

INTERGOVERNMENTAL AGREEMENT
Between
MARION COUNTY and CITY OF SALEM

1. PARTIES TO AGREEMENT

This Agreement between City of Salem, hereinafter called “Agency”, and *Marion County, a political subdivision of the state of Oregon*, hereinafter 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 segments of Center Street NE within Agency’s jurisdiction. The work is being conducted as part of the CENTER ST: LANCASTER DR. TO 45TH PL. NE 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 Project is approximately as shown on the sketch map attached hereto, marked "Attachment A," and by this reference made a part hereof.

The following areas, within the Agency’s city limits, will be impacted by the Project and are the subject of this Agreement:

- a. A segment of Center Street NE that is approximately 210 feet in length located at the intersection of Center Street NE and Citation Drive NE.
- b. Two parcels of land, situated along the existing north right-of-way line of Center Street NE as follows:
 - Parcel 1 – The Center Pointe Apartments property, being approximately 130-feet in width and extending easterly from the intersection of Brenner Street NE with Center Street NE.
 - Parcel 2 – The Center Street Mobile Park property, being approximately 215-feet in width and located opposite the intersection of Clarmar Drive NE with Center Street NE.

Due to the required roadway widening, the right-of-way acquired and improvements constructed within the above areas will be under the maintenance and jurisdiction of Agency.

These services are further described in Section 5.

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 June 12, 2029, 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 Federal-Aid Surface Transportation Program under Title 23, United States Code. The total estimated Project cost is \$2,187,676, which is subject to change. Disbursement of federal funds to County will be as set forth in Supplemental Project Agreement No. 33277 between County and State.

- a. Federal funds for the Project are limited to \$1,663,001. The funds are available for the Preliminary Engineering, Right of Way and Construction Phases, including the segments identified in Section 2.
- b. Agency shall provide matching funds equal to 10.27% of total Project costs plus all non-participating costs and all costs in excess of the available federal funds for right-of-way acquisition and construction of the road segments identified in Section 2 as being under Agency jurisdiction. Based upon Attachment B – Preliminary Cost Estimate, Agency's estimated match equals \$33,019, calculated as follows:

Total Estimated Right-of-Way Cost	\$100,000
Plus Total Estimated Construction Cost	<u>\$221,513</u>
Total Estimated Project Cost	\$321,513
Less Federal Funds @ 89.73%	<u>\$288,494</u>
Estimated City Match @ 10.27%	\$ 33,019

The total estimated Agency cost and estimated Agency match are subject to change. Agency's match 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.

4.2 Actual Project costs allocated to each party shall be determined as follows:

- a. Preliminary Engineering – County shall be responsible for all design related costs (labor and expenses). No costs shall be allocated to Agency for design of the Project.
- b. Right of Way Acquisition – total cost for right of way acquisition associated with the work in each party's jurisdiction.
- c. Construction – total cost of bid items, contract change orders and other construction contract related costs for work in each party's jurisdiction. No costs shall be allocated to Agency for construction contract administration, construction engineering and inspection. County shall create and maintain a separate cost accounting system for work in each party's jurisdiction to which the Agency shall have access for purposes of review and verification.

4.3 County shall submit to Agency quarterly invoices for Agency's share of costs incurred during the right-of-way phase of the Project and monthly invoices for costs incurred during the construction phase of Project. The invoices will be itemized to clearly show Agency's share of Project costs.

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 segments 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. Agree to allow County to complete preliminary engineering, right of way acquisition, contract advertisement, bid and award, and construction contract administration for the segments of the Project located within Agency jurisdiction.
- b. Guarantee the availability of Agency funding in an amount required to fully fund Agency's share of the Project.
- c. Pay to County the matching funds, pay any non-participating costs and pay any amount in excess of the available federal funds for its share of the cost associated with the road segments identified in Section 2 as being under Agency jurisdiction.
- d. Perform reviews of County prepared construction documents, focused solely on improvements for the City owned segments of Center Street NE, at the 30%, 60% and 90% design stages and shall provide written comments in a timely manner. Said construction document reviews shall be conducted at no cost to the County.
- e. 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.

