

ORDINANCE No.

178137

*Authorize agreement with Doppelmayr CTEC, Inc. for pre-construction services for the Marquam Hill Aerial Tram. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City Council, on August 13, 2003, approved Ordinance #177795, granting a public bidding exemption for the Marquam Hill Aerial Tram and authorizing the Portland Office of Transportation (PDOT) to proceed with an alternative selection process for selecting a Tram Equipment Supplier and a Construction Manager/General Contractor.
2. The City Council, on August 14, 2003, approved Ordinance #177797; authorizing a contract with Portland Aerial Transportation, Inc. (PATI) for schematic design and design development services for the Marquam Hill Aerial Tram. The design team under that contract, led by the architecture firm of Angelil/Graham/Pfenninger/Scholl, has reached the 50% level of Schematic Design.
3. The Portland Development Commission (PDC), incorporating City Council's advice, approved the South Waterfront Central District Project Development Agreement on August, 13, 2003. The agreement was signed by all parties and put into effect on August 22, 2003.
4. The South Waterfront Central District Project Development Agreement requires, among other items, that Schematic Design work be completed for the aerial tram by March 31, 2004.
5. PDOT, working with PATI and the Bureau of Purchases, developed a Request for Proposal (RFP) for the selection of a Tram Equipment Supplier. The RFP was advertised on August 20, 2003, and two proposals were submitted by Doppelmayr CTEC Inc., and Leitner Poma Inc., the only tram manufacturing companies in existence worldwide.
6. Proposals for the project were evaluated based on experience, qualifications, and other factors. The specific selection criteria were: 1) Summary of Experience and Qualifications; 2) Proposed Personnel and Organization; 3) Management Plan; 4) M/W/ESB Business Participation; and 5) Fee Proposal.
7. An evaluation committee appointed by the Commissioner-in-Charge of PDOT evaluated the proposals and interviewed the respondents. The committee was composed of the PDOT Project Manager, PATI Board members, and an outside transit expert.

8. On November 3, 2003, the committee recommended to the City that Doppelmayr CTEC, Inc., of Golden, Colorado, be selected as the Tram Equipment Supplier for the Marquam Hill Aerial Tram project. Doppelmayr CTEC was selected on the basis of exhibiting excellence across all of the selection criteria, and is widely recognized as the world leader in aerial tramway design and construction.
9. On November 6, 2003, the Bureau of Purchases issued a Notice of Intent to Award to the two respondents, and received no protest.
10. PDOT, with the assistance of PATI, has successfully negotiated a scope of services for pre-construction services with Doppelmayr CTEC. The services include preliminary and final engineering and the development of an operations plan for the aerial tram.
11. Coordination between the design team under contract with PATI and Doppelmayr CTEC is critical in achieving design excellence and controlling project costs. The work of the design team cannot be developed further without the assistance of Doppelmayr CTEC and requires the immediate incorporation of Doppelmayr CTEC into the design team.
12. Upon successful completion of the pre-construction scope of services, Doppelmayr CTEC and the City will negotiate a contract for the supply and installation of tram equipment on the Marquam Hill Aerial Tram and return to City Council for authorization to proceed with equipment fabrication and installation.
13. The South Waterfront Central District Project Development Agreement provides for \$15,500,000 of funding for the aerial tram project. This funding amount is composed of three primary sources – OHSU, \$9,000,000; Tax Increment Financing, \$2,000,000; South Waterfront LID, \$4,500,000.
14. Funding for the Doppelmayr CTEC contract will be provided by PDC and OHSU. PDC will fund 18.18% of the contract costs, and OHSU will fund 81.82%.
15. The funding agreement for PDC's share of the work is in place through Ordinance #177745, adopted on July 31, 2003, authorizing an Intergovernmental Agreement (IGA) between PDC and PDOT. The funding agreement for OHSU's share of the work is being submitted for Council action concurrent with this Ordinance.

NOW, THEREFORE, the Council directs:

- a. The Mayor and the Auditor are hereby authorized to execute a funding agreement with Doppelmayr CTEC Inc., in a form substantially similar to the form attached to the original of this Ordinance, and by reference made a part hereof. (Exhibit A)

- b. The Mayor and the Auditor are hereby authorized to draw and deliver checks to Doppelmayr CTEC, chargeable to the Transportation Fund.
- c. The City's Project Manager, with concurrence from the City's Purchasing Agent, is hereby authorized to agree to and execute, on behalf of the City, any amendment, which does not increase the amount of the Agreement.

