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191027

Emergency Ordinance

*Authorize a Cooperative Improvement Agreement with the Oregon Department of Transportation for the US 26 SE Powell Blvd: SE 99th Ave – SE 174th Ave Project in the amount of \$5 million

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. Oregon Department of Transportation is conducting a transportation improvement project on US 26 (Project), which is identified in the Statewide Transportation Improvement Program as Key Number 21178.
2. The Project will widen US 26 (Highway) between MP 6.03 and MP 9.96 (SE 99th Avenue to eastern city limits immediately east of SE 174th Avenue).
3. The Highway is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission. All local streets intersecting the Highway are a part of the city street system under the jurisdiction and control of the City of Portland.
4. The Portland Water Bureau has potable water infrastructure services in the construction area that are impacted by this Project. Water pipes and services in the Project area must be moved.
5. The Portland Water Bureau intends to enter into a Cooperative Improvement Agreement with the Oregon Department of Transportation that establishes scopes of work and responsibility for payment.
6. The estimated Portland Water Bureau cost of the work in the Cooperative Improvement Agreement is \$5,000,000.

Introduced by

[Commissioner Mingus Mapps](#)

Bureau

[Water](#)

Contact

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Chief Engineer

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📞 [503-823-1289](tel:503-823-1289)

Requested Agenda Type

Consent

Date and Time Information

Requested Council Date

October 12, 2022

7. Funding has been allocated in the FY 2022–23 Water Bureau Budget in the amount of \$2,122,000. Funds of \$2,878,000 will be requested in the FY 2023–24, FY 2024–25, and FY 2025–26 Water Bureau Budgets.

NOW, THEREFORE, the Council directs:

- A. That the Portland Water Bureau Director is authorized to execute on behalf of the City a Cooperative Improvement Agreement with the Oregon Department of Transportation in a form substantially in accordance with the amendment attached as Exhibit A and subject to approval as to form by the City Attorney.
- B. Upon receiving approval of this legislation and upon receipt of a fully executed copy of the Cooperative Improvement Agreement, the Portland Water Bureau is authorized to forward to Oregon Department of Transportation an advance deposit or irrevocable letter of credit in the amount of \$5,000,000 said amount being equal to the estimated total cost for the work performed by Oregon Department of Transportation for the Non-Reimbursable Work and Betterments portion of the Project.
- C. Amendments increasing the total compensation of the Cooperative Improvement Agreement may be agreed to and executed by the Portland Water Bureau Director for up to twenty-five percent of the total agreement amount and are subject to approval as to form by the City Attorney's Office.
- D. Any increase exceeding twenty-five percent of the total compensation of the Cooperative Improvement Agreement would require City Council approval.
- E. The no-cost Memorandum of Understanding that clarifies the process for approval of change orders and for invoicing and draws on the Local Government Investment Pool (LGIP) account in relation to the Cooperative Improvement Agreement will follow and may be agreed to and executed by the Portland Water Bureau Chief Engineer and is subject to approval as to form by the City Attorney's Office.
- F. The Mayor and Auditor are hereby authorized to draw and deliver checks chargeable to the Water Fund when demand is presented and approved by the proper authorities.

Section 2. The Council declares that an emergency exists because a delay in approving the attached Cooperative Improvement Agreement could result in a delay to the Oregon Department of Transportation's project and a subsequent claim by Oregon Department of Transportation. This would jeopardize the ability to complete the Project per the completion date required as part of the federal funding; therefore, this Ordinance shall be in full force and effect from and after its passage by Council.

Documents and Exhibits

 [Exhibit A](#) (27.46 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
October 12, 2022

Auditor of the City of Portland
Mary Hull Caballero

Impact Statement

Purpose of Proposed Legislation and Background Information

The Oregon Department of Transportation (ODOT) is widening parts of US 26, SE Powell Boulevard, within Portland city limits. Consequently, the existing water pipes and facilities along the affected portions of Powell Boulevard must be moved. The new pipes and facilities will be earthquake resilient and more reliable than the existing services.

ODOT's Outer Powell Transportation Safety Project ("Project") is Key Number 21178 in the Statewide Transportation Improvement Program. The Project will widen US 26 (Highway) between MP 6.03 and MP 9.96 (SE 99th Avenue to eastern city limits immediately east of SE 174th Avenue). The Highway is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission and ODOT. All local streets intersecting the Highway are a part of the city street system under the jurisdiction and control of the City of Portland. The Portland Water Bureau owns and maintains water facilities that conflict with the State Improvement Project and must be removed and relocated.

The Portland Water Bureau intends to enter into a Cooperative Improvement Agreement with the Oregon Department of Transportation that establishes scopes of work and responsibility for payment. The estimated Portland Water Bureau cost of the work in the Cooperative Improvement Agreement is \$5,000,000. Upon receiving approval of this legislation and upon receipt of a fully executed copy of the Cooperative Improvement Agreement, the Portland Water Bureau is authorized to forward to Oregon Department of Transportation an advance deposit or irrevocable letter of credit in the amount of \$5,000,000 said amount being equal to the estimated total cost for the work performed by Oregon Department of Transportation for the Non-Reimbursable Work and Betterments portion of the Project.

Financial and Budgetary Impacts

The Project is in the final design stage and funding for the estimated construction cost has been allocated in the FY 2022–23 Water Bureau Budget in the amount of \$2,122,000. Funds of \$2,878,000 will be requested in the FY 2023–24, FY 2024–25, and FY 2025–26 Water Bureau Budgets.

The Portland Water Bureau currently maintains the water system within the Project limits. Adjusting the water infrastructure included in this Project will not change the long-term financial obligations of the City. Relocating and replacing aging infrastructure will reduce risk and future maintenance and replacement needs for those assets. The proposed legislation will not create, eliminate, or reclassify any positions now or in the future. No change in the forecasted water rates is anticipated as a result of this action.

Community Impacts and Community Involvement

The Oregon Department of Transportation is leading the public involvement effort and performing outreach to affected residents and businesses. This Project supports City equity goals by improving access to services to low-income and under-served residents and businesses along Powell Boulevard and improving pedestrian, cyclist, and traffic safety in a high-traffic corridor.

100% Renewable Goal

This legislation does not increase or decrease the City's total energy use and does not increase or decrease the City's renewable energy use.

Agenda Items

848 Consent Agenda in [October 12, 2022 Council Agenda](#)

Passed

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Mayor Ted Wheeler Yea