

## RESOLUTION NO. 882

### A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT FOR PRELIMINARY AND FINAL DESIGN ENGINEERING, BIDDING AND CONSTRUCTION MANAGEMENT SERVICES BETWEEN THE OREGON DEPARTMENT OF TRANSPORTATION AND THE CITY OF PRINEVILLE FOR THE 4<sup>TH</sup> STREET EXTENSION PROJECT.

WHEREAS, the City of Prineville was notified on September 25, 2000 that the Oregon Transportation Commission had approved the City of Prineville's Local Street Networks Fund award in the amount of \$474,785.

WHEREAS, the City of Prineville lacks the technical resources to perform the preliminary and final designs, bid and award the contract, and administer construction of the 4<sup>th</sup> Street Extension Project.

WHEREAS, the adopted City of Prineville Transportation System Plan includes the 4<sup>th</sup> Street Extension.

WHEREAS under ORS190.110 the City and ODOT may enter into cooperative agreements for the purpose of accomplishing certain types of improvement projects.

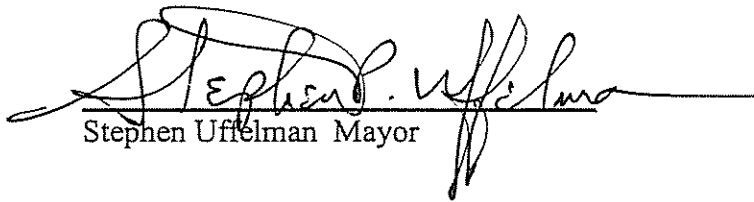
WHEREAS, the City desires to enter into an agreement with the Oregon Department of Transportation to provide design, bidding and construction management services.

#### THE CITY OF PRINEVILLE DOES RESOLVE AS FOLLOWS:

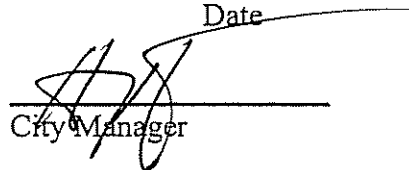
1. The City finds that it is necessary and desirable to execute an agreement with the Oregon Department of Transportation to provide preliminary and final design, bidding and award, administration and construction services for completion of the 4<sup>th</sup> Street Extension Project.
2. ODOT will draw funds from the Local Street Network award for the actual costs incurred therein, and account for same to the City.
3. The Mayor and the City Manager are authorized to execute a Cooperative Improvement Agreement with the Oregon Department of Transportation, substantially in conformance to the attached, for preliminary and final design, bidding and contract award, administration and construction management services, substantially in conformance to the attached.

APPROVED BY THE CITY COUNCIL ON THE 27<sup>th</sup> Day of February, 2001.

APPROVED BY THE MAYOR ON THE 27<sup>th</sup> DAY OF February, 2001.

  
\_\_\_\_\_  
Stephen Uffelman Mayor

ATTEST 2-27-01  
Date

  
\_\_\_\_\_  
City Manager

February 14, 2001

Misc. Contracts & Agreements  
No. 18,709

## **COOPERATIVE IMPROVEMENT AGREEMENT**

Local Street Networks Fund  
Prineville NE 4<sup>th</sup> Street Extension

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 City of Prineville, acting by and through its elected officials, hereinafter referred to as "City".

### **RECITALS**

1. The Local Street Networks Program, hereinafter referred to as the "LSN Program," provides state financial assistance to local jurisdictions to develop, enhance, and maintain improvements on the local transportation system when other sources of local financial support for street and road projects are unavailable or insufficient and the project will benefit ODOT facilities.
2. The 1999 Oregon State Legislature allocated \$30,000,000 for the LSN Program. Funding for the Program comes from state bonds financed by Highway Fund revenues which will be expended during the 1999-2001 biennium.
3. The policy guidelines for this funding program were approved by the Oregon Transportation Commission on March 8, 2000.
4. By the authority granted in ORS 190.110, 366.770 and 366.775, ODOT may enter into cooperative agreements with the counties and cities or units of local government 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

**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 City plan and propose to make roadway improvements that meet the Local Street Network Program fund criteria. The improvements shall consist of the extension of NE 4<sup>th</sup> Street from Court to Elm Street, including parking, pedestrian, ADA provisions, landscaping, etc., as an alternate travel route to State Highway 26 (NE 3<sup>rd</sup> Street) and related improvements to intersecting Court and Dunham Streets, hereinafter referred to as "Project." A sketch map showing the location and approximate limits of the project is shown on Exhibit "A", attached hereto and by this reference made a part hereof.
2. LSN funds shall be limited to \$474,785. City shall be responsible for all costs in excess of the LSN Program funded amount.
3. The work shall begin on the date all required signatures are obtained and shall be completed no later than November 30, 2002. The final billing must be submitted within 60 days after the completion date, at which time this agreement automatically terminates. City shall be responsible for reimbursement of all LSN funds if the project is not completed by November 30, 2002.

