

## ORDINANCE No. 178798

\*Authorize contract with Kiewit Pacific Co. for pre-construction services for the Portland 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 Portland 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 Contract #35021 with Portland Aerial Transportation, Inc. (PATI) for schematic design and design development services for the Marquam Hill Aerial Tram. Contract 35021 was amended by Ordinance #178482 on June 10, 2004, to complete the design and engineering for the Portland Aerial Tram.
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, and has subsequently been amended by the parties three times.
4. The Third Amendment to the South Waterfront Central District Project Development Agreement was approved by the PDC on June 9, 2004. The Third Amendment modified the funding plan for the tram and increased the tram budget to \$28,500,000.
5. The South Waterfront Central District Project Development Agreement requires that the aerial tram project be complete and operational concurrent with occupancy of the first OHSU building in South Waterfront, which is currently under construction. In order to deliver the project on schedule, construction documents for the project must be completed by December 31, 2004, and a construction contract negotiated and completed by the end of January, 2005.
6. PDOT, working with PATI and the Bureau of Purchases, developed a Request for Proposal (RFP) for the selection of a Construction

Manager/General Contractor (CM/GC). The RFP was advertised on May 10, 2004, and three valid proposals were received from the following firms: Hoffman/Andersen, a joint venture, Kiewit Pacific Company, and Stacy/Witbeck, Inc.

7. Proposals for the project were primarily evaluated based on experience, and qualifications. The specific selection criteria were: 1) Summary of Experience and Qualifications; 2) Record of Safety; 3) Proposed Personnel and Organization; 4) Management Plan; 5) Sheltered Market Program and M/W/ESB History and Participation; 6) Workforce Training and Hiring Program; and 7) Fee Proposal.
8. An evaluation committee appointed by Mayor Katz evaluated the proposals and interviewed the respondents. The committee was composed of the PDOT staff, PATI Board members, and an outside transit construction expert.
9. On July 23, 2004, following interviews and reference checks, the selection committee recommended to the City that Kiewit Pacific Co. of Vancouver, Washington, be selected as the CM/GC for the Portland Aerial Tram. Kiewit Pacific was selected on the basis of exhibiting excellence across all of the selection criteria, and specifically for its strength and experience in delivering complex public works projects and a favorable fee proposal.
10. On July 27, 2004, the Bureau of Purchases issued a Notice of Intent to Award to the three RFP respondents, and received no protest.
11. PDOT has successfully negotiated a scope of services for pre-construction services with Kiewit Pacific Co. The services, which are outlined in the attached Contract (Exhibit 1), include constructability review, schedule development and coordination, cost estimating, and design coordination.
12. Coordination between the design team under contract with PATI, the Tram Supplier (Doppelmayr CTEC) and Kiewit Pacific Co. is critical in achieving design excellence and controlling project costs. The work of the design team cannot be developed further without the assistance of Kiewit Pacific Co. and requires the immediate incorporation of Kiewit Pacific Co. into the design team.
13. Upon successful completion of the pre-construction scope of services, Kiewit Pacific Co. and the City will negotiate a contract for the construction of the Portland Aerial Tram and return to City Council for authorization of a construction contract.

14. Funding for the pre-construction services will be paid fully by the City with funding supplied by PDC. 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.

NOW, THEREFORE, the Council directs:

- a. The Purchasing Director is hereby authorized to execute a contract for Pre-Construction Services in an amount not to exceed \$62,000 with Kiewit Pacific Co, in substantial conformance with the contract attached to this ordinance as Exhibit 1.
- 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, OCT 06 2004

Commissioner Jim Francesconi  
Matt Brown:slg  
September 10, 2004  
ORD Kiewit 092204.doc

**GARY BLACKMER**

Auditor of the City of Portland

BY

*Susan Parsons*  
DEPUTY



Agenda No.

ORDINANCE NO.

Title

\*Authorize contract with Kiewit Pacific Co. for pre-construction services for the Portland Aerial Tram. (Ordinance)

INTRODUCED BY	Filed:
Commissioner Jim Francesconi	<p><b>Gary Blackmer</b> Auditor of the City of Portland</p> <p>By: _____ Deputy</p> <p>For Meeting of: <u>October 6, 2004</u></p> <p>ACTION TAKEN:</p>
NOTED BY COMMISSIONER	
Affairs	
Finance and Administration	
Safety	
Utilities	
Works	
BUREAU APPROVAL	
Bureau: Transportation Engineering & Development	
Prepared by <i>GA/MSB</i> Date Matthew E Brown:slg September 27, 2004	
Budget Impact Review: <i>K.K.</i> <input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not Required	
Included PPD: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Filename: ORD Kiewit 092204.doc	
Bureau Head: <i>Donald Gardner</i> Donald Gardner, Director	

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



**EXHIBIT 1**  
**AGREEMENT FOR PROFESSIONAL, TECHNICAL, OR EXPERT SERVICES**  
**CONTRACT NO. 3 5 6 5 3**  
**PORTLAND AERIAL TRAM**  
**PRE-CONSTRUCTION SERVICES**

This contract is between the City of Portland, acting by and through its elected officials, hereafter called "City," and *Kiewit Pacific Co*, hereafter called "Contractor". The City's Project Manager for this contract is Matthew E. Brown.

