

INTERGOVERNMENTAL AGREEMENT
Between
MARION COUNTY and CITY OF SALEM

1. PARTIES TO AGREEMENT

This Agreement between City of Salem, hereafter called "Agency", and *Marion County, a political subdivision of the state of Oregon*, hereafter called "County", both herein referred to individually or collectively as "Party" or "Parties", is made pursuant to ORS 190.010 (Cooperative Agreements).

2. PURPOSE/STATEMENT OF WORK

The purpose of this Agreement is to establish the terms and conditions under which the County will provide design and construction services to Agency for a segment of Hayesville Drive NE within Agency's jurisdiction. The work is being conducted in conjunction with the HAYSEVILLE DR: NE PORTLAND RD – FUHRER ST (SALEM) Project, a federal-aid street widening and improvement Project created in the 2018-2021 Statewide Transportation Improvement Program (STIP) and awarded to County for delivery. The location of the subject work is approximately as shown on the sketch map attached hereto, marked "Attachment A," and by this reference made a part hereof.

Said Agency segment is approximately 465 feet in length and extends from approximately 305 feet westerly to approximately 160 feet easterly of the intersection of Hayesville Drive NE and Happy Drive NE.

County shall perform certain federally non-participating roadway improvements, within the above described Agency segment, as further described in Subsection 5.2(b).

3. TERM AND TERMINATION

3.1 This Agreement shall be effective on the date all required signatures are obtained and shall terminate on completion of the Project and final payment or five (5) calendar years following the effective date, whichever is sooner, unless earlier terminated or extended as provided herein.

3.2 This Agreement may be extended for an additional period of one year by agreement of the parties. Any modifications in the terms of such amendment shall be in writing.

3.3 This agreement may be terminated by mutual consent of both parties at any time or by either party upon 30 days' notice in writing, and delivered by mail or in person. Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

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

- a. If funding from federal, state, or other sources is not obtained or continued at levels sufficient to allow for the purchase of the indicated quantity of services. This agreement may be modified to accommodate a reduction in funds.
- b. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible for the funding proposed for payments authorized by this agreement.

- c. If any license, certificate, or insurance required by law or regulation to be held by Agency to provide the services required by this agreement is for any reason denied, revoked or not renewed.
- d. If Agency fails to provide services called for by this agreement within the time specified herein or any extension thereof.
- e. If Agency fails to perform any of the provisions of this agreement or so fails to pursue the work as to endanger the performance of this agreement in accordance with its terms and after written notice from County, fails to correct such failure(s) within ten (10) days or such longer period as the County may authorize.

3.5 Any such termination of this agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

4. FUNDING AND BILLING

4.1 The Project will be conducted as a part of the Multimodal Transportation Enhance and Federal-Aid Surface Transportation Programs under Title 23, United States Code. The total estimated Project cost is \$7,071,170, which is subject to change. Disbursement of federal funds to County will be as set forth in Supplemental Project Agreement No. 31095 between County and State.

- a. Federal funds for the Project are limited to \$6,135,568.71. The funds are available for the Preliminary Engineering, Right of Way and Construction Phases, excluding the federally non-participating work within the road segment identified in Section 2 and as further described in Section 5.2(b).
- b. Agency's estimated total cost for the federally non-participating work equals \$67,904, as shown in Attachment B – Preliminary Construction Cost Estimate.

4.2 The total estimated Agency cost is subject to change. Agency's cost share shall consist of cash paid to County. Agency understands that the above costs are estimates only and agrees to reimburse County for actual costs incurred per the Terms of this Agreement.

4.3 County shall submit to Agency a final invoice for Agency's share of costs incurred upon Project completion.

5. OBLIGATIONS UNDER THE TERMS OF THIS AGREEMENT

Under said provisions, County and Agency agree to cooperatively complete preliminary engineering, construction and construction engineering for the roadway segment under the jurisdiction of Agency, as further defined under Subsections 5.1 and 5.2 below.

County and Agency agree that the useful life of the Project is twenty (20) years.

5.1 UNDER THE TERMS OF THIS AGREEMENT, AGENCY SHALL:

- a. Allow County to complete preliminary engineering, contract advertisement, bid and award, and construction contract administration for the segment of the Project located within Agency's jurisdiction.
- b. Guarantee the availability of Agency funding and pay to the County the total cost for its share of the work as described in Subsection 5.2(b).

