

Approved: L. E. George  
MCH: pf  
6/8/81

Misc. Contracts & Agreements  
No. 7511

PRELIMINARY ENGINEERING AND  
CONSTRUCTION-FINANCE AGREEMENT  
URBAN SYSTEM 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 of the State of Oregon, acting by and through its City Officials, hereinafter referred to as "City".

W I T N E S S E T H

RECITALS

1. The Federal Government, through its Department of Transportation and Federal Highway Administration, pursuant to Title 23, U.S. Code, has established a program of Federal Aid to the states designated as the "Urban System Program". The general purpose of this program is to aid the development of the Federal Aid Urban System network in urban areas.

2. By the authority granted in ORS 366.425, as amended by Chapter 365, Oregon Laws, 1979, any county or city may deposit moneys, or an irrevocable letter of credit, with the Department of Transportation for performance of work on 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.

3. 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 or road upon such terms and conditions as are mutually agreeable to the contracting parties. Under said authority, State and City plan and propose to construct the East Side Signal Replacement (16 locations), 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 shall be conducted as a Federal Aid Urban System project under Title 23, USC, and the Oregon Action Plan.

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 for the project. No work shall proceed 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 preliminary engineering function, review and approve all plans, specifications and estimates prepared by City, prepare the contract documents, advertise for bid proposals and award all contracts.

3. State shall assign a liaison engineer to provide advice and guidance to City and to monitor the work in progress to assure conformance with acceptable procedures, standards, specifications and related report forms during the preliminary engineering, design 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.

4. State shall, as a participating construction engineering expense, process and pay all contractor progress estimates, perform any necessary laboratory testing of materials, 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 services to be provided by State and advise City of the amount of said estimate. The actual cost of services provided by State will be included in the total project costs and the City share of said costs will be billed 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, promptly reimburse City for the full amount of federal aid and State participation in said eligible 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 to proceed from State. All work and records of such work shall be in conformance with Federal statutes, rules and regulations, and the Oregon Action Plan.

2. City shall assign the City Traffic 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 or its contractor. 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, perform all preliminary engineering and design work required to prepare 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, prior to proceeding with each phase of work covered by this agreement, forward to State an advance deposit in the amount of 50 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 that portion of the work. An advance deposit for preliminary engineering services to be provided by State will be requested if the estimated amount is \$2,500 or more.

5. City shall, on a monthly basis, 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 and State participation in said eligible costs. City's actual costs shall be those allowable under the provisions of Federal Management Circular 74-4 and OMB Circular A-102, Attachments G and P.

6. City shall forward to State, through the 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. REQUIRED STATEMENT FOR USDOT FINANCIAL ASSISTANCE AGREEMENT:

If as 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.

9. Upon completion of construction, City shall thereafter, at its own cost and expense, maintain and operate the project in a manner satisfactory to the State and/or Federal Highway Administration.

10. 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.

11. 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 each contribute 50 percent of the difference between the actual total cost of the project and the amount contributed by the Federal Highway Administration. City shall also contribute 100 percent of the cost of any portion of the project in which federal funds do not participate. Nonparticipation of federal funds in any portion of the project occurs when federal rules and regulations exclude an item, or available federal funds are depleted.

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 \_\_\_\_\_, 1981.

This project was approved by the State Highway Engineer on April 28, 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 City Officials

By \_\_\_\_\_  
Auditor

By \_\_\_\_\_  
Commissioner of Public Works



ORDINANCE NO. 151897

An Ordinance authorizing the City to enter into an agreement with the Oregon Department of Transportation, Highway Division providing for finance, design, construction and maintenance of 16 Eastside signal replacements; and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Replacement of signals over 25 years old in Southeast Portland has been identified as a project which may be designed and constructed by utilizing Federal Aid Urban System Funds.
2. The Metropolitan Service District has included a proposed annual program of signal replacement projects in the adopted Transportation Improvement Program.
3. The Signal Replacement at 16 Eastside Locations Project consists of replacing signals: On N Vancouver Avenue at Portland Blvd., Ainsworth St., Killingsworth St., Alberta St., Skidmore St., Shaver St. and Fremont St.; on NE Broadway at 15th Ave., 21st Ave. and 28th Ave.; on E Burnside St. at 20th Ave., 28th Ave. and 32nd Ave.; on SE Morrison St. at 7th Ave. and on SE Hawthorne at 20th Avenue and 30th Avenue.
4. There is \$38,347 budgeted in the FY 81-82 Budget of the Bureau of Traffic Engineering for the local share of estimated \$571,000 cost of this project.
5. The State has submitted an agreement for Council approval providing for design and construction of this project.

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.

# ORDINANCE No.

151897

Section 2. The Council declares that an emergency exists because this agreement is needed in order to begin design, construction and ultimate realization of the benefits of this project; therefore this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, JUL 1 1981

Commissioner Mike Lindberg  
June 18, 1981  
Steve Riddell:daj

Attest:

  
Auditor of the City of Portland

Calendar No. 2198

ORDINANCE No. 151897

Title

An Ordinance authorizing the City to enter into an agreement with the Oregon Department of Transportation, Highway Division providing for finance, design, construction and maintenance of 16 Eastside signal replacements; and declaring an emergency.

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

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

INTRODUCED BY
Commissioner Lindberg

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <b>TOL/MS</b>

BUREAU APPROVAL
Bureau: Street & Structural Engineering
Prepared By: Steve Ridde11      Date: 6/18/81
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	Regular <input checked="" type="checkbox"/>

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

Filed JUN 26 1981

GEORGE YERKOVICH  
Auditor of the CITY OF PORTLAND

By *Gordon C. Powell*  
Deputy