**Effective Date and Duration**

This contract shall become effective upon execution by all parties. This contract shall expire, unless otherwise terminated or extended, on January 31, 2005.

**Statement of Work**

(a) The statement of work is contained in EXHIBIT A attached hereto and by this reference made as part hereof.

**Consideration**

- (a) City agrees to pay Contractor a sum \$12,000.00 for accomplishment of the work in EXHIBIT A, sections I and II.
- (b) Payments shall be made to Contractor in accordance with EXHIBIT A, sections III and IV.
- (c) The City has established an Owner's Contingency in the amount of \$50,000 for extra work that the City may authorize at its sole discretion, and agrees to pay the Contractor for authorized extra work, in accordance with EXHIBIT A, section V.
- (d) City and Contractor agree to enter into negotiations with the intent to enter into a Construction Contract, in accordance with Exhibit A, sections II and VI.

Terms and conditions listed on the attached pages.

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**CONTRACTOR DATA, CERTIFICATION, AND SIGNATURE**

Name (please print): Kiewit Pacific Co.  
Address: 2200 Columbia House Blvd., Vancouver, WA 98661  
Social Security #: \_\_\_\_\_  
Federal Tax ID #: 470647803 State Tax ID #: \_\_\_\_\_ Business License #: 364174  
Citizenship: Nonresident alien  Yes  No  
Business Designation: Corporation

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 Standard Contract Provisions page and made part of this contract by reference) and the statement of work made in part of this contract by reference; hereby certify under penalty of perjury that I/my business am/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: *[Signature]*, Vice President 10/8/04  
Signature/Title Date

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**CITY OF PORTLAND SIGNATURES**

Approved by Mayor or Commissioner: N/A  
Elected Official or Delegate Date

Approved by Purchasing Agent: *[Signature]* 12/8/04  
Purchasing Agent Date

Approved by City Auditor: N/A  
City Auditor Date

Approved as to form by City Attorney: *[Signature]* 10/14/04  
Office of City Attorney 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 payment 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, the City may pursue remedies provided under section 3, **Early Termination of Agreement** and section 5, **Remedies**.

**3. Early Termination of Agreement**

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

**4. Payment on Early Termination**

- (a) In the event of termination under section 3, **Early Termination of Agreement**, the City shall pay the Contractor for work performed in accordance with Exhibit A, sections III and IV.
- (b) In the event of early termination, section 9, **Ownership of Work Product**, shall apply.

**5. Remedies**

- (a) In the event of termination under subsection 3(c) **Early Termination of Agreement**, by the City due to a breach by the Contractor, the City may complete the work either itself, by agreement with another contractor or by a combination thereof.
- (b) In the event of breach of this Agreement by either the City or the Contractor, the remedy available to each party shall be limited to termination of the Agreement and final payment as provided in section 4, **Payment on Early Termination**.

**6. 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.

**7. 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.

**7a. Indemnity – Claims for Other than Professional Liability**

- (i). The Contractor shall indemnify, hold harmless, and defend the City, its officers, employees and agents from any and all claims, losses, damages, attorney fees, costs and liabilities arising out of accidents, unforeseen difficulties, or the intentional, reckless or negligent acts or omissions of the Contractor, its Subcontractors, suppliers, employees, or agents in the performance of the Work. For purposes of this Subsection, "claims" includes any assertion of a right to money damages or equitable relief or any combination thereof.



(ii). The City shall notify Contractor of any claim of which it is aware that requires Contractor to defend, indemnify and hold the City harmless. Thereafter, Contractor shall notify the City in writing within 30 days that it will defend, indemnify and hold the City harmless. Contractor's failure to provide such notification is a breach of contract. In the event that Contractor fails to give Notice within 30 days, the City may defend the claim and charge Contractor with any costs associated with that effort.

(iii). The City reserves the right to participate in any claim irrespective of Contractor's obligations to indemnify, hold harmless, defend or notify. However, if the City elects to participate in any claim after receiving notification from Contractor, Contractor is not obligated to indemnify the City for the costs associated with that participation, although its other obligations to indemnify, hold harmless and defend remain intact.

(iv). Nothing in this section requires the Contractor or its insurer, to indemnify the City for any claims or losses arising out of death, or bodily injury to persons or property damage caused, in whole or in part, by the negligence of the City.

**7b. Indemnity – Standard of Care**

If Contractor's services involve consulting, the standard of care applicable to Contractor's service will be the degree of skill and diligence normally employed by 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.