- c. Grant County and County's construction contractor(s) authority to construct the portion of the Project located within Agency jurisdiction, as identified in Section 2 above, without any further agreements or fees. County shall obtain a permit from Agency authorizing County to work in City right-of-way prior to the start of field construction.
- d. During the construction phase, Agency may observe the work occurring within Agency jurisdiction, at no cost to the County, and provide comments to the County's Inspector and/or Project Manager. In no case shall the Agency communicate directly with the County's prime contractor or any of its subcontractors.
- e. Retrofit, construct, or otherwise ensure that all existing or new curb ramps within the Agency's segment of the Project are compliant with current ADA standards. Agency agrees this work shall be completed, at no cost to the Project, prior to the County issuing notice to proceed to its construction contractor for the Project.
- f. Ensure that any portions of the Project under Agency's maintenance jurisdiction, as identified in Section 2 above, are maintained in compliance with ADA throughout the useful life of the Project. This includes, but is not limited to, Agency ensuring that:
 - 1. Pedestrian access is maintained as required by the ADA,
 - 2. Any complaints received by the City identifying sidewalk, curb ramp, or pedestrian-activated signal safety, or access isles are promptly evaluated and addressed,
 - 3. City, or abutting property owner, pursuant to local code provisions, performs any repairs or removal of obstructions needed to maintain the facility in compliance with ADA requirements that were in effect at the time the facility was constructed or altered,
 - 4. Any future alteration work on the Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 - 5. Applicable permitting and regulatory actions are consistent with ADA requirements.

Survival: Maintenance obligations in this section shall survive through the useful life of the Project.

5.2 UNDER THE TERMS OF THIS AGREEMENT, COUNTY SHALL:

- a. Complete preliminary engineering; right of way acquisition; contract advertisement, bid and award; and construction contract administration for Project. This includes the following:
 - 1. Survey;
 - 2. Obtaining environmental clearances;
 - 3. Preliminary and final plans for all paving, drainage, curb, sidewalk work, and temporary traffic control plans within the Project limits. Design shall conform to American Association of State Highway and Transportation Officials (AASHTO) standards;
 - 4. Estimates;
 - 5. Specifications;
 - 6. Preliminary engineering, right of way acquisition, advertisement, bid, award and construction contract administration in conformance with federal aid requirements and the County's Master Certification Agreement with State.
- b. On behalf of Agency, construct the following federally non-participating work and provide associated construction management and inspection services. Said work shall occur in the Agency segment of Hayseville Drive NE as described in Section 2.

1. Grind and remove existing asphalt pavement to a depth of three (3) inches.
 2. Stabilize subgrade as needed.
 3. Place new asphaltic concrete pavement to a depth of three (3) inches.
 4. Adjust valve box(s) and manhole lids.
 5. Place new lane striping.
- c. County agrees to pay the match or provide donated in-kind services, pay any non-participating costs and pay any amount in excess of the available federal funds for all Project costs except for the work described in Section 5.2(b) above.
- d. Submit to Agency a final invoice for Agency's share of costs incurred upon Project completion.
- e. Ensure that any portions of the Project under County's maintenance jurisdiction, as identified in Recital 1 above, are maintained in compliance with ADA throughout the useful life of the Project. This includes, but is not limited to, County ensuring that:
1. Pedestrian access is maintained as required by ADA requirements,
 2. Any complaints received by the County identifying sidewalk, curb ramp, or pedestrian-activated signal safety, or access isles are promptly evaluated and addressed,
 3. County, or abutting property owner, pursuant to local code provisions, performs any repairs or removal of obstructions needed to maintain the facility in compliance with ADA requirements that were in effect at the time the facility was constructed or altered,
 4. Any future alteration work on the Project or Project features during the useful life of the Project complies with the ADA requirements in effect at the time the future alteration work is performed, and
 5. Applicable permitting and regulatory actions are consistent with ADA requirements.

Survival: Maintenance obligations in this section shall survive through the useful life of the Project.

6. COMPLIANCE WITH APPLICABLE LAWS

The parties agree that both shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this agreement. The parties agree that this agreement shall be administered and construed under the laws of the state of Oregon.

7. NONDISCRIMINATION

The parties agree to comply with all applicable requirements of Federal and State civil rights and rehabilitation statutes, rules and regulations in the performance of this agreement.

8. HOLD HARMLESS

Each Party agrees to defend, indemnify, and hold harmless the other Party, its officers, agents, and employees from damages arising out of the tortious acts of the indemnifying party, its officers, agents, and employees acting within the scope of their employment and duties in performance of this agreement subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and the Oregon Constitution, Article XI, Section 7.

Nothing in this agreement shall be deemed to limit the right of either party to make a claim against the other for damages and injuries incurred by one party as a result of the actions of the other party's officers, agents, and employees

9. INSURANCE

Each party shall insure or self-insure and be independently responsible for the risk of its own liability for claims within the scope of the Oregon tort claims act (ORS 30.260 TO 30.300).

