

RESOLUTION NO. 1700

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A TRANSPORTATION AND GROWTH MANAGEMENT GRANT AGREEMENT WITH THE STATE OF OREGON FOR THE CITY'S TRANSPORTATION SYSTEM PLAN UPDATE

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The City of Troutdale has been awarded a State of Oregon Transportation Growth Management (TGM) Program grant to update its Transportation System Plan (TSP).
2. Release of the grant funds for this project is conditional upon the execution of an intergovernmental agreement between the two parties.
3. The City desires to receive these grant funds in order to retain consultant services for updating its TSP.
4. Entering into an intergovernmental agreement will mutually benefit both parties.


NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

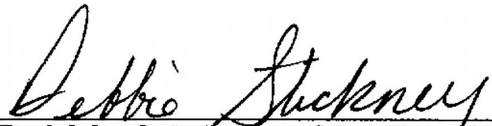
- Section 1. The mayor is authorized to sign the attached Intergovernmental Agreement on behalf of the City.
- Section 2. The mayor is authorized to sign any addendums to this Intergovernmental Agreement that may arise during the course of the project.
- Section 3. This resolution shall take effect immediately upon adoption.

YEAS: 4

NAYS: 0

ABSTAINED: 0


Paul Thalhofer, Mayor
MAY 27, 2004
Date


Debbie Stickney, City Recorder
Adopted: MAY 25, 2004

INTERGOVERNMENTAL AGREEMENT
City of Troutdale, Transportation System Plan Update

THIS AGREEMENT is made and entered into by and between THE STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT" or "Agency", and City of Troutdale, hereinafter referred to as "City".

RECITALS

1. The Transportation and Growth Management Program, hereinafter referred to as the "TGM Program", is a joint program of ODOT and the Oregon Department of Land Conservation and Development.
2. The TGM Program includes a program of grants for local governments for planning projects. The objectives of these projects are to better integrate transportation and land use planning and develop new ways to manage growth in order to achieve compact, pedestrian, bicycle, and transit friendly urban development.
3. This TGM grant is financed with federal Transportation Equity Act for the 21st Century (TEA-21) funds. Local funds are used as match for TEA-21 funds.
4. By authority granted in ORS 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies to perform any functions and activities that the parties to the agreement, or their officers or agents have the duty or authority to perform.
5. The City has been awarded a TGM grant which is conditional upon the execution of this agreement.
6. The parties desire to enter into this agreement for their mutual benefit.

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

TERM OF AGREEMENT; DEFINITIONS

1. The beginning date of this agreement is that date on which all parties have signed. The termination date of this agreement is June 30, 2005.
2. The **project** is described in Exhibit A attached hereto and by this reference made a part hereof.

3. The **total project cost** is the sum of qualified costs, including matching costs, incurred by the City and the personal services contractor(s) for this project.
4. The **grant amount** is the sum of the City's amount (defined below) and the personal services contract amount (defined below) payable by ODOT. The grant amount shall not exceed \$69,500.
5. The **City's amount** is the maximum amount payable by ODOT to City for the project and shall not exceed \$0.
6. The **personal services contract amount** is the amount payable by ODOT to a personal services contractor(s) and is equal to the total amount payable for all deliverables described in Exhibit A for which the personal services contractor(s) is identified as responsible. The personal services contract amount is \$69,500.
7. City's **matching amount** is the maximum amount of matching funds which the City is required to expend to fund the project and is 11.01% of the total project cost, or up to \$8,600.
8. **Qualified costs** are direct project costs, including matching amounts, incurred by the City and personal services contractor(s) during the term of this agreement.
9. **Direct project costs** are costs which are directly associated with the project. These may include the salaries and benefits of personnel assigned to the project and the cost of supplies, postage, travel, and printing. General administrative costs, capital costs, and overhead are not direct project costs. Any jurisdiction or Metropolitan Planning Organization that has federally approved indirect cost plans may treat such indirect costs as direct project costs.

CITY REPRESENTATIONS, WARRANTIES, AND COVENANTS

1. City shall perform the work and provide the deliverables described in Exhibit A, for which City is identified in Exhibit A as being responsible.
2. City shall be responsible for any nonqualifying costs associated with the work described in Exhibit A and any costs above the City amount. City agrees to complete project.
3. City shall perform the work identified in Exhibit A as City's responsibility under this agreement as an independent contractor. City shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform any work identified in Exhibit A as City's responsibility and for providing for employment-

related benefits and deductions that are required by law, including, but not limited to, federal and state income tax withholdings, unemployment taxes, workers' compensation coverage, and contributions to any retirement system.