- f. Grant County and County's construction contractor(s) authority to construct the portions of the Project located within Agency jurisdiction, as identified in Section 2, without any further agreements or fees. County shall obtain a permit from Agency authorizing County to work in Agency right-of-way prior to the start of field construction.
- g. Ensure that any portions of the Project under Agency's maintenance jurisdiction, as identified in Section 2, 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 Agency identifying sidewalk, curb ramp, or pedestrian-activated signal safety, or access isles are promptly evaluated and addressed,
 - 3. Agency, 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. Agree to complete preliminary engineering, right of way acquisition, contract advertisement, bid and award, and construction contract administration for the 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. Monthly progress reports;
 - 7. 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. Agree 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 its share of the cost associated with the Project, except for those segments identified in Section 2.
- c. Submit to Agency in writing any requests to change scope of Project or project costs for work within the road segments identified in Section 2 as being under Agency jurisdiction. Agency's approval of any such requests shall not be unreasonably withheld.

- d. Ensure that any portions of the Project under County's maintenance jurisdiction 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 the ADA,
 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 attachment 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 Muhl 10/10/2021
Department Director or designee Date

Authorized Signature: _____
Chief Administrative Officer Date

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

Reviewed by Signature: Bob White 11.17.21
Marion County Contracts & Procurement Date

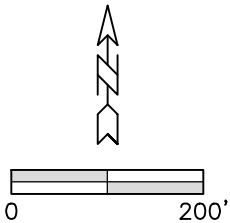
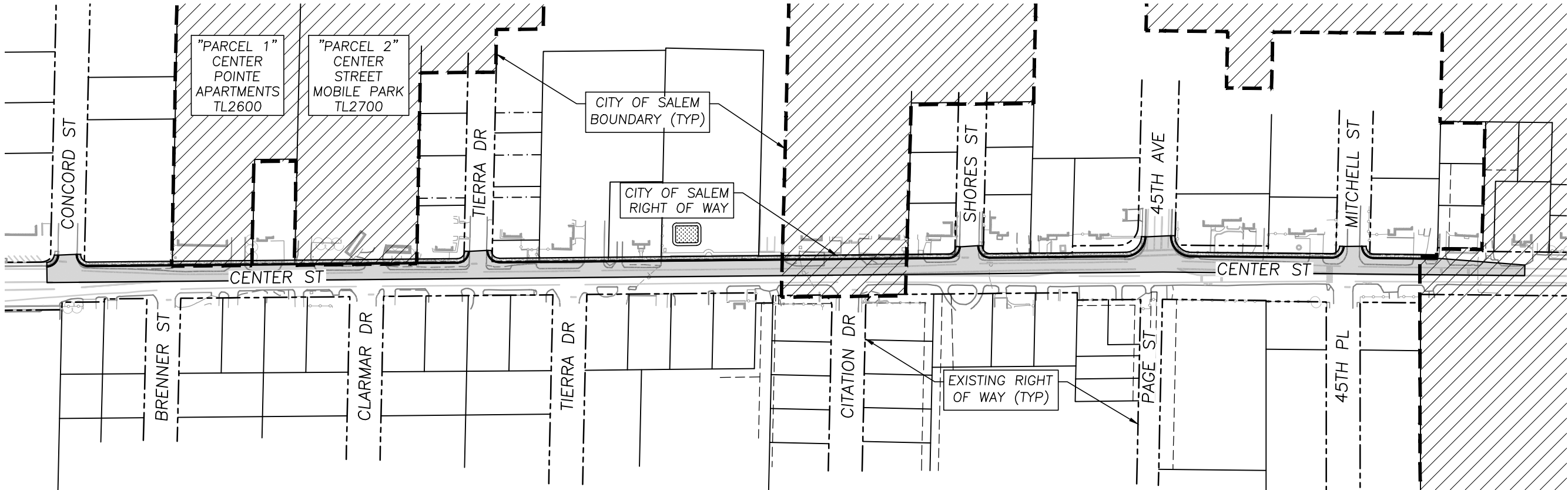
CITY OF SALEM:

Authorized Signature: _____
City Manager Date

Approved as to Form:

Approved by Signature: _____
Assistant City Attorney Date

FILE: G:\ENGINEERING\PROJECTCENTRAL\PROJECTS\CENTER ST - LANCASTER TO 45TH PL\CAD\EXHIBITS\CENTERST_CITY PROPERTY EXHIBIT.DWG PLOTTED: 2021/07/20 1:05 PM



