

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Authorize the City Manager to Execute an Interagency Agreement with the Washington State Transportation Improvement Board Accepting a Grant in the Amount of \$5,000,000 for the SR-523 (N/NE 145 th Street) Aurora Avenue to Interstate-5 (Phase 1) Project
DEPARTMENT:	Public Works
PRESENTED BY:	Tricia Juhnke, Public Works Director
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Staff is requesting that the City Council authorize the City Manager to execute an agreement with the Washington State Transportation Improvement Board (TIB) accepting a \$5,000,000 grant to fund the construction phase of the SR-523 (N/NE 145th Street) Aurora Avenue to Interstate-5 (Phase 1) Project, hereinafter referred to as the Corridor Project.

The City has been actively seeking funding to complete the Corridor Project since its inception in 2014. The City applied to the TIB for grant funding for construction of the Corridor Project in 2022. The City was notified in November 2022 that the Corridor Project was recommended for funding, and the TIB awarded a \$5,000,000 grant to the City for Phase 1 of the project. In accordance with the City’s Grants Management Policy, this agreement requires Council authorization for the City Manager to execute the grant agreement.

RESOURCE/FINANCIAL IMPACT:

This project is included in the City’s adopted 2023-2028 Capital Improvement Plan. The project budget summary is as follows:

SUMMARY OF PROJECT COSTS		
CONSTRUCTION	Construction Costs	\$10,586,425
	Construction Management - KBA	\$2,117,285
	City Staff Project Management	\$145,080
	Lochner Project Management	\$200,000
	Jacobs – Design Support	\$264,660
	Misc. Expenses	\$72,000
	Contingency	\$952,778
	Arts Fund	\$110,000
Construction Expenditures		\$14,448,228

SUMMARY OF PROJECT REVENUES		
REVENUES	Connecting Washington (CWA) Grant (22-23) – ROW & Construction	\$3,132,042
	Federal STP Grant	\$4,270,000
	CMAQ Grant	\$650,000
	TIB Grant	\$5,000,000
	SPU Reimbursement	\$1,286,186
	Roads Cap – Arts Fund	\$110,000
	Construction Revenue	\$14,448,228

RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to execute an Interagency Agreement with the Washington State Transportation Improvement Board, accepting a grant in the amount of \$5,000,000 for the SR-523 (N/NE 145th Street) Aurora Avenue to Interstate-5 (Phase 1) Project.

Approved By: City Manager **BE** City Attorney **MK**

BACKGROUND

When it was determined that a future Sound Transit light rail station would be located in Shoreline along 5th Avenue NE adjacent to 145th Street with service coming online in 2024, the City looked to address congestion and lack of facilities on the 145th Street Corridor. An initial 145th Street Multimodal Corridor Study preferred concept was approved by the City Council on [April 11, 2016](#).

Since this initial study, several projects have been identified along the 145th Street Corridor and are currently in design phases, which are further defining the actual improvements. These include:

1. Sound Transit's [SR 522/NE 145th BRT Project](#)
2. The City's SR 523 (145th Street) & I-5 [Interchange Project](#)
3. The City's SR 523 (N/NE 145th Street), Aurora Ave N to I-5 Project ([145th Corridor Project](#))

The 145th Corridor project is currently in the design and Right of Way acquisition phase of the project. The project is scheduled to advertise for construction in May 2023 with construction beginning approximately July 2023 and being completed by the end of 2024. Tonight, staff is requesting Council action on acceptance of a Washington State Transportation Improvement Board (TIB) grant to complete the funding of the Corridor Project.

DISCUSSION

The City applied to the Washington State Transportation Improvement Board (TIB) for grant funding in 2012. In November 2022, the City was notified the Corridor Project was selected by the TIB to receive a \$5,000,000 grant. The grant funds may be used for the construction phase of the Project and provides the funding needed to fully fund the Project.

Currently, the construction phase of the project could be fully funded by using the remaining balance of Connecting Washington (CWA) Grant (2022-23). Executing the TIB agreement allows \$5,000,000 of the remaining CWA Grant (2022-23) money to be used in Phase 2 of the Corridor project.

Not authorizing acceptance of this grant would result in hindering the chances of fully funding Phases 2 and 3 of the Corridor Project, as the Local Match burden for future grant sources would require significant Roads Cap funds, rather than CWA Grant.

COUNCIL GOAL(S) ADDRESSED

The Corridor Project directly supports two of the City Council's Goals:

- Goal 2 – Continue to deliver highly valued public services through management of the City's infrastructure and stewardship of the natural environment
- Goal 3 – Continue preparation for regional transit in Shoreline

RESOURCE/FINANCIAL IMPACT

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ATTACHMENTS

Attachment A: TIB Fuel Tax Grant Agreement



City of Shoreline
8-1-202(009)-1
N 145th Street (SR 523) Phase 1
Corliss Ave N to 3rd Ave NE

STATE OF WASHINGTON
TRANSPORTATION IMPROVEMENT BOARD
AND
City of Shoreline
AGREEMENT

THIS GRANT AGREEMENT (hereinafter "Agreement") for the N 145th Street (SR 523) Phase 1, Corliss Ave N to 3rd Ave NE (hereinafter "Project") is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter "TIB") and City of Shoreline, a political subdivision of the State of Washington (hereinafter "RECIPIENT").

1.0 PURPOSE

For the project specified above, TIB shall pay 40.3874 percent of approved eligible project costs up to the amount of \$5,000,000, pursuant to terms contained in the RECIPIENT'S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT'S Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT'S submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as



often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

6.0 AMENDMENTS

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

8.0 GOVERNANCE & VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9.0 DEFAULT AND TERMINATION

9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.



12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Approved as to Form
Attorney General

By:

Signature on file

Guy Bowman
Assistant Attorney General

Lead Agency

Transportation Improvement Board

Chief Executive Officer Date

Executive Director Date

Print Name

Print Name