Section 2. The Council declares that an emergency exists because a delay in executing the agreement will result in significant delays to the design and construction process for the aerial tram project and result in non-compliance with the City's contractual obligations under the South Waterfront Central District Project Development Agreement; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,

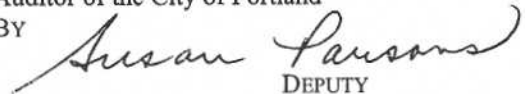
JAN 08 2004

Commissioner Jim Francesconi
Matt Brown:slg
December 11, 2003
ORD doppelmayr 121003.doc

GARY BLACKMER

Auditor of the City of Portland

BY



DEPUTY

Dear Mr. [Name],

I have your letter of [Date] regarding [Subject].

I am sorry that I cannot give you a more definite answer at this time.

I will contact you again as soon as I have more information.

Very truly yours,

[Signature]

[Address]

[City, State, Zip]

[Phone Number]

[Fax Number]

[E-mail Address]

[Company Name]

[Department]

[Title]

[Additional Information]

[Closing Remarks]

Agenda No.

ORDINANCE NO.

Title

*Authorize agreement with Doppelmayr CTEC, Inc. for pre-construction services for the Marquam Hill Aerial Tram. (Ordinance)

INTRODUCED BY	Filed:
Commissioner Jim Francesconi	Gary Blackmer Auditor of the City of Portland
NOTED BY COMMISSIONER	
Affairs	By: _____ Deputy
Finance and Administration	
Safety	
Utilities	
Works	
BUREAU APPROVAL	
Bureau: Transportation Engineering & Development	ACTION TAKEN:
Prepared by <i>MB</i> ^{AHA for GJ} Date <u>December 11, 2003</u> Matthew E Brown:slg	
Budget Impact Review: <u>TN</u> <input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not Required	
Included PPD: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Filename: ORD Doppelmayr 12-10-03.doc	
Bureau Head: <i>Donald Gardner</i> Donald Gardner, BTED Director	

AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
			YEAS	NAYS
Consent	Regular <input checked="" type="checkbox"/>			
NOTED BY		Francesconi	Francesconi	
City Attorney		Leonard	Leonard	
City Auditor		Saltzman	Saltzman	
City Engineer		Sten	Sten	
Approved by:		Katz	Katz	



CITY OF
PORTLAND
OFFICE OF
TRANSPORTATION

Jim Francesconi, Commissioner
1120 SW 5th Avenue, Suite 800
Portland, Oregon 97204-1914
(503) 823-5185
FAX (503) 823-7576 or 823-7371
TDD (503) 823-6868

Brant Williams
Director

January 5, 2004

Eileen Argentina
System
Management

TO: Michael Harrison, Commissioner Jim Francesconi's office

Don Gardner
Engineering &
Development

FROM: Matt Brown, BTED, Project Manager

Jeanne Nyquist
Maintenance

CC: Karla Moore-Love, Council Clerk, Auditor's office

Richard Steinbrugge
Finance

RE: Amendment for Ordinance - Hearing Date January 7, 2004
***Authorize agreement with Doppelmayr CTED, Inc. for pre-construction services for the Marquam Hill Aerial Tram. (Ordinance)**

