In July 2020 City Council suspended City work on the Project due to lack of adherence to conditions, lack of alignment with the values of the City, and lack of support from key community organizations, including the Albina Vision Trust (AVT).

Following, in July 2021 the State published an Independent Cover Assessment (ICA) report under the charge and intent to understand how the cover could be configured to create the greatest potential for restorative justice outcomes for the Black Historic Albina community.

In July 2021, Governor Brown convened meetings with stakeholders, community organizations including AVT, and elected officials to discuss ICA findings.

August 2021 –the Historic Albina Advisory Board, supported by the Executive Steering Committee and Community Oversight Advisory Committee recommended Hybrid 3

September 2021 –the OTC directed ODOT to advance Hybrid 3

January 2022 –FHWA rescinded the Environmental Assessment FONSI directing supplemental environmental review to evaluate Hybrid 3

January 2022 –Governor's Letter of Agreement signed by local & regional partners expressed mutual understandings for Hybrid 3, conditions of approval, and support for subsequent agreements to be developed to

advance the concept

May/June 2022 – AVT City Council Work Session on the Community Investment Plan; recognize Hybrid 3 as necessary catalyst to highway cover development and long-term community vision, request City engagement to carry project forward with accountability and per terms of mutual understanding.

Budget Office Financial Impact Analysis

All services to be provided for the Project are to be reimbursed by ODOT via terms of the IGA. The State has financial responsibility to design and deliver the Project and has approved the total amount authorized for services under this IGA to not exceed \$4,976,320 from time of execution to July 31, 2024. The City staff services budget totaling \$4,976,320 was determined based on the information provided by the State and associated requested tasks.

The City and State agree that the City Staff Plan may be modified to include the service needs during supplemental environmental review and preliminary design phase of the Project and as may be necessary. This IGA is for environmental planning (NEPA) and preliminary engineering only. It is typical of major transportation projects to require amendments to staff services agreements between the parties. The State and City will enter into separate agreements or an amendment to this agreement in the future to engage City services regarding City review of and permitting approvals for subsequent design phases, as well as future construction support, right of way, public utilities, and maintenance and operation of the constructed Project facilities.

Agenda Items

548 Time Certain in June 22, 2022 Council Agenda

Passed to second reading

Motion to add emergency clause because timely City approval is so vital for moving forward: Moved by Hardesty and seconded by Wheeler. Motion withdrawn.

Passed to second reading July 13, 2022 at 9:30 a.m.

625 Regular Agenda in July 13, 2022 Council Agenda

Passed

Commissioner Jo Ann Hardesty Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