City shall be responsible, to the extent permitted by the Oregon Tort Claims Act, ORS 30.260-30.300, only for the acts, omissions or negligence of its own officers, employees or agents.

4. City shall present cost reports, progress reports, and deliverables to ODOT's Contract Administrator no less than every other month. City shall not submit requests for payment that exceed the City's amount and City's Matching Amount. City shall submit cost reports for 100% of City's qualified costs. Generally accepted accounting principles and definitions of ORS 294.311 shall be applied to clearly document verifiable costs that are incurred. Such bills must be in a form acceptable to ODOT and documented in such a manner as to be easily verified.
5. City agrees to cooperate with ODOT's Contract Administrator. At the request of ODOT's Contract Administrator, City agrees to:
 - a. Meet with the ODOT's Contract Administrator; and
 - b. Form a project steering committee (which shall include ODOT's Contract Administrator) to oversee the project.
6. City shall maintain all fiscal records relating to this agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records pertinent to this agreement in such a manner as to clearly document City's performance. City acknowledges and agrees that ODOT and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of City that are pertinent to this agreement to perform examinations and audits and make copies, excerpts and transcripts.
7. City acknowledges and agrees that City shall retain, and ODOT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of City which are directly pertinent to the specific agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years, or such longer period as may be required by applicable law, after final payment and termination of this agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this agreement, whichever date is later. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.

8. City shall not enter into any subcontracts to accomplish work described in Exhibit A, unless written approval is first obtained from ODOT.
9. If ODOT engages a personal services contractor(s) to accomplish work described in Exhibit A, City shall:
 - a. Provide ODOT's Contract Administrator with the opportunity to participate in the personal services contractor selection;
 - b. Select personal services contractor(s) in accord with ODOT procedures, and advise ODOT of City's recommendation;
 - c. Provide ODOT's Contract Administrator with the opportunity to review and approve personal services contractor's work, billings and progress reports; and
 - d. Provide a project manager to:
 - i. be City's principal contact person for ODOT's Contract Administrator and the personal services contractor for the project;
 - ii. monitor and coordinate the work of the personal services contractor;
 - iii. review and approve bills and deliverables (work products) produced and submitted by the personal services contractor; and
 - iv. advise ODOT's Contract Administrator regarding payments to the personal services contractor.
10. City acknowledges and agrees that City shall not be reimbursed for, and shall not request reimbursement for, project costs or expenses related to this agreement which are incurred prior to the execution of this agreement.
11. All project work products of City that result from this agreement are the exclusive property of ODOT. ODOT and City intend that such work products be deemed "work made for hire" of which ODOT shall be deemed the author. If, for any reason, the work products are not deemed "work made for hire", City hereby irrevocably assigns to ODOT all of its rights, title, and interest in and to any and all of the work products, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. City shall execute such further documents and instruments as ODOT may reasonably request in order to fully vest such rights in ODOT.

City forever waives any and all rights relating to the work products, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

ODOT hereby grants to City a royalty free, non-exclusive license to reproduce any work products for distribution upon request to members of the public.

12. City shall ensure that any work products produced pursuant to this agreement include the following statement:

This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Transportation Equity Act for the 21st Century (TEA-21), local government, and the State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon.

13. City shall submit two hard copies of all final products produced in accordance with this agreement to ODOT's Contract Administrator, unless otherwise specified in Exhibit A. City shall also submit to ODOT's Contract Administrator all final products produced in electronic form using generally available word processing or graphics programs for personal computers via e-mail or on IBM-compatible 3.5" computer diskettes. The Oregon Department of Transportation and/or the Oregon Department of Land Conservation and Development may display appropriate products on its "home page".
14. City shall submit to ODOT's Contract Administrator all payment claims within 30 days after the termination date of this agreement.
15. Within 30 days after the termination date of this agreement, City shall provide, in a format provided by ODOT, a completion report. The report must contain:
- A summary of qualified costs incurred for the project, including reimbursable costs and matching amount;
 - The intended location of records (which may be subject to audit);
 - A list of final deliverables; and,
 - Final payment requests to ODOT's Contract Administrator for reimbursement.
16. Within 30 days after the termination date of this agreement, City shall pay to ODOT the matching amount less previously reported qualifying matching amount. ODOT shall use any funds paid to it under this paragraph to substitute for an equal amount of federal TEA-21 funds used for the project or use such funds as matching funds.
17. City agrees to comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279.312, 279.314, 279.316, 279.320 and 279.555, which hereby are incorporated by reference. Without limiting the generality of the foregoing, City expressly agrees to comply with (I) Title VI of Civil Rights