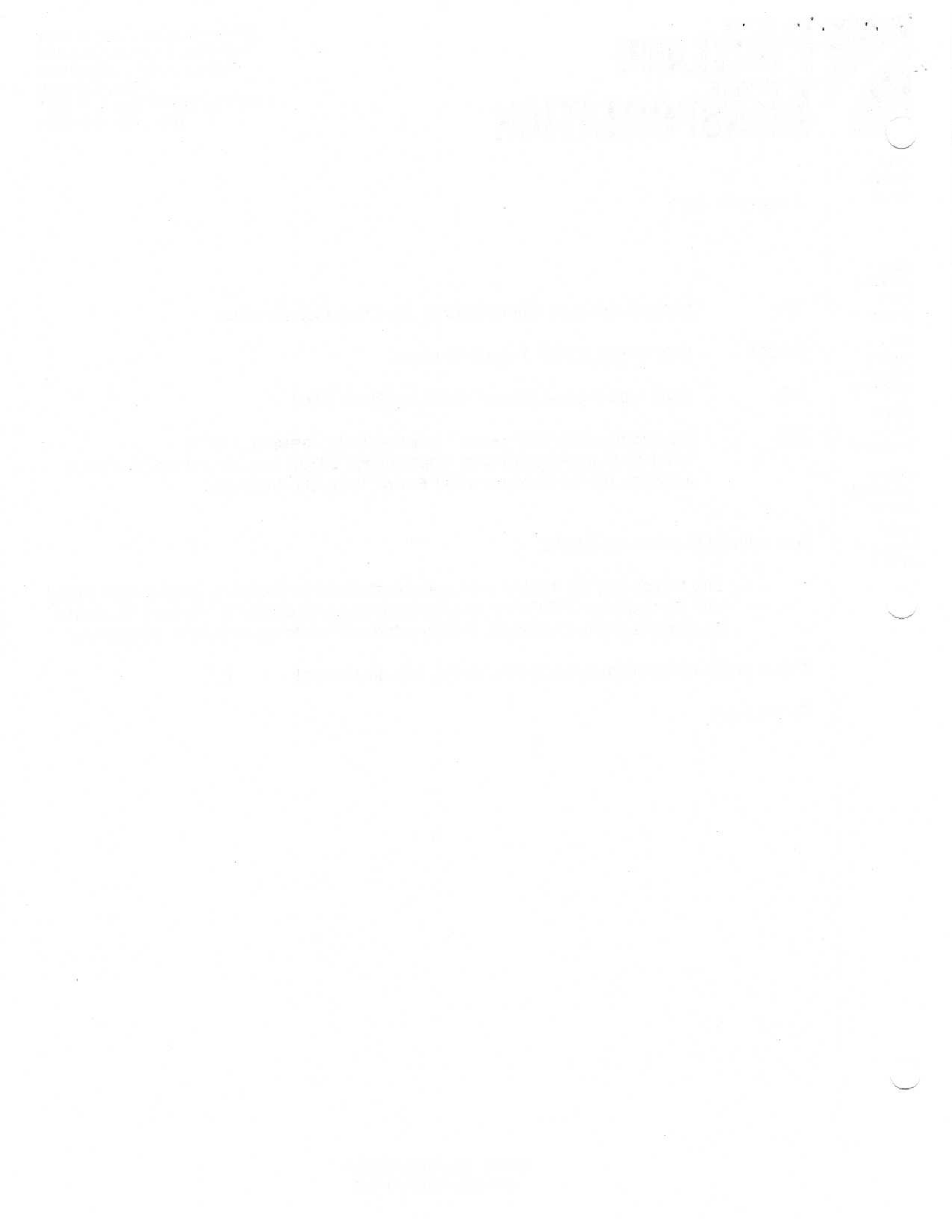
Laurel Wentworth
Planning

Amendment to add a. as follows:

- a. The Mayor and the Auditor are hereby authorized to execute a funding agreement with Doppelmayr CTEC Inc., in a form substantially similar to the form attached to the original of this Ordinance, and by reference made a part hereof. (Exhibit A)

The next two items will then become b. and c. with no changes.

Thank you.



AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES

CONTRACT NO. 35213

SHORT TITLE OF WORK PROJECT:

Marquam Hill Aerial Tram Pre-construction & Engineering Services

This contract is between the City of Portland, acting by and through its Elected Officials, hereafter called "City," and Doppelmayer-CTEC Inc., hereafter called Contractor. The City's Project Manager for this contract Matthew E. Brown.

Effective Date and Duration

This contract shall become effective on December 1, 2003 (or on the date at which every party has signed this contract, whichever is later.) This contract shall expire, unless otherwise terminated or extended, on December 31, 2004.

Statement of Work

- (a) The statement of work is contained in EXHIBIT A attached hereto and by this reference made a part hereof.
- (b) The delivery schedule for the work is identified in EXHIBIT A.

Consideration

- (a) City agrees to pay Contractor a sum not to exceed \$487,500.00 for accomplishment of the work.
- (b) Interim payments shall be made to Contractor according to the schedule identified in EXHIBIT A.

Terms and conditions listed on pages 2 - 4.

CONTRACTOR DATA, CERTIFICATION, AND SIGNATURE

Name (please print): Doppelmayer-CTEC, Inc.

Address: 3160 West, 500 South
Salt Lake, UT 84104

Social Security #:

Federal Tax ID #: 41-2030626 State Tax ID #: 1166196-2 Business License # 668537

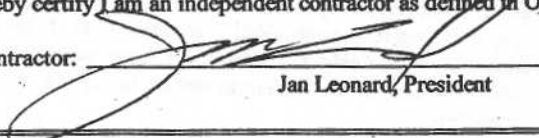
Citizenship: Nonresident alien Yes No

Business Designation (check one): Individual Sole Proprietorship Partnership Corporation
 Limited Liability Co (LLC) Estate/Trust Public Service Corp. Government/Nonprofit

Payment information will be reported to the IRS under the name and taxpayer I.D. number provided above. Information must be provided prior to contract approval. Information not matching IRS records could subject you to 20 percent backup withholding.