10. MERGER CLAUSE

Parties concur and agree that this agreement and attachments constitutes the entire agreement between the parties. No waiver, consent, modification or change to the terms of this agreement shall bind either party unless in writing and signed by both parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. The failure of County to enforce any provision of this Agreement will not constitute a waiver by County of that or any other provision. Parties, by the signatures below of their authorized representatives, hereby agree to be bound by its term and conditions.

11. NOTICES

Any notice required to be given the Agency or County under this Agreement shall be sufficient if given, in writing, by first class mail or in person as follows:

For Agency:

Aaron Edelman, Project Manager
City of Salem Public Works
555 Liberty St. SE
Salem, OR 97301
Phone: 503-588-6211
Email: aedelman@cityofsalem.net

For County:

Shane Ottosen, Jr., P.E., Project Engineer
Marion County Public Works
5155 Silverton Rd. NE, Building 1
Salem, OR 97305
Phone: 503-365-3104
Email: sottosen@co.marion.or.us

SIGNATURES

This agreement and any changes, alterations, modifications, or amendments will be effective when approved in writing by the authorized representative of the parties hereto as of the effective date set forth herein.

In witness whereof, the parties hereto have caused this agreement to be executed on the date set forth below.

MARION COUNTY SIGNATURES:

Authorized Signature: Brian Thibb 10/10/2021
Department Director or designee Date

Authorized Signature: Jane Frey 11/19/21
Chief Administrative Officer Date

Reviewed by Signature: Jane E. Vetto 11/18/21
Marion County Legal Counsel Date

Reviewed by Signature: Pat Wherry 11-17-21
Marion County Contracts & Procurement Date

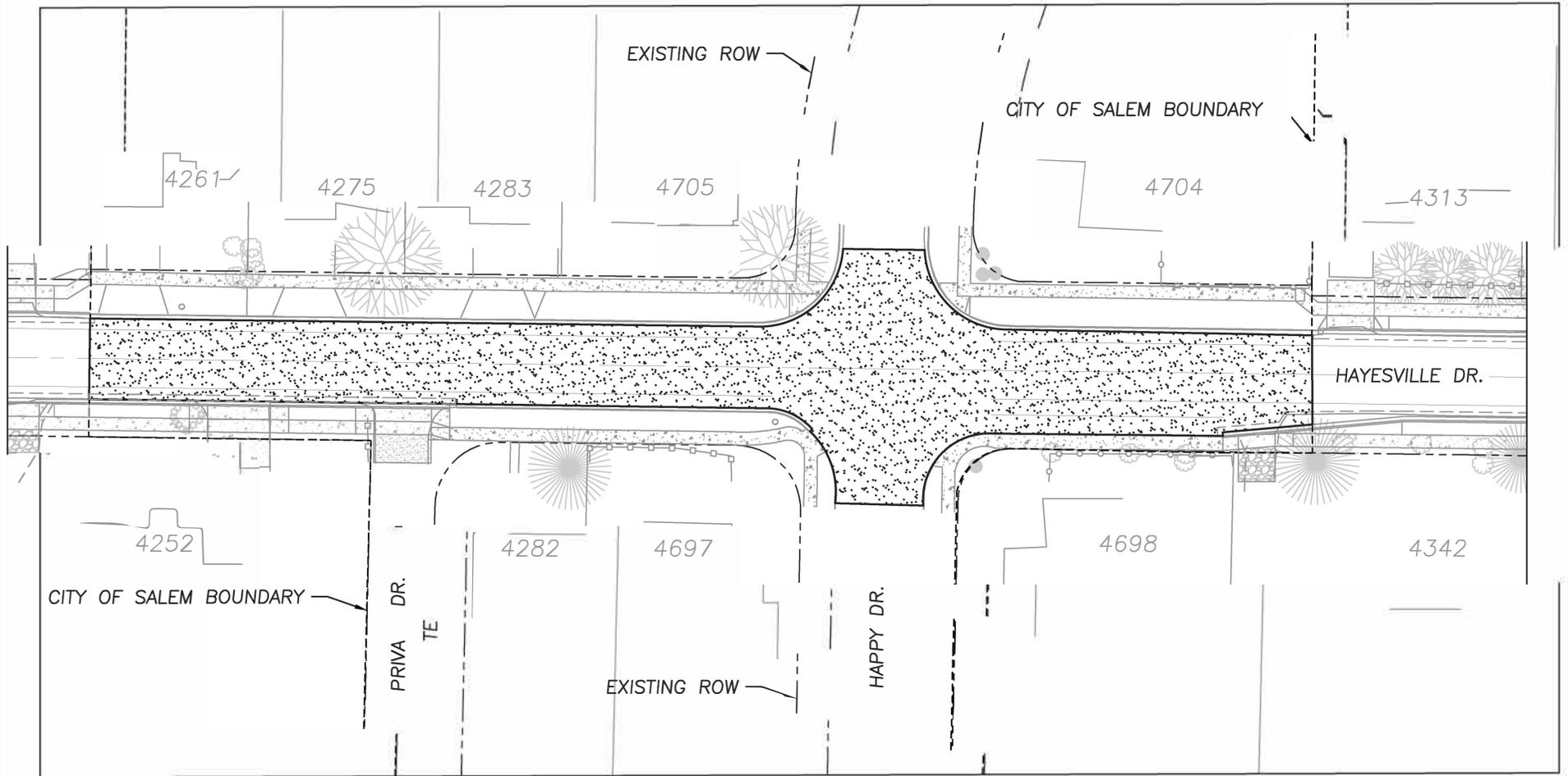
CITY OF SALEM:

Authorized Signature: _____
City Manager Date

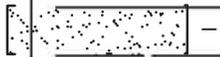
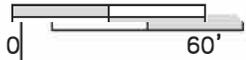
Approved as to Form:

Approved by Signature: _____
Assistant City Attorney Date

EXHIBIT A



① EXHIBIT A - CITY OF SALEM PAVEMENT REHABILITATION LIMITS
SCALE: 1" = 60'



CITY OF SALEM PAVEMENT REHABILITATION AREA IS APPROXIMATELY 18,550 SQUARE FEET.

| | | |
|---|----------------|-----------|
| MARION COUNTY DEPARTMENT OF PUBLIC WORKS | | |
| HAYESVILLE DR: NE PORTLAND RD - FUHRER ST (SALEM) | | |
| TITLE: | PROJECT NUMBER | SHEET NO. |
| EXHIBIT A | 104363 | 1 |

EXHIBIT B

PRELIMINARY CONSTRUCTION COST ESTIMATE MARION COUNTY PUBLIC WORKS

| Project Title: | | Hayesville Dr: NE Portland Rd - Furher St (Salem) | | | COUNTY | TOWN | |
|---|---------------------------|---|------|--------|--------------------|-----------------|--|
| | | | | | MARION | SALEM | |
| KEY NUMBER: | 19237 | KIND OF WORK | | LENGTH | | ESTIMATOR | |
| | | Bicycle / Pedestrian Improvements | | 468 | 8/3/20 | MH | |
| ODOT Spec. Number | Marion County ECMS Number | ITEM | UNIT | AMOUNT | UNIT COST | TOTAL | |
| DRAINAGE AND SEWERS | | | | | | | |
| | 490.100 | MINOR ADJUSTMENT OF MANHOLES, POST PAVING | EA | 7 | \$1,000.00 | \$7,000 | |
| | 490.300 | ADJUST BOXES | EA | 2 | \$200.00 | \$400 | |
| ROADWORK | | | | | | | |
| | 331.200 | 12" SUBGRADE STABILIZATION | SY | 280 | \$25.00 | \$7,000 | |
| BASES | | | | | | | |
| | 620.214 | COLD PLANE PAVEMENT REMOVAL, 0-4" DEEP | SY | 2,061 | \$5.00 | \$10,305 | |
| | 640.100 | AGGREGATE BASE | TN | 30 | \$30.00 | \$900 | |
| WEARING SURFACES | | | | | | | |
| | 730.100 | EMULSIFIED ASPHALT FOR TACK COAT | TN | 4 | \$5.00 | \$20 | |
| | 745.451 | LEVEL 3, 1/2" DENSE, PG 64-22, ACP | TN | 350 | \$80.00 | \$28,000 | |
| | 749.095 | EXTRA FOR ASPHALT APPROACHES | EA | 2 | \$1,000.00 | \$2,000 | |
| PERMANENT TRAFFIC CONTROL AND ILLUMINATION SYSTEMS | | | | | | | |
| | 850.204 | PAVEMENT LEGEND, TYPE B-HS: BICYCLE LANE SYMBOLS | EA | 2 | \$275.00 | \$550 | |
| | 861.100 | PAINTED PERMANENT PAVEMENT STRIPING | FT | 1,030 | \$0.40 | \$412 | |
| | | | | | Subtotal | \$56,587 | |
| | | | | | Contingency | 20% | |
| | | | | | Total | \$67,904 | |