FEDERAL HIGHWAY
ADMINISTRATION
OREGON DIVISION



PRELIMINARY: NOT
FOR CONSTRUCTION

MARION COUNTY

CENTER ST: LANCASTER DR TO 45TH
PL URBAN WIDENING - PHASE 1

DEPARTMENT OF PUBLIC WORKS

PROJECT NO.:	105035
ECMS NO.:	####
FED. PROJ. NO.:	####
KEY NO.:	####
SITE NO.:	####
HORIZ. DATUM:	OCRS SALEM
VERT. DATUM:	NAVD88
DESIGNED BY:	####
DRAWN BY:	####

TITLE:
CITY OF SALEM
PROPERTY
BOUNDARY
EXHIBIT

SHEET:
ATTACHMENT A

<div>CITY OF SALEM PORTION PRELIMINARY ESTIMATE</div> <div>SUMMARY - BID SCHEDULE - COST ESTIMATE</div> <div>OREGON STATE HIGHWAY DIVISION</div>						
Project Title:		CENTER ST: LANCASTER DR - 45TH PL (North Phase)			COUNTY	TOWN
					MARION	Salem
KEY NUMBER:	19237	KIND OF WORK	LENGTH	DATE	Estimator	
		PED/BIKE Improvements	2,550	4/13/20	SDO	
	Marion County	ITEM	UNIT	AMOUNT	UNIT	TOTAL
TRAFFIC CONTROL						
EROSION AND SEDIMENT CONTROL						
ROADWORK						
	310.100	REMOVAL OF STRUCTURS AND OBSTRUCTIONS	LS	1	\$5,000.00	\$5,000
	320.100	CLEARING AND GRUBBING	LS	1	\$14,000.00	\$14,000
	330.150	GENERAL EXCAVATION	LS	1	\$5,000.00	\$5,000
DRAINAGE AND SEWERS						
	445.114	6" STORM SEWER PIPE (FOR YARD DRAINS)	FT	100	\$55.00	\$5,500
	445.134	12" STORM SEWER PIPE	FT	20	\$70.00	\$1,400
	470.330	CATCH BASINS, YARD DRAIN, 10"	EA	5	\$1,500.00	\$7,500
	470.400	CONCRETE INLETS, TYPE G-2, TYPE 2 GRATE	EA	1	\$3,500.00	\$3,500
BRIDGES						
BASES						
	620.214	COLD PLANE PAVEMENT REMOVAL, 0-2" DEEP	SY	450	\$8.00	\$3,600
	640.100	AGGREGATE BASE	TN	350	\$40.00	\$14,000
WEARING SURFACES						
	745.451	LEVEL 3, 1/2" DENSE, PG 64-22, ACP	TN	100	\$90.00	\$9,000
	745.481	LEVEL 3, 1/2" DENSE, PG 64-22, ACP, IN BASE PLUG	TN	80	\$100.00	\$8,000
	759.100	CONCRETE CURBS, CURB AND GUTTER	FT	220	\$25.00	\$5,500
	759.250	CONCRETE WALKS	SF	1,740	\$9.00	\$15,660
	759.200	CONCRETE DRIVEWAY	SF	415	\$10.00	\$4,150
PERMANENT TRAFFIC CONTROL AND ILLUMINATION SYSTEMS						
RIGHT-OF-WAY DEVELOPMENT AND CONTROL						
	1012.112	WATER QUALITY FACILITY	SF	1,160	\$65.00	\$75,400
		BID ITEM SUBTOTAL (w/o Mobilization)				\$177,210
	210.100	MOBILIZATION	LS	-	\$0.00	\$0
		BID ITEM SUBTOTAL				\$177,210
		CONTINGENCIES			25.0%	\$44,303
		TOTAL CONSTRUCTION				\$221,513
		Preliminary Engineering for complete project				
		PRELIMINARY ENGINEERING (County)				\$0
		PRELIMINARY ENGINEERING (Consultant - Environmental)				\$0
		PRELIMINARY ENGINEERING (ODOT)				\$0
		PE SUBTOTAL				\$0
		RIGHT OF WAY ESTIMATE	FILES	3	\$12,000	\$36,000
		RIGHT OF WAY ESTIMATE (MANUFACTURED HOME RELOCATION)	EACH	1	\$64,000	\$64,000
		TOTAL PROJECT ESTIMATE				\$321,513
		Note: No Inflation Factor. Current Dollars were used for this estimate.		10.27% Match:		\$33,019.33