I, the undersigned, agree to perform work outlined in this contract in accordance to the terms and conditions (listed on pages 2-4 and made part of this contract by reference) and the statement of work made part of this contract by reference; hereby certify under penalty of perjury that I/my business am not/is not in violation of any Oregon tax laws; hereby certify that my business is certified as an Equal Employment Opportunity Affirmative Action Employer as prescribed by Chapter 3.100 of Code of the City of Portland; and hereby certify I am an independent contractor as defined in ORS 670.600.

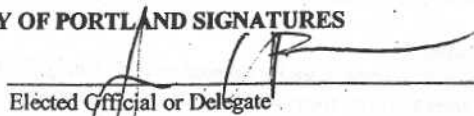
Approved by the Contractor:


Jan Leonard, President


2/13/04
Date

CITY OF PORTLAND SIGNATURES

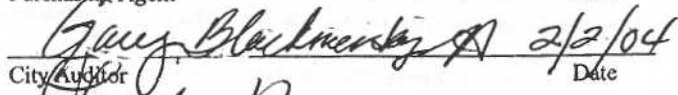
Approved by Mayor or Commissioner:


Elected Official or Delegate 2/2/04
Date

Approved by Purchasing Agent:


Purchasing Agent 2/2/04
Date

Approved by City Auditor:


City Auditor 2/2/04
Date

Approved as to form
by City Attorney:
(Rev.07/03)


Office of City Attorney 1-30-04
Date

**CITY OF PORTLAND
STANDARD CONTRACT PROVISIONS FOR
PROFESSIONAL, TECHNICAL & EXPERT SERVICES (MANDATORY PROVISIONS)**

1. Access to Records

The Contractor shall maintain, and the City of Portland ("City") and its duly authorized representatives shall have access to the books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for cost of copies is reimbursable by the City.

2. Audits

(a) The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this agreement at any time in the course of the agreement and during the three (3) year period established by section 1, **Access to Records**. Audits will be conducted in accordance with generally accepted auditing standards as promulgated in Government Auditing Standards by the Comptroller General of the United States General Accounting Office.

(b) If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City.

(c) If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies provided under section 5, **Early Termination of Agreement** and section 7, **Remedies**.

3. Effective Date and Duration

The passage of the contract expiration date (as recorded on reverse side) shall not extinguish, prejudice, or limit either party's right to enforce this contract with respect to any default or defect in performance that has not been cured.

4. Funds

The City certifies that sufficient funds are available and authorized for expenditure to finance the cost of this contract.

5. Early Termination of Agreement

(a) The City and the Contractor, by mutual written agreement, may terminate this Agreement at any time.

(b) The City, on thirty (30) days written notice to the Contractor, may terminate this Agreement for any reason deemed appropriate in its sole discretion.

(c) Either the City or the Contractor may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within fifteen (15) days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

6. Payment on Early Termination

(a) In the event of termination under subsection 5(a) or 5(b), **Early Termination of Agreement** hereof, the City shall pay the Contractor for work performed in accordance with the Agreement prior to the termination date.

(b) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the Contractor due to a breach by the City, then the City shall pay the Contractor as provided in subsection (a) of this section.

(c) In the event of termination under subsection 5(c), **Early Termination of Agreement** hereof, by the City due to a breach by the Contractor, then the City shall pay the Contractor as provided in subsection (a) of this section, subject to set off of excess costs, as provided for in section 7(a), **Remedies**.

(d) In the event of early termination all of the Contractor's work product will become and remain property of the City.

7. Remedies

(a) In the event of termination under subsection 5(c), **Early Termination of Agreement**, hereof, by the City due to a breach by the Contractor, then the City may complete the work either itself, by agreement with another contractor or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this contract, then the Contractor shall pay to the City the amount of the reasonable excess.

(b) The remedies provided to the City under section 5, **Early Termination of Agreement** and section 7, **Remedies** for a breach by the Contractor shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.

(c) In the event of breach of this Agreement by the City, then the Contractor's remedy shall be limited to termination of the Agreement and receipt of payment as provided in section 5(c), **Early Termination of Agreement** and section 6(b), **Payment on Early Termination** hereof.

8. Subcontracts and Assignment

Contractor shall not subcontract, assign or transfer any of the work scheduled under this agreement, without the prior written consent of the City. Notwithstanding City approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Agreement, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

9. Compliance with Applicable Law

In connection with its activities under this Agreement, Contractor shall comply with all applicable federal, state and local laws and regulations. Contractor shall complete Exhibit B, Independent Contractor/Workers' Compensation Insurance Questionnaire, which is attached hereto and by this reference made a part hereof.

9a. Indemnity - Claims for Other than Professional Liability

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions of whatsoever nature, including intentional acts, resulting from or arising out of the activities of Contractor or its subcontractors, agents or employees under this agreement.