**CITY OBLIGATIONS**

1. City shall request ODOT to provide the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates; obtain all required permits; arrange for all utility relocations or reconstruction; perform all construction engineering, including all required materials testing and quality documentation; prepare all bid documents; provide project management services, and other necessary functions for sole administration of the contract.
2. City has requested ODOT to advertise and award all contracts.



not to exceed \$474,785. Said maximum amount shall include reimbursement for all expenses. Travel expenses shall not be reimbursed. All project expenditures in excess of \$474,785 shall be the responsibility of City.

4. ODOT certifies, at the time this agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this agreement within ODOT's current appropriation or limitation of current biennial budget. Funds available for reimbursement on or after July 1, 2001, are contingent upon the legislatively-approved budget of ODOT.
5. ODOT may enter into a subsequent "Intergovernmental Agreement for Right of Way Services" with City authorizing ODOT to acquire the right-of-way within the portion of the project which is necessary for the extension of NE 4<sup>th</sup> Street from Court to Elm Street and related improvements to intersecting Court and Dunham Streets on behalf of City. The supplemental Agreement will detail the terms of this agreement between City and ODOT. ODOT will be responsible for the certification of the right of way.
6. ODOT shall perform the environmental analysis and documentation associated with the Project.
7. ODOT shall, as a project expense, assign a liaison person to monitor work performed and submit all project plans, specifications and cost estimates upon receipt to Terry Wheeler, Local Program Manager, 355 Capitol Street NE, Room 222, Salem, OR 97301-3871, telephone number (503)986-3789. ODOT's project liaison for this agreement is Rick Williams. ODOT's Local Program Manager shall obtain Technical Services approval of the submittal 30 days before advertisement for construction bids. ODOT's project liaison will review and process for payment 100% of all eligible, actual project costs within 30 days of receipt of invoices.

## GENERAL PROVISIONS

1. ODOT and City agree that a mutual review 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 upon delivery of written notice to either party, under any of the following conditions:
  - A. If either party fails to provide services called for by this agreement within the time specified herein or any extension thereof.
  - B. If either party fails to perform any of the other provisions of this agreement, or so fails to pursue the work as to endanger performance

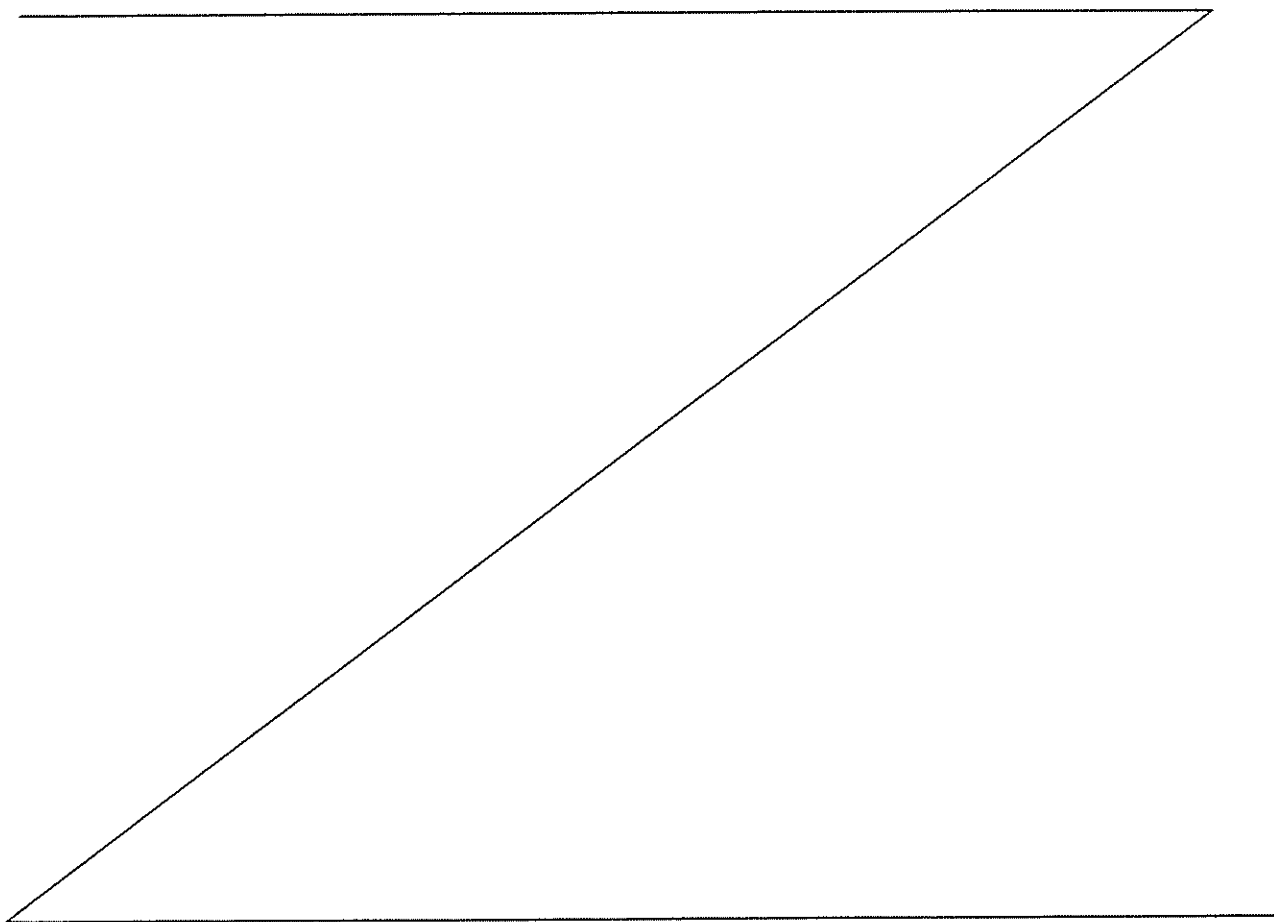
of this agreement in accordance with its terms, and after receipt of written notice fails to correct such failures within 10 days or such longer period as is authorized.