**7c. Design Liability**

The City is responsible for the Project Design. To the extent permitted by the Oregon Constitution and within the limits of the Oregon Tort Claims Act, ORS 30.260 et. Seq., the City shall defend, indemnify and hold harmless the Contractor from claims due to design errors, negligence, or acts of omissions related to the Project Design and design assumptions. The City or the Designer will be the Engineer of Record, and all responsibilities customarily assigned to the Engineer of Record shall remain the responsibility of the City, Design Engineer, or Design Architect. The Contractor, in working closely with the City, Design Engineer, and/or Design Architect shall assume no design responsibility or liability whatsoever, expressed or implied.

**8. Insurance**

Exhibits B and C are hereby referenced and made a part of this contract.

**9. Ownership of Work Product**

All work products of the Contractor that result from this contract are the exclusive property of the City. Proprietary information used as or included in support of work product shall not be released for use or distribution beyond the project team without the prior consent of Contractor.

**10. Nondiscrimination**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitations statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990 (Pub. I. No. 101-336) including Title II of that Act, ORS 659-425, and all regulations and administrative rules established pursuant to those laws.

**11. Successors in Interest**

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

**12. 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.

**13. 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.

**14. 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.

**15. 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 amount by 25% or more must be approved by the City Council to be valid. Payment for extra work or added scope shall be agreed to in writing prior to the work to be performed to the satisfaction of both parties. In the event that the City elects to use any portion of the owner's contingency, the parties will execute an amendment to this contract in writing, which will be signed by both the City's Project Manager and the Contractor's Project Sponsor. Until such amendment is signed, no payment of the contingency to the Contractor will be authorized.

**16. 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.

**17. 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.

**18. 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 CONSTITUTE 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)**

**19. 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 both 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.

**20. 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.

**21. Contractor's Personnel: /  / Applicable /  / Not Applicable**

The Contractor shall assign the following personnel to do the work in the capacities designated:

Bruce Patterson, Project Superintendent

Bob Elliott, Project Sponsor/Project Manager

The Contractor may not remove these personnel from the project without the written concurrence of the City Project Manager.

## EXHIBIT A – AGREEMENT FOR PROFESSIONAL, TECHNICAL OR EXPERT SERVICES

### Statement of the Work and Payment Schedule

#### I. Pre-Construction Phase: Statement of WORK Tasks

- A. Consult with, advise, assist and make recommendations to PATI, the City and Project Team on all aspects of the design and of planning for construction.
- B. Provide a master project schedule, inclusive of critical links to designer and Doppelmayr deliverables, and update as necessary.
- C. Provide input as to current construction industry practices and participate in decisions regarding value engineering, delivery schedules, construction costs, construction methods, materials and systems.
- D. Review in-process design documents and provide input and advise with respect to constructability, alternative materials and methods, availability of materials and labor, and time requirements of procurement and construction. Provide advice on potential areas of cost savings while maintaining the design quality and intent.
- E. Provide a detailed listing of any long-lead items that must be procured prior to completion of design.
- F. Develop a detailed plan for provision of temporary facilities, temporary protection of Interstate 5, neighborhood and existing overhead utilities within the alignment. In consultation with the Project Team and the Oregon Department of Transportation develop a construction phasing plan and a traffic management plan.
- G. Assist, as needed, the City and PATI in negotiating construction permits with the Oregon Department of Transportation relative to crossing Macadam Avenue, Interstate 5, Naito Parkway, and Barbur Boulevard.
- H. Develop an access and construction coordination plan with respect to on-going construction of the Patient Care Facility on Marquam Hill and the Block 25 development in South Waterfront.
- I. Review 100% Design Development Documents and in-process design documents and suggest modifications to improve completeness or clarity.
- J. Recommend division of the work to facilitate bidding and award of subcontracts.
- K. Monitor the pre-construction Schedule and recommend the advancement of procurement of any long lead items to ensure delivery by required dates.
- L. For budget validation purposes, provide a quantity take-off of significant items in the agreed format.
- M. For budget validation purposes, provide a unit price estimate for significant items in the agreed format.
- N. Participate in bi-weekly project management team meetings and other meetings of the PATI Board, the Citizens Advisory Committee, the City and others as requested. Participate in Design Team meetings on a quarterly basis in Los Angeles. For budget planning purposes these trips should provide for a full workday on-site in Los Angeles.
- O. If necessary, apply for and obtain a temporary disturbance permit from the City of Portland for the Environmental C Zone land referenced in Section IV, D, iv. of the RFP.

## EXHIBIT A – AGREEMENT FOR PROFESSIONAL, TECHNICAL OR EXPERT SERVICES

- P. Identify permanent and temporary utility conflicts relative to the permanent tram improvements and construction process. Assist staff with utility notification and coordination, and attend utility coordination meetings to resolve utility conflict issues.