9b. Indemnity - Claims for Professional Liability

Contractor shall defend, save, and hold harmless the City of Portland, its officers, agents, and employees, from all claims, suits, or actions arising out of the professional negligent acts, errors or omissions of Contractor or its subcontractors and sub-consultants, agents or employees in performance of professional services under this agreement.

9c. Indemnity - Standard of Care

If Contractor's services involve engineering or consulting, the standard of care applicable to Contractor's service will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed. Contractor will re-perform any services not meeting this standard without additional compensation.

10. Insurance

Exhibit C is hereby referenced and made a part of this contract.

11. Ownership of Work Product

All work products of the Contractor which result from this contract are the exclusive property of the City. The City agrees that all drawings, sketches, specifications, operation and maintenance manuals and other technical documents, as well as samples, illustrations and related documents provided by Contractor: (a) constitute proprietary engineering, maintenance or operation information of Contractor; (b) may be used by the City and its agents or representatives solely in connection the construction, maintenance and operation of the aerial tram; and (c) may not be used by the City or its agents or representatives for the design or maintenance of any other installation.

12. Nondiscrimination

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans With Disabilities Act of 1990 (Pub L. No. 101-336) including Title II of that Act, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

13. Successors in Interest

The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

14. Severability

The parties agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

15. Waiver

The failure of the City to enforce any provision of this contract shall not constitute a waiver by the City of that or any other provision.

16. Errors

The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this contract without undue delays and without additional cost.

17. Governing Law

The provisions of this contract shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this contract must be brought in the appropriate court in Multnomah County Oregon.

18. Amendments

All changes to this contract, including changes to the scope of work and contract amount, must be made by written amendment and approved by the Purchasing Agent to be valid. Any amendment that increases the original contract amount by 25% or more must be approved by the City Council to be valid.

19. Business License

The Contractor shall obtain a City of Portland business license as required by PCC 7.02.030 prior to beginning work under this Agreement. The Contractor shall provide a business license number in the space provided on page one of this Agreement.

20. Prohibited Interest

(a) No City officer or employee during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

(b) No City officer or employee who participated in the award of this Agreement shall be employed by the Contractor during the period of the Agreement.

21. Payment to Vendors and Subcontractors

The Contractor shall timely pay all suppliers, lessors and contractors providing it services, materials or equipment for carrying out its obligations under this Agreement. The Contractor shall not take or fail to take any action in a manner that causes the City or any materials that the Contractor provides hereunder to be subject to any claim or lien of any person without the City's prior written consent.

Merger Clause

THIS CONTRACT AND ATTACHED EXHIBITS CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION, OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION, OR CHANGE IF MADE, SHALL BE EFFECTIVE ONLY IN SPECIFIC INSTANCES AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. CONTRACTOR, BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE OR SHE HAS READ THIS CONTRACT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

OPTIONAL PROVISIONS (selected by City Project Manager)

22. Arbitration: / / Not Applicable / / Applicable (consult with City Attorney's Office before finalizing as applicable)

(a) Any dispute arising out of or in connection with this Agreement, which is not settled by mutual agreement of the Contractor and the City within sixty (60) days of notification in writing by either party, shall be submitted to an arbitrator mutually agreed upon by the parties. In the event the parties cannot agree on the arbitrator, then the arbitrator shall be appointed by the Presiding Judge (Civil) of the Circuit Court of the State of Oregon for the County of Multnomah. The arbitrator shall be selected within thirty (30) days from the expiration of the sixty (60) day period following notification of the dispute. The arbitration, and any litigation arising out of or in connection with this Agreement, shall be conducted in Portland, Oregon, shall be governed by the laws of the State of Oregon, and shall be as speedy as reasonably possible. The applicable arbitration rules for the Multnomah County courts shall apply unless the parties agree in writing to other rules. The arbitrator shall render a decision within forty-five (45) days of the first meeting with the Contractor and the City. Insofar as the Contractor and the City legally may do so, they agree to be bound by the decision of the arbitrator.

(b) Notwithstanding any dispute under this Agreement, whether before or during arbitration, the Contractor shall continue to perform its work pending resolution of a dispute, and the City shall make payments as required by the Agreement for undisputed portions of work.

23. Progress Reports: / / Applicable / / Not Applicable

The Contractor shall provide monthly progress reports to the Project Manager. If applicable, Exhibit A should list what information the Contractor must include in monthly progress reports.

24. Contractor's Personnel: / / Applicable / / Not Applicable

The Contractor shall assign the following personnel to do the work in the capacities designated: If applicable, list selected personnel in Exhibit A.

