



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Rhode Island Department of Transportation
ENGINEERING DIVISION

Two Capitol Hill, Rm. 226
Providence, RI 02903-1124
PHONE 401-222-2023
FAX 401-222-3006; TDD 401-222-4971

January 4, 2011

Mayor Angel Taveras
Providence City Hall, Room 202
25 Dorrance Street
Providence, RI 02903

Subject: Local Equity Aid Program (LEAP)
Federal/State/City Executed Program Agreements
Various Projects, Pavement Resurfacing
On Federal System Local Roads

Dear Mayor Taveras:

Attached please find three (3) originals of the Federal/State/Municipal LEAP Agreement for funding with LEAP program funds for the Projects listed in the agreement for the City of Providence. Officials of the Rhode Island Department of Transportation (RIDOT) and the Federal Highway Administration (FHWA) have signed the agreement, for projects on Federal System roads. The LEAP agreement to be executed between the RIDOT, the City of Providence and the FHWA are for Federal and State Funds for construction of the projects listed in the agreement. Please have all three (3) originals of the agreement signed by the appropriate City Officials. Please return two (2) signed originals of the agreement to the RIDOT and retain one (1) signed original for your files.

If you have any questions please call Matthew Ouellette at 222-2023 ext. 4672 or myself at ext. 4049.

Very truly yours,

Vincent J. Palumbo, P.E.
Managing Engineer

VJP/mjo
Attachments

cc: w/o attachments: Farhoumand, Kydd, Ouellette, Palumbo, Smith, Zerva, and File(RI-LEAP); Mr. Paul J. Thomas, Public Works Director; Mr. Natale D. Urso, Deputy City Engineer; Mr. William C. Bombard, City Engineer

IN CITY COUNCIL
JUN 16 2011

READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED AND APPROVED

CLERK

CITY OF PROVIDENCE LOCAL ROADS PROJECT
ROADWAY INVESTMENT-LOCAL EQUITY AID PROGRAM
FEDERAL AND STATE FUNDS

By and Between

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
And the City of

PROVIDENCE

AGREEMENT made and entered into by and between the State of Rhode Island and Providence Plantations acting through its Department of Transportation (hereinafter the State) and the City of Providence (hereinafter the Municipality).

WHEREAS, the State is the recipient of transportation funding from the United States Department of Transportation, administered through the Federal Highway Administration (hereinafter FHWA) under catalog of Federal Domestic Assistance Number 20.205, and has made transportation funds available to Rhode Island municipalities through the Roadway Investment-Local Equity Aid Program (hereinafter RI-LEAP); and

WHEREAS, the State has determined that certain types of transportation projects to be funded under RI-LEAP have minor potential to affect historic properties included or eligible for inclusion in the National Register of Historic Places; and

WHEREAS, the State has approved the Municipality's work plan identifying improvements eligible for RI-LEAP funding (hereinafter the Project); and

WHEREAS, the Municipality agrees to be responsible for the design and construction of the Project; and

WHEREAS, the Project will be implemented under the provisions established in the Federal-Aid Policy Guide of the FHWA, FHWA regulations at Title 23 of the Code of Federal Regulations, and State requirements and procedures; and

WHEREAS, the State and the Municipality recognize that Project funds may be reduced based upon obligational authority limitations; and

WHEREAS, the State has agreed to contribute funds not exceeding Two Million Six Hundred Sixty Nine Thousand Nine Hundred Three and 00/100 Dollars (\$2,669,903.00) towards the Project; of this amount eighty percent (80%) or up to Two Million One Hundred Thirty Five Thousand Nine Hundred Twenty Two and 40/100 Dollars (\$2,135,922.40) is federally funded and twenty percent (20%) or up to Five Hundred Thirty Three Thousand Nine Hundred Eighty and 60/100 Dollars (\$533,980.60) is state funded.

NOW THEREFORE, in consideration of the foregoing premises and the mutual obligations contained herein, the State and the Municipality hereby agree as follows:

1. The Project will consist of coldplane and bituminous concrete overlay of portions of the following roadways Pocasset Avenue, Manton Avenue, Branch Avenue and Laurel Hill Avenue, and also bituminous concrete overlay and full depth pavement reconstruction of portions of Parkis Avenue. The work will include but not be limited to the following replacement and resetting of curbing, sidewalks and wheelchair ramps