### II. Pre-Construction Phase: Cost Management Services

- A. Subcontractor and Supplier Selection: Prior to completion of the Construction Documents, the Contractor shall prepare and submit a subcontractors and suppliers selection plan or program describing the means of obtaining the most advantageous price and qualified subcontractors and suppliers, and complying with the SMP and M/W/ESB Program and the Workforce Training and Hiring Program as required by the Request for Proposals and the contract documents.
- B. Construction Contract Amount: Following issuance of the 100% Construction Documents and in conformance with the approved subcontractor and supplier selection plan or program, the Contractor shall obtain bids and other prices adequate to prepare and submit a Guaranteed Maximum Price (GMP) for the work. Final contract terms, conditions and contract amount (GMP + Contractor Fee) will be negotiated after submittal of the GMP by the Contractor. The Contract Amount shall be the sum of the GMP and the Contractor Fee (see Exhibit A, section VI for the definition of the Contractor Fee). If the City and the Contractor cannot agree on a Construction Contract Amount and the City terminates negotiations, the Contractor shall be paid in accordance with Exhibit A, section 4, and the City shall have the right to commence negotiations with other contractors.

### III. Pre-Construction Phase: Actual Cost

Unless modified through Early Termination under section 3 of this Agreement, the Contractor agrees to cap its cost to the City at \$12,000.00 for pre-construction services that are provided in accordance with Exhibit A, sections I and II, notwithstanding the fact that the Contractor's actual costs may be greater than \$12,000.00.

Should the City authorize services beyond those itemized in Exhibit A, sections I and II, or should this agreement be terminated early, the City shall reimburse the Contractor based on actual costs, as defined in Exhibit A, section IV.

### IV. Pre-Construction Phase: Payment

Upon execution of the Agreement, the City, in accordance with the payment provisions of this Agreement, will pay the Contractor the sum of \$3,140 upon receipt of an invoice from the Contractor. Following the initial invoice, the Contractor shall submit detailed billings to the City within five work days of the end of each month. The billing shall identify the task, and number of hours billed and remaining for each task, utilizing Attachment 1, Task Work Order Matrix. The Contractor shall be paid monthly, within thirty calendar days following City approval of the Contractor's submitted billing.

In the event of Early Termination of Agreement under section 3, payment to the Contractor shall be determined by the following;

1. For work completed under the Exhibit A, section I and II, payment shall be determined by the actual hours spent for the corresponding task multiplied by the hourly rate listed for that task in accordance with Attachment 1 – Task Work Matrix. Other reasonable, consumable costs and expenses shall be reimbursed on an actual cost basis plus a five percent (5%) overhead allowance and four percent (4%) markup on Contractor's costs. All consumable costs and expenses shall be supported by invoices and other documents as required by the City. In no event will the total compensation for services defined in Exhibit A, Sections I and II exceed \$120,393.00, as shown on Attachment 1 – Task Work Matrix.
2. For additional work authorized by the City, the Contractor shall be paid on an actual cost basis plus a five percent (5%) overhead allowance and four percent (4%) markup on Contractors costs.

## **EXHIBIT A – AGREEMENT FOR PROFESSIONAL, TECHNICAL OR EXPERT SERVICES**

Consumable costs and expenses shall be supported by invoices and other documents as required by the City.

### **V. Pre-Construction Phase: Owner's Contingency**

The parties agree that a need for extra work may arise in the performance of the work under this Agreement and that time is of the essence in the performance of the work. Accordingly, the City has established an Owner's Contingency in the amount of \$50,000.00.

Authorization of any work under the Owner's Contingency shall be at the sole discretion and direction of the City. No work under this Contingency shall be performed by the Contractor without prior written approval from the City on scope, estimated cost of the work and a schedule. For extra work, the Contractor shall be compensated in accordance with Exhibit A, section IV.

### **VI. Construction Phase: Contractor Fee**

During the pre-construction services phase, the City and Contractor agree to obtain bids and other pricing, and to negotiate in good faith, with the intention of entering into a construction contract for a not-to-exceed Guaranteed Maximum Price (GMP), subject to available budget. Negotiations may be terminated by the City at any time at its sole discretion.

The Contractor Fee shall be the sum payable to the Contractor by the City for the Contractor's performance of construction administration and management, determined as a percentage of the GMP. The Contractor Fee is Four Percent (4.0%).

The Contractor Fee shall be included in the Construction Contract Amount. The Contractor Fee shall be the Contractor's sole compensation for profit and certain costs, including but not necessarily limited to:

- Profit
- Indirect and home office costs, including general and administrative expense, overhead, and non-direct salaries other than the Field Office Costs.
- Salary of any person employed, during the execution of the work, in the home office or in any regularly established branch office. Cost of employees engaged at shops or on the road and in expediting the production or transportation of materials or equipment together with an agreed upon percentage for fringe benefits.
- Cost of capital employed either in the plant or in expenditures of the work.
- Subsistence and travel costs for the Contractor's employees.
- Personal Property Taxes on the Contractor's equipment and construction materials.
- Field office supplies and services including office supplies, blueprints, messenger services, fax machines, computers, two way radios, telephone, postage, reproduction, photographs and other equipment and materials in support of field office operations.