EXHIBIT B
INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT

SECTION A

CONTRACTOR CERTIFICATION I, undersigned, am authorized to act on behalf of entity designated below, hereby certify that entity has current Workers' Compensation Insurance.

Signature _____ Date _____ Entity _____

If entity does not have Workers' Compensation Insurance, City Project Manager and Contractor complete the remainder of this form.

SECTION B

ORS 670.600 Independent contractor; standards. As used in various provisions of ORS Chapters 316, 656, 657, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the standards of this section are met. The contracted work meets the following standards:

1. The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
2. The individual or business entity providing labor or services is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for the individual or business entity to conduct the business;
3. The individual or business entity providing labor or services furnishes the tools or equipment necessary for performance of the contracted labor or services;
4. The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;
5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer.

_____ Date _____
Project Manager Signature

SECTION C

Independent contractor certifies he/she meets the following standards:

1. The individual or business entity providing labor or services is registered under ORS Chapter 701, if the individual or business entity provides labor or services for which such registration is required;
2. Federal and state income tax returns in the name of the business or a business Schedule C or form Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and
3. The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the personal income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist. Contractor check four or more of the following:
 - _____ A. The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;
 - _____ B. Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;
 - _____ C. Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or services;
 - _____ D. Labor or services are performed only pursuant to written contracts;
 - _____ E. Labor or services are performed for two or more different persons within a period of one year; or
 - _____ F. The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

_____ Date _____
Contractor Signature

EXHIBIT C

INSURANCE (The Project Manager must answer and initial 2, 3, and 4 below).

During the term of this contract Contractor shall maintain in force at its own expense, each insurance noted below:

1. Workers Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027).

-
2. Required and attached or Waived by City Attorney : _____

General Liability insurance with a combined single limit of not less than \$500,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this contract, and shall provide that City of Portland, and its agents, officers, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract:

3. _____ Required and attached or Waived by City Attorney :

Automobile Liability insurance with a combined single limit of not less than \$500,000 each occurrence for Bodily Injury and Property Damage, including coverage for owned, hired, or nonowned vehicles, as applicable:

4. Required and attached or Waived by City Attorney : _____

Product Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence. This is to cover property damages and/or bodily injury caused by error, omission or negligent acts related to the professional services to be provided under this contract.

5. On all types of insurance. There shall be no cancellation, material change, reduction of limits, or intent not to renew the insurance coverage(s) without 30-days written notice from the Contractor or its insurer(s) to the City.

6. Certificates of insurance. As evidence of the insurance coverages required by this contract, the Contractor shall furnish acceptable insurance certificates to the City at the time contractor returns signed contracts. The certificate will specify all of the parties who are Additional Insured and will include the 30-day cancellation clause that provides that the insurance shall not terminate or be cancelled without 30 days written notice first being given to the City Auditor. Insuring companies or entities are subject to City acceptance. If requested, complete policy copies shall be provided to the City. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

**AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES
EXHIBIT 1**

**Statement of the Work
and
Payment Schedule**

Scope of Work for Pre-Construction and Engineering Services

I. General

- A. Consult with, advise, assist and make recommendations to PATI, the City and Design Team on all aspects of the design and planning for construction. The Contractor will participate in design workshops with the Design Team during Schematic Design, Design Development and Construction Document phases.
- B. Provide a detailed project schedule related to tram equipment supply and installation and update as necessary.
- C. Provide input as to current tram industry practices and participate in decisions regarding delivery schedules, construction costs, construction methods, materials and systems.
- D. Review in-process building design documents and provide input and advice with respect to constructability, alternative materials and methods, availability of materials and labor, and time requirements of procurement and construction.
- E. Provide a detailed listing of long-lead items that must be procured.
- F. Develop a detailed plan for provision of temporary assembly facilities and an equipment installation plan.
- G. Review completed design documents at 50% and 100% Schematic Design and 50% and 100% Design Development and suggest modifications to improve completeness or clarity.
- H. Recommend division of the work to facilitate bidding and award of subcontracts.
- I. Continuously monitor the project schedule and advance procurement of long lead items to ensure delivery by required dates.
- J. Participate in project management team meetings and other meetings of the PATI Board, the Citizens Advisory Committee, the City and others as requested. It is anticipated that four visits to Portland will be required.
- K. Assist and advise the Design Team in applicability of various regulatory codes and specifications.
- L. Provide design loads and requirements for the intermediate tower and terminal stations to the Design Team.
- M. Provide all tram equipment engineering services including passenger cabin, hanger and carriage mechanical and structural design.

- N. Review the conceptual operations plan and recommend changes. Provide input and advice on methods to maintain a high level of operational reliability including spare parts inventory and system redundancy.
- O. Prepare and submit a sub-suppliers selection plan or program describing the means of obtaining the most advantageous price and qualified sub-suppliers.

