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Vol M02 Page 13297

Misc. Contracts & Agreements
No. 18,311

COOPERATIVE IMPROVEMENT AGREEMENT
Patterson Street Signal

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"; and Klamath County, acting by and through its elected officials, hereinafter referred to as "County".

State of Oregon, County of Klamath
Recorded 03/06/2002 9:01 a m.
Vol M02, Pg 13297-13304
Linda Smith, County Clerk
Fee \$ 56.00 # of Pgs 8

RECITALS

1. Oregon Route 140 is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission. Patterson Street is a part of the County road system under the jurisdiction and control of County.
2. By the authority granted in ORS 190.110, 366.770 and 366.775, ODOT may enter into cooperative agreements with the counties and cities for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties
3. By the authority granted in ORS 810.210, ODOT is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where ODOT deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than ODOT, except with its written approval. Traffic signal work on this Project will conform to the current ODOT standards and specifications.
4. By the authority granted in ORS 366.425, ODOT may accept deposits of money or an irrevocable letter of credit from any county, city, road district, person, firm, or corporation for the performance of work on any public highway within State. When said money or a letter of credit is deposited, ODOT shall proceed with the Project. Money so deposited shall be disbursed for the purpose for which it was deposited.

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

TERMS OF AGREEMENT:

1. For the purpose of providing acceptable traffic patterns on public highways, ODOT and County plan and propose to widen Patterson Street (south of Oregon Route 140) to three lanes and install a traffic control device at the intersection of Oregon Route 140 and Patterson Street, hereinafter referred to as "Project". The location of the Project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.
2. The State Traffic Engineer approved installation of this traffic control device on June 8, 2001.
3. This agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance and power responsibilities for the useful life of the facilities constructed as part of the Project. The Project shall be completed within two (2) calendar years following the date of final execution of this agreement by both parties.
4. The total Project cost is estimated to be \$669,000. County is responsible for all work associated with the widening of Patterson Street, currently estimated to be \$144,000. ODOT shall be responsible for the costs of all other portions of the Project. ODOT's costs are currently estimated to be \$525,000. All money for the project is identified as coming from Federal Surface Transportation Program (STP) and National Highway System (NHS) funds with the exception of the County's contribution.

COUNTY OBLIGATIONS

1. County, or its Contractors, that employ subject workers who work under this agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. County shall ensure that each of its subcontractors complies with these requirements.
2. County acknowledges the effect and scope of ORS 105.755 and agrees that all acts necessary to complete construction of the Project which may alter or change the grade of existing county roads are being accomplished at the direct request of the County.

3. County acknowledges and agrees that 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 County which are directly pertinent to the specific agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after completion of Project. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.
4. County shall 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, County expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
5. County is to pay the cost of widening of Patterson Street which is estimated at \$144,000. County shall, as a Project expense, reimburse ODOT for the cost of construction engineering and actual construction costs.
6. County shall, upon execution of this agreement and receipt of a letter of request from ODOT, forward to ODOT a lump sum payment in the amount of \$144,000 for payment of costs associated with the construction engineering and actual construction costs for the widening of Patterson Street. If actual construction costs exceed the amount of the lump sum payment, County agrees to make additional payments as necessary. Any portion of said lump payment which is in excess of the total ODOT costs will be refunded to County.
7. County shall permit ODOT to enter onto and occupy County right of way for the performance of ODOT obligations concerning the subject Project. County shall allow ODOT to enter Patterson Street to maintain detector loops.
8. County shall maintain the asphalt concrete pavement surrounding the vehicle detector loops on Patterson Street in such a manner as to provide adequate protection for said detector loops.
9. County shall be responsible for 100 percent of power costs of the traffic control device after signal turn-on.

10. County shall enter into this agreement during a regularly scheduled meeting of the County Commission.
11. County Contact shall be Dennis Nelson, County Engineer.

ODOT OBLIGATIONS

1. ODOT shall, as a Project expense, assist in obtaining all required permits for County; arrange for all utility relocations or reconstruction; advertise for bid proposals; award all contracts; pay all contract costs; prepare all necessary documentation to ensure construction of the Project; perform all construction engineering, including all required materials testing and quality documentation to ensure adherence to the Project's plans and specifications. County shall reimburse ODOT for these Project expenses.
2. ODOT shall be responsible for additional right of way acquisition associated with the signal portion of this agreement.
3. ODOT shall, at its sole expense, perform the necessary preliminary engineering to produce final plans, specifications and cost estimates.
4. ODOT shall, upon execution of this agreement and prior to advertisement of the Project for contracting, forward a letter to the County requesting a lump sum payment of \$144,000 toward construction of the Project. If actual construction costs exceed the amount of the lump sum payment, County agrees to make additional payments as necessary.
5. ODOT shall, at County expense, widen Patterson Street south of Oregon Route 140 to three lanes.
6. ODOT shall perform plan testing, timing, and turn-on of the signal.
7. ODOT shall, at its sole expense, perform all maintenance to the traffic control device after installation.
8. ODOT's Project Leader for this Project is Shannon Struble.

GENERAL PROVISIONS

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1. ODOT and County agree that a mutual review and approval of the construction plans will be conducted prior to advertisement for construction bid proposals.
2. This agreement may be terminated by mutual written consent of both parties.

ODOT may terminate this agreement effective upon delivery of written notice to County, or at such later date as may be established by ODOT, under any of the following conditions:

- A. If County fails to provide services called for by this agreement within the time specified herein or any extension thereof.
- B. If County fails to perform any of the other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within 10 days or such longer period as ODOT may authorize.
- C. If County fails to provide payment of County's cost of the Project upon receipt of a letter of request from ODOT.
- D. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the agreement.
- E. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this agreement is prohibited or if ODOT is prohibited from paying for such work from the planned funding source.

Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

3. If County fails to maintain facilities in accordance with the terms of this agreement, ODOT, at its option, may maintain the facility and bill County, seek an injunction to enforce the duties and obligations of this agreement or take any other action allowed by law.

4. This agreement ~~and attached exhibit~~ constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this agreement shall not constitute a waiver by ODOT of that or any other provision.

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IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

The Oregon Transportation Commission on October 13, 1999, approved this project as a part of the 2000-2003 Statewide Transportation Improvement Program, page 131, Key No. 11069.

The Oregon Transportation Commission on March 18, 1999, approved Subdelegation Order No. 2 in which the Director grants authority to the Executive Deputy Director to approve and execute agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

KLAMATH COUNTY, by and through its elected officials

By [Signature]
Commissioner

By [Signature]
Commissioner

By [Signature]
Commissioner

Date 12-18-01

REVIEWED FOR COUNTY

By [Signature]
Legal Counsel

Date 17 Dec 01

APPROVED AS TO LEGAL SUFFICIENCY

By [Signature]
Assistant Attorney General

Date 2/22/02

STATE OF OREGON, by and through its Department of Transportation

By [Signature]
Executive Deputy Director

Date 2-26-02

APPROVAL RECOMMENDED

By [Signature]
State Traffic Engineer

Date 2/19/02

By [Signature]
Region 4 Manager

Date 02-12-02

By [Signature]
District Manager

Date 1-11-02

By [Signature]
Area Manager

Date 1/14/02