**ATTACHMENT 1 - TASK WORK MATRIX**

**PATI Preconstruction Services  
TASK ASSESSMENT AND ASSIGNMENT MATRIX**

	POINT / KEY	ESTIMATED MANHOURS	HOURLY RATE	EXTENSION
<b>Meetings</b>		132		\$ 11,220.00
I.N - Participate in bi-weekly project management team meetings	P	80.00	\$ 85.00	\$ 6,800.00
I.N - Participate in OTHER meetings of the PATI Board, the Citizen Advisory Committee, the City and others as requested	P	20.00	\$ 85.00	\$ 1,700.00
I.N - Participate in Design Team Meetings on a quarterly basis in Los Angeles.	P	32.00	\$ 85.00	\$ 2,720.00
<b>Schedule</b>		74		\$ 5,770.00
I.B - Provide a detailed Project schedule	P/EST	40.00	\$ 72.00	\$ 2,880.00
I.B - Update Project Schedule as necessary	P	20.00	\$ 85.00	\$ 1,700.00
I.K - Continuously monitor the Pre-Construction Schedule and advance procurement of any long lead items to ensure delivery by required dates	P	10.00	\$ 85.00	\$ 850.00
I.E - Provide a detailed listing of any long-lead items that must be procured prior to completion of design.	P	4.00	\$ 85.00	\$ 340.00
<b>Design Management</b>		140		\$ 9,960.00
I.A - Consult with, advise, assist and make recommendation to PATI, the City and Project Team on all aspects of the design and of planning for construction	P/DC	80.00	\$ 72.00	\$ 5,760.00
I.I - Review 100% Design Development Documents and in-process design documents and suggest modification to improve completeness or clarity	P/DC	60.00	\$ 70.00	\$ 4,200.00
<b>Constructability Reviews</b>		220		\$ 13,560.00
I.D - Review in-process design documents and provide input and advise with respect to constructability, alternate materials and methods, availability of materials and labor, and time requirements of procurement and construction.	P/DC	80.00	\$ 64.00	\$ 5,120.00
I.D - Provide advice on potential areas of cost savings while maintaining the design quality and intent	DC	40.00	\$ 50.00	\$ 2,000.00
I.C - Provide input as to current construction industry practices	DC	20.00	\$ 50.00	\$ 1,000.00
I.C - Participate in decisions regarding value engineering, delivery schedules, construction costs, construction methods, materials and systems	P/DC	40.00	\$ 68.00	\$ 2,720.00
I.I - Review 100% Design Development Documents and in-process design documents and suggest modification to improve completeness or clarity	P/DC	40.00	\$ 68.00	\$ 2,720.00
<b>Estimating and Quantities</b>		284		\$ 16,288.00
I.L - Estimate unit price quantities	P/EST	150.00	\$ 55.00	\$ 8,250.00
I.L - Confirm accuracy of the Design Team's quantity estimates	P/EST	22.00	\$ 65.00	\$ 1,430.00
I.M - Provide detailed cost breakdown to substantiate proposed unit prices (see 8.6)	P/EST	112.00	\$ 59.00	\$ 6,608.00
<b>Permits</b>		41		\$ 3,485.00
I.G - Assist, as needed, the City and PATI in negotiating construction permits with ODOT relative to crossing Macadam Ave, I-5, Naito Parkway and Barbur Boulevard.	P	25.00	\$ 85.00	\$ 2,125.00
I.O - If necessary, apply for and obtain a temporary disturbance permit form (from) the City of Portland for the Environmental C Zone land referenced in Section IV, D, iv. Of the RFP.	P	16.00	\$ 85.00	\$ 1,360.00
<b>Planning</b>		112		\$ 9,520.00
I.H - Develop an access and construction coordination plan with respect to on-going construction of the Patient Care Facility on Marquam Hill	P	36.00	\$ 85.00	\$ 3,060.00
I.H - Develop an access and construction coordination plan with respect to on-going construction the Block 25 development in South Waterfront	P	36.00	\$ 85.00	\$ 3,060.00
I.F - Develop a detailed plan for provision of temporary facilities. Temporary protection of I-5, neighborhood and existing overhead utilities within the alignment.	P	25.00	\$ 85.00	\$ 2,125.00
I.F - In consultation with the Project Team and ODOT develop a construction phasing plan and traffic management plan.	P	15.00	\$ 85.00	\$ 1,275.00
I.P - Identify permanent and temporary utility conflicts relative to the permanent tram improvements and construction process. Assist staff with utility notification and coordination, and attend utility coordination meetings to resolve utility conflict issues.	P	10.00	\$ 85.00	\$ 850.00
<b>Pre Construction Cost Management Services</b>		240		\$ 20,440.00
I.J - Recommend division of the work to facilitate bidding and ward of subcontractors.	EST/FAYE	40.00	\$ 105.00	\$ 4,200.00
II.A - Prepare and Submit Subcontractors & Suppliers selection plan.	EST/FAYE	40.00	\$ 105.00	\$ 4,200.00
II.A - Demonstrate compliance with SMP & M/W/ESB program	EST/FAYE	20.00	\$ 85.00	\$ 1,700.00
II.A - Demonstrate compliance with WORK FORCE TRAINING & HIRING program	EST/FAYE	20.00	\$ 85.00	\$ 1,700.00
II.B - Obtain Bids and other Prices adequate to prepare a GMP Bid	EST/FAYE	60.00	\$ 72.00	\$ 4,320.00
II.B - Prepare and Submit GMP proposal to Project Team	P/EST	60.00	\$ 72.00	\$ 4,320.00
<b>TASK SUB TOTALS =</b>		<b>1243 MANHOURS</b>	<b>\$</b>	<b>90,243</b>
<b>NOTES AND COMMENTS:</b>				
TRAVEL TO LA	EA	6.00	\$ 1,000.00	\$ 6,000.00
AUTO EXPENSE	WKS	23.00	\$ 450.00	\$ 10,350.00
OFFICE EXPENSE	WKS	23.00	\$ 300.00	\$ 6,900.00
MISC WEEKLY EXPENSE	WKS	23.00	\$ 300.00	\$ 6,900.00
<b>NOTE AND COMMENTS SUB TOTAL =</b>				<b>\$ 30,150.00</b>
<b>TOTALS =</b>				<b>\$ 120,393</b>