II. Pre-Construction Cost Management Services

- A. Contractor will prepare tramway equipment supply and installation cost estimates Contractor for the project as follows:
 - 1. Schematic Design-100% Completion. As the Schematic Design documents are developed the Contractor shall continue to review and refine the cost estimate provided in accordance with Addendum No. 4 to the RFP and advise PATI, the City and the Project Team as to the status of the tramway supply and installation budget. The Contractor shall assist and advise in exploring alternative approaches in an attempt to minimize total project costs. This shall include advising on the details of design of appropriate project components.
 - 2. 50% Design Development. The Contractor shall update the cost estimate. If the estimated cost exceeds the project budget, the Contractor shall make recommendations of appropriate changes that would reduce the estimated cost.
 - 3. Design Development – 100% Completion. Upon completion of Design Development Documents the Contractor shall update the cost estimate. The Contractor shall meet with the Project Team and fully explain the details in the cost estimate and the assumptions regarding the estimate. At this point it is expected that all tram equipment engineering will be substantially completed.

III. Specific Task List

In addition to the general scope of work above, the Contractor shall complete the following specific tasks:

- 4. 50% Schematic Design
 - a) Provide loads information to the Design Team for the upper terminal, lower terminal, and intermediate tower based on the Basic System proposed in response to the RFP.
 - b) Provide justification for installation without track rope breaks.
 - c) Provide justification for installation using fixed tensioning of the track ropes.
 - d) List options available for redundant drives, standby drives, evacuation drives and controllers and provide cost estimates for each option.
 - e) Meet with cabin manufacturer and verify that the cabin design as proposed by the Design Team is constructable.
 - f) Meet with the Design Team in Portland, OR to clarify outstanding issues, structural loads, space and clearance requirements and all other necessary technical information.

5. 100% Schematic Design

- a) Define with owner and the Design Team requirements of the Utilization and Safety Plan (USP) as required by the Contractor's Quality Management Plan.
- b) Discuss and define with the owner and Design Team the exact station and elevation of the upper and lower terminals.
- c) Assist the Design Team with development of a feasible and economical anchoring system for all loads acting on the upper terminal.
- d) Discuss and define with the owner and design Team the intermediate tower head design scheme.
- e) Update all drawings, rope line calculations, terminal loads and intermediate tower loads based on the approval USP.
- f) Review tram design and the design of the terminals and intermediate tower for code compliance. Suggest revisions as required.
- g) Submit preliminary list of MW/ESB subcontracting opportunities.

6. 50% Design Development

- a) Submit rendering of final cabin design.
- b) Finalize cabin design following owner approval of the rendering. Provide final weight and geometrics for the cabin.
- c) Update rope line calculations using final design parameters and update load information for the terminals and intermediate tower.
- d) Submit final tower head design with full connection details.
- e) Submit initial construction schedule

7. 100% Design Development

- a) Update the USP for owner approval.
- b) Develop and submit final drawings and documents for the terminals, tower head and cabins.
- c) Discuss with the owner and prepare a construction plan including final schedule, construction impact mitigation, erection conditions and requirements, safety plan and specialized procedures.
- d) Submit preliminary operation and maintenance manual.
- e) Prepare final project cost estimate for inclusion in the General Contractor's bid package as an assigned subcontractor.
- f) List final MW/ESB utilization opportunities for inclusion in the General Contractors bid package.
- g) Prepare a proposed subcontract with the General Contractor for inclusion in the bid package.

IV. Products

Any and all plans, specifications, survey notes, or other original documents as required by the City Engineer that were prepared for or produced during design shall become property of the City of Portland and be provided to PDOT. Upon the completion of 100% design development, electronic design drawings in Microstation shall be provided to PDOT. **V. Schedule**

The completion dates for submittal of the above Specific Tasks are:

50% Schematic Design

December 19, 2003

100% Schematic Design
50% Design Development
100% Design Development

January 23, 2004
March 5, 2004
April 30, 2004

VI. Payment

The owner will make progress payments within thirty calendar days of the satisfactory completion of each of the task lists outlined in Section III above. Each progress payment will be 25% of the total compensation due under this contract.