- C. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the agreement.
- D. 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. City and ODOT agree to adhere to LSN Program guidelines dated March 8, 2000, and approved by the OTC on the same date. Said guidelines are included with this document as Exhibit "B", by this reference made a part hereof.
- 4. City and ODOT agree 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 and ODOT expressly agree 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. City and ODOT, their subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

6. City and ODOT shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless each entity, its officers and employees, from all claims, suits or actions of any nature arising out of activities of Agency, its consultant, its contractor, its officers, subcontractors, agents, or employees under this agreement.
  
7. This agreement and attached exhibits 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.







## EXHIBIT "B"

### OREGON DEPARTMENT OF TRANSPORTATION LOCAL STREET NETWORKS FUND APPROVED POLICY GUIDELINES

#### 1. PURPOSE OF THE LOCAL STREET NETWORKS FUND

The Local Street Networks Fund provides state financial help to local jurisdictions to develop, enhance and maintain improvements on the local transportation system when they also are a cost-effective way to improve the operation of the state highway system. The 1999 Oregon Legislature created state funding for the Local Street Networks Fund with state bonds financed by Highway Fund revenues. The Local Street Networks Fund is expected to be expended during the 1999-2001 biennium.

Local Street Networks are part of the "Oregon Livability Initiative." The Initiative provides local communities and state agencies with more and better tools to meet the livability challenges of the 21<sup>st</sup> century. Funding that is available through the Livability Initiative is designed to help local communities meet four main goals:

- Create more jobs in distressed communities that want economic growth;
- Increase the supply of affordable housing;
- Reduce traffic congestion and urban sprawl;
- Revitalize urban centers, downtowns, and main streets.

Access to this fund by local governments is at the discretion of the Oregon Transportation Commission. The fund may be used only when other sources of local financial support for street and road projects are unavailable or insufficient. The Local Street Networks Fund is not a replacement or substitute for other funding sources.

Local Street Networks Fund projects must be designed to meet the following objectives:

- A. The project relieves pressure on the state highway system by directing local traffic to local roads and improving the flow of through traffic on the state highway; and
- B. The project is necessary to center or other compact urban                      accommodate a downtown, community development pattern that implements

Policy 1B, Land Use and Transportation Policy in the 1999 Oregon Highway Plan; and, as appropriate, consideration for:

- C. The project supports state highway access management through a local street system improvement; or
- D. The project is necessary to improve the effectiveness of a Freight Route designated in the 1999 Highway Plan or a route proposed for designation as an Expressway by the Oregon Transportation Commission.

## 2. FUNDING LEVELS

The 1999 Legislature has allocated \$30 million for the Local Street Networks Fund. Ninety-five percent of the total funding (\$28.5 million) will be allocated by Region based on the Modernization Equity Splits. The remaining five percent (\$1.5 million) will be held as a reserve for unanticipated project cost overruns, program administration, and other costs. The funding splits by Region are as follows:

	<u>Funding Split</u>	<u>Amount</u>
Region 1	35.2%	\$10,032,000
Region 2	34.4%	9,804,000
Region 3	13.8%	3,933,000
Region 4	9.7%	2,764,500
Region 5	6.9%	<u>1,966,500</u>
Total	100.0%	\$28,500,000

## 3. PROGRAM CRITERIA

A key factor in determining eligibility for the Local Street Networks Fund is whether a state transportation facility problem exists or can be prevented.

Local Street Networks Fund projects must meet all of the following criteria:

- A. The project must advance the following objectives of the 1999 Oregon Highway Plan:
  - 1) The project enhances the safety of existing state highway facilities;
  - 2) The project improves the efficiency and capacity of existing state highway facilities;
  - 3) The project supports development or revitalization of a downtown, community center or other area planned for compact development;
  - 4) Where appropriate, an urban-area project supports walking, bicycling and public transit.
- B. The project must meet the following criteria consistent with Policy Action 1G.2

of the 1999 Oregon Highway Plan:

- 1) The scope of the project is reasonably identified, considering the long-range projection of need.
  - 2) The project was identified through a planning process that included:
    - Thorough public involvement;
    - Evaluation of reasonable transportation and land use alternatives;
    - Sufficient environmental analysis at the fatal flaw planning level.
  - 3) The project would be a cost-effective means to achieve the objectives of the 1999 Oregon Highway Plan, including the criteria listed in Policy 2B: "Off-System Improvements."
  - 4) The project must be consistent with any applicable corridor plan, the local jurisdiction's comprehensive plan, and local and regional transportation system plans.
  - 5) All funding for the project will be available at the time the project is ready for development and construction.
- C. The local jurisdiction agrees to provide advance notice to ODOT of any land use decisions that may affect the local-system improvement in such a way as to adversely affect the state highway system.
- D. The local jurisdiction agrees to provide at least a minimum maintenance level for the local-system improvement that will assure the continued benefit to the state highway system from the local-system improvement.
- E. The project must be on the public right of way. The right of way must be acquired before project construction and must serve general transportation needs.
- F. The project must meet access management objectives and standards, and, where possible, reduce access to the state highway by using shared access, an alternate access to the project, or median treatments.
- G. The project and any associated development must meet all necessary land use and environmental requirements, and have or can obtain all necessary permits.
- H. The local jurisdiction must demonstrate that the project can be delivered within the proposed contract period.

#### **4. FUND REQUEST PROCESS**

The Oregon Transportation Commission will approve all projects to be funded with Local Street Networks funds. The application and approval steps are as follows:

- Oregon Transportation Infrastructure Fund (OTIF) Manager will announce application deadlines and provide potential project sponsors with copies of application materials.

- Project sponsor submits request to the OTIF Manager. The request will be submitted on a form to be supplied by ODOT and include other materials deemed necessary to evaluate the request.
- OTIF Manager receives requests, maintains record of all submissions, reviews request for compliance with submission requirements, and monitors requests for funding availability.
- OTIF Manager forwards copy of request to the ODOT Region Planning Manager, ODOT Area Manager and ODOT representative on the regional Community Solutions Team (CST).
- ODOT Region Planning Manager reviews the project request for transportation merit. The ODOT Region Planning Manager should use the designated Area Commission on Transportation (ACT), or an existing or newly established advisory committee to assist him/her in evaluating the project request.
- Regional CST members review proposal based on consistency with the goals of the Oregon Livability Initiative and Quality Development Objectives, and provide any comments to the ACT.
- OTIF Manager reviews project request based on project funding criteria.
- Based on ODOT, ACT and/or advisory committee (including regional CST comments), and OTIF review, ODOT Region Planning Manager recommends action to ODOT Region Manager for approval.
- OTIF Manager assembles ratings for all project requests approved by ODOT Region Manager, and makes a formal recommendation to ODOT Director for final project ranking and for Transportation Commission approval.
- Upon approval, OTIF Manager notifies applicant. ODOT Region and OTIF staff develop a project agreement between the applicant and ODOT. Applicants will also be notified of requests not approved.

## 5. PROJECT SELECTION

In selecting projects, consideration will be given to the following:

- A. The extent to which the project meets the goals of the Oregon Livability Initiative and Quality Development Objectives.
- B. The extent to which the project implements Policy 1B of the Highway Plan to encourage development or revitalization in downtowns, community