KEY: please refer to Exhibit A - Agreement for professional , technical or expert services for reference of identification code at beginning of each task, for example I.G, refers to section I item G 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 J. D. Bell Date 10/8/04 Entity Kiewit Pacific Co.

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 : \_\_\_\_\_

MB

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 : \_\_\_\_\_

MB

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 :

MB

Professional Liability insurance with a combined single limit of not less than \$1,000,000 each claim, incident, or occurrence. This is to cover damages 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.



FEB 07 2005

AMENDMENT NO 1  
CONTRACT NO. 35653

FOR

Portland Aerial Tram Pre-Construction Services

Pursuant to Ordinance No. 178798

This Contract was made and entered into on the 8<sup>th</sup> day of December, 2004, by and between *Kiewit Pacific Co.*, hereinafter called Contractor, and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City.

1. This contract is hereby extended through July 31, 2005.

All other terms and conditions shall remain unchanged and in full force and effect.

Kiewit Pacific Co.

By: ROBERT ELLIOT 1/31/05  
Date  
ROBERT ELLIOT PROJECT SPONSOR  
(Name and Title)

Address: 2200 Columbia House Blvd.,  
Vancouver, WA 98661

Approved as to Form:

Mark Lamb 2-1-05  
By City Attorney Date

CITY OF PORTLAND

By: [Signature] 2/4/05  
Purchasing Agent Date

By: [Signature] 2/1/05  
Project Manager Date



APR 21 2005

AMENDMENT NO 2  
CONTRACT NO. 35653

FOR

Portland Aerial Tram Pre-Construction Services

Pursuant to Ordinance No. 178798

This Contract was made and entered into on the 13<sup>th</sup> day of December, 2004, by and between *Kiewit Pacific Co.*, hereinafter called Contractor, and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City.

1. The scope of services for this contract is hereby amended to include those services identified in Attachment A to this Amendment.
2. Compensation for work outlined in Attachment A will not exceed \$65,500.
3. Contractor will bill City for the work outlined in Attachment A on a monthly basis, and the City will compensate Contractor for actual costs incurred up to \$65,500.

All other terms and conditions shall remain unchanged and in full force and effect.

Kiewit Pacific Co.

By: ROBERT A. ELLIOT 3/16/05  
 Date  
ROBERT A. ELLIOT PROJECT SPONSOR  
 (Name and Title)

Address: 2200 Columbia House Blvd.  
Vancouver, WA 98661

Approved as to Form:  
**APPROVED AS TO FORM**  
Linda Bengtson 4/7/05  
 By City Attorney Date  
**CITY ATTORNEY**