VII. Notification

Notices to the Contractor shall be sent to:

Randy Woolwine
Doppelmayr-CTEC
14452 W. 44th Avenue
Golden, CO 80403

Notices to the City shall be sent to:

Matthew E. Brown
Portland Office of Transportation
1120 SW 5th Avenue, Suite 800
Portland, OR 97204

Copy to:

Vic Rhodes
Portland Aerial Transportation, Inc.
1325 NW Flanders Street
Portland, OR 97209

F

**PORTLAND OFFICE OF TRANSPORTATION
COUNCIL CALENDAR ITEM**

Council Calendar No. _____

Submitted for Council Consideration on: January 7, 2004 Regular Agenda

DESCRIPTION: This ordinance executes a contract with Doppelmayr CTEC for preconstruction services for the aerial tram, including preliminary and final engineering, operations manual development, and design coordination with the design team currently under contract with Portland Aerial Transportation, Inc.

BACKGROUND: On July 31, 2003, City Council passed an ordinance which waived the requirements of ORS 279 for public bidding and directed for an alternative selection process for a Tram Equipment Supplier (TES) and Construction Manager/General Contractor (CM/GC) for the aerial tram. An RFP was issued on August 20, 2003 for the Tram Equipment Supplier. Two proposals were received from the only two aerial tramway manufacturers in the world. A selection committee composed of the PDOT Project Manager, PATI Board Members, and a Tri-Met project manager evaluated the RFPs, interviewed the two firms, and unanimously selected Doppelmayr CTEC to design, fabricate, and install the tramway equipment.

ISSUES: The estimated cost for the tram appears to be higher than the funds available through the development agreement for South Waterfront. There will likely be pointed questions directed at this item from community members and Council members alike on the strategy for dealing with this issue. At this point, the PATI Board has recommended a course of action that seeks to contain or reduce project costs while maintaining a high degree of design integrity. Updated cost estimates will be available in late January, and the project budget, and any additional funding, can be settled then.

Doppelmayr is key to refining these cost issues, and eventually, should no additional funding be available, they are the one entity that could construct a tram for an amount that is close to the currently available funds (albeit with some sacrifice on the design front). It is critical to get them under contract now for design. The City is not obligated, upon approving this contract, to actually move forward with equipment purchase and acquisition until a second contract is let with Doppelmayr.

POTENTIAL PROBLEMS: None.

RECOMMENDATION: Pass Ordinance

Can be delayed __ week(s), if necessary

Fiscal Review by TN

Should be filed this week.

No impact at fund level

Must be filed this week.

Impact on Fund

Contact Person Matt Brown, Project Manager will attend Council session.

Phone No. 503-823-7027

City of Portland
BUDGET/FINANCIAL COUNCIL ACTION IMPACT STATEMENT

INITIATOR'S SUMMARY OF COUNCIL ACTION (Deliver original to Financial Planning Division. Retain copy).

1. Name of Initiator Matt Brown	2. Interoffice Mail Address 106/800	3. Telephone No. 503-823-7027	4. Bureau/Office/Dept. PDOT/BTE&D/PM
5a. To Be Filed (date) January 7, 2004	5b. Calendar (Check One) REGULAR Consent 4/5ths <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	5. Date Submitted to OMF Budget Analyst: December 30, 2003	6. Fund Name & Number Transportation Fund #

Please check appropriate box and list dollar amount.

If using electronic MS Word Version, underline appropriate category and type and list dollar amount after. (Opt.)

Category 1 No financial Impact []


Category 2 Routine and Budgeted Items [X]

- | | |
|--|---|
| <input checked="" type="checkbox"/> Contracts | <input type="checkbox"/> Annual Supply Contract |
| <input type="checkbox"/> Grants | <input type="checkbox"/> Claims payment under \$15,000 |
| <input type="checkbox"/> Call for bids on purchasing contracts | <input type="checkbox"/> Creation of a Local Improvement District |
| <input type="checkbox"/> Reports to Council regarding completion of projects | <input type="checkbox"/> Other |

Category 3 Non-Routine or Unbudgeted Item []

SUMMARY OF ACTION: In concise terms, describe what is to take place through the enactment of this council action. Where applicable, narrative should include answers to the following questions. Add space as necessary below each question. Multiple page responses are acceptable if necessary to answer all relevant questions.

- A. What action(s) is proposed?
- B. Who will be affected by the proposed action? (List other City bureaus? Citizens? The business community?)
- C. What will the action cost? In this fiscal year? Subsequent year(s)? How much revenue will it generate? In this fiscal year? In subsequent year(s)? If there are indirect costs or future commitments implied as a necessary accompaniment or result of this action, include an estimate of these costs even if the action does not formally authorize any expenditure.
- D. Is the cost included in the current year's budget? If so, which Fund or AU? If not, identify funding sources and amounts -i.e., interagency, contingency/unforeseen, grants, administrative transfer, etc.
- E. What alternatives to this action have been explored?

APPROPRIATION UNIT HEAD (Typed name and signature)

 Brant Williams, Director, Office of Transportation