CITY OF PORTLAND  
 By: [Signature] 4/21/05  
 Purchasing Agent Date

By: [Signature] 4/7/05  
 Project Manager Date



**Attachment A**  
**Contract #35653 - Amendment No. 2**  
**Tram CMGC Pre-construction Services**

**March 14, 2005**

	POINT / KEY	ESTIMATED MANHOURS	HOURLY RATE	EXTENSION	% COMPLETE
<b>Meetings/Field Office Management</b>					
II.A – Establish/manage field office and participate in meetings with PDOT, OHSU, designers and others as requested during the extended period between February 1 and June 30, 2005	P	116.00	\$85.00	\$9860	
<b>Schedule</b>					
II.A – Update/maintain an overall, integrated, master schedule between February 1 and anticipated NTP for construction	P/EST	40.00	\$85.00	\$3400	
<b>Constructability/Design Document Reviews</b>					
III.A - Review pre-90% CD documents	P/DC	20.00	\$85.00	\$1700	
III.B – Review 100% CD documents for clarity and completeness for incorporation into the construction bid packages	DC	56.00	\$85.00	\$4760	
III.C – Perform peer reviews of structural steel, foundations or other elements of the design as requested	Provisional Sum	T&M		\$12000	
III.D – Establish survey as requested to assist in ascertaining basis for design development.	Provisional Sum	T&M		\$4890	
<b>Estimating</b>					
IV.A – Review/adjust bid packages as subcontractor proposals are received	P/EST	20.00	\$85.00	\$1700	
IV.B – Provide cost breakdown details to evaluate proposals	P/EST	20.00	\$85.00	\$1700	
IV.C – Provide additional value engineering analysis as requested	P/EST	24.00	\$85.00	\$2040	
<b>Finalize CMGC contract</b>					
V.A – Advertise, solicit final bids, hold pre-bid conferences and negotiate pricing for each bid package	EST/FAYE	40.00	\$85.00	\$3400	
V.B – Finalize with PDOT SMP, M/W/ESB, Workforce training and Hiring programs	EST/FAYE	40.00	\$85.00	\$3400	
V.C – Finalize/negotiate with PDOT all terms, conditions and pricing for the CMGC GMP contract	EST/FAYE	90.00	\$85.00	\$6650	
Expense/Travel Allowance – actual cost reimbursement	Provisional Sum	T&M		\$10000	

**TOTAL –CHANGE ORDER NO. 2**

**\$ 65500**

*PE*



# ORDINANCE No. 178798

\*Authorize contract with Kiewit Pacific Co. for pre-construction services for the Portland 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 Portland 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 Contract #35021 with Portland Aerial Transportation, Inc. (PATI) for schematic design and design development services for the Marquam Hill Aerial Tram. Contract 35021 was amended by Ordinance #178482 on June 10, 2004, to complete the design and engineering for the Portland Aerial Tram.
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, and has subsequently been amended by the parties three times.
4. The Third Amendment to the South Waterfront Central District Project Development Agreement was approved by the PDC on June 9, 2004. The Third Amendment modified the funding plan for the tram and increased the tram budget to \$28,500,000.
5. The South Waterfront Central District Project Development Agreement requires that the aerial tram project be complete and operational concurrent with occupancy of the first OHSU building in South Waterfront, which is currently under construction. In order to deliver the project on schedule, construction documents for the project must be completed by December 31, 2004, and a construction contract negotiated and completed by the end of January, 2005.
6. PDOT, working with PATI and the Bureau of Purchases, developed a Request for Proposal (RFP) for the selection of a Construction

Manager/General Contractor (CM/GC). The RFP was advertised on May 10, 2004, and three valid proposals were received from the following firms: Hoffman/Andersen, a joint venture, Kiewit Pacific Company, and Stacy/Witbeck, Inc.

7. Proposals for the project were primarily evaluated based on experience, and qualifications. The specific selection criteria were: 1) Summary of Experience and Qualifications; 2) Record of Safety; 3) Proposed Personnel and Organization; 4) Management Plan; 5) Sheltered Market Program and M/W/ESB History and Participation; 6) Workforce Training and Hiring Program; and 7) Fee Proposal.
8. An evaluation committee appointed by Mayor Katz evaluated the proposals and interviewed the respondents. The committee was composed of the PDOT staff, PATI Board members, and an outside transit construction expert.
9. On July 23, 2004, following interviews and reference checks, the selection committee recommended to the City that Kiewit Pacific Co. of Vancouver, Washington, be selected as the CM/GC for the Portland Aerial Tram. Kiewit Pacific was selected on the basis of exhibiting excellence across all of the selection criteria, and specifically for its strength and experience in delivering complex public works projects and a favorable fee proposal.
10. On July 27, 2004, the Bureau of Purchases issued a Notice of Intent to Award to the three RFP respondents, and received no protest.
11. PDOT has successfully negotiated a scope of services for pre-construction services with Kiewit Pacific Co. The services, which are outlined in the attached Contract (Exhibit 1), include constructability review, schedule development and coordination, cost estimating, and design coordination.
12. Coordination between the design team under contract with PATI, the Tram Supplier (Doppelmayr CTEC) and Kiewit Pacific Co. is critical in achieving design excellence and controlling project costs. The work of the design team cannot be developed further without the assistance of Kiewit Pacific Co. and requires the immediate incorporation of Kiewit Pacific Co. into the design team.
13. Upon successful completion of the pre-construction scope of services, Kiewit Pacific Co. and the City will negotiate a contract for the construction of the Portland Aerial Tram and return to City Council for authorization of a construction contract.



14. Funding for the pre-construction services will be paid fully by the City with funding supplied by PDC. 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.

NOW, THEREFORE, the Council directs:

- a. The Purchasing Director is hereby authorized to execute a contract for Pre-Construction Services in an amount not to exceed \$62,000 with Kiewit Pacific Co, in substantial conformance with the contract attached to this ordinance as Exhibit 1.
- 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, OCT 06 2004

Commissioner Jim Francesconi  
 Matt Brown:slg  
 September 10, 2004  
 ORD Kiewit 092204.doc

**GARY BLACKMER**

Auditor of the City of Portland

BY

*Susan Parsons*  
 DEPUTY

**CERTIFICATE OF INSURANCE**

Date (mm/dd/yy)

08/05/04

Producer  
**Midwest Agencies, Inc.** (402) 271-2956  
 3555 Farnam Street  
 Omaha, NE 68131

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**COMPANIES AFFORDING COVERAGE**

- Company **A** ZURICH AMERICAN INSURANCE COMPANY
- Company **B** CALIFORNIA SELF-INSURED
- Company **C** OREGON SELF-INSURED
- Company **D** WASHINGTON SELF-INSURED

Insured 0367001-JLB  
**KIEWIT PACIFIC CO.**  
 P.O. BOX 1769  
 2200 COLUMBIA HOUSE BLVD.  
 VANCOUVER, WA 98661

**COVERAGES**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> Commercial General Liab <input type="checkbox"/> Claims Made <input checked="" type="checkbox"/> Occur <input type="checkbox"/> Owner's & Cont Protective <input checked="" type="checkbox"/> XCU	GLO 4641069	07/15/04	03/01/07	General Aggregate \$10,000,000
					Products-Comp Ops Agg \$10,000,000
					Personal & Adv Injury \$ 5,000,000
					Each Occurrence \$ 5,000,000
					Fire Damage(any 1 fire) \$ 5,000,000
					Med Exp(any one person) \$ 5,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> Any Auto <input type="checkbox"/> All Owned Autos <input type="checkbox"/> Scheduled Autos <input type="checkbox"/> Hired Autos <input type="checkbox"/> Non-Owned Autos	BAP 4641070	07/15/04	03/01/07	Combined Single Limit \$ 5,000,000
					Bodily Injury (per person) \$
					Bodily Injury (per accident) \$
					Property Damage \$
	<input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/> Any Auto				Auto Only - Ea Accident \$
					Other Than Auto Only \$
					Each Accident \$
	<input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> Umbrella Form <input type="checkbox"/> Other Than Umbrella Form				Aggregate \$
					Each Occurrence \$
					Aggregate \$
B C D	<input checked="" type="checkbox"/> WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY The Proprietor/Partners/Executive Officers are: <input checked="" type="checkbox"/> Incl <input type="checkbox"/> Excl	CERT #2157 NO. 776026 ACCT 700,100-00	11/01/90 03/01/93		<input checked="" type="checkbox"/> Statutory Limit <input type="checkbox"/> Other \$
					EL Each Accident \$ 2,000,000
					EL Disease-Policy Limit \$ 2,000,000
					EL Disease-Ea Employee \$ 2,000,000
A A	<input type="checkbox"/> OTHER WC CONTINUED INCLUDING USL&H WC CONTINUED	WC 4641068(EXC) & JONES ACT WC 4641067	07/15/04 07/15/04	03/01/07 03/01/07	SEE ABOVE
					SEE ABOVE

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS**

CITY OF PORTLAND, AND ITS AGENTS, OFFICERS, AND EMPLOYEES ARE NAMED AS ADDITIONAL INSURED BUT ONLY WITH RESPECT TO THE CONTRACTOR'S SERVICES TO BE PROVIDED UNDER THIS CONTRACT. RE: PORTLAND AERIAL TRAM

**CERTIFICATE HOLDER**

APPROVED AS TO FORM

040

*Inda Henry*  
 CITY OF PORTLAND  
 1120 S.W. 5TH AVENUE  
 SUITE 800  
 PORTLAND, OR 97204

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.

Authorized Representative

*Philip G. Dehn*

F

**PORTLAND OFFICE OF TRANSPORTATION  
COUNCIL CALENDAR ITEM**

Council Calendar No. \_\_\_\_\_

Submitted for Council Consideration on: October 6, 2004 Regular Agenda

**DESCRIPTION:** This ordinance executes a contract with Kiewit Pacific Co. for preconstruction services for the aerial tram. The scope of work includes cost estimating, constructability review, schedule development and coordination, 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. The TES was selected in November 2003 (Doppelmayr CTEC). An RFP was issued on May 10, 2004 for the CM/GC. Three proposals were received and evaluated by a selection committee composed of PDOT staff, PATI Board Members, and a Tri-Met project manager. The committee unanimously selected Kiewit Pacific Co. as the CM/GC for the Portland Aerial Tram.

**ISSUES:** None.

**POTENTIAL PROBLEMS:** None.

**RECOMMENDATION:** Pass Ordinance

Can be delayed \_\_ week(s), if necessary

Fiscal Review by KK

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



**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, Project Manager		2. Interoffice Mail Address 106/800		3. Telephone No. 503-823-7027		4. Bureau/Office/Dept. PDOT/BTE&D/PMD	
5a. To Be Filed (date) October 6, 2004		5b. Calendar (Check One ) <b>REGULAR</b> Consent 4/5ths <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		5. Date Submitted to OMF Budget Analyst: September 29, 2004		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 \$62,000                       | <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*

Brant Williams, Director, Office of Transportation

Handwritten notes and a circular stamp in the top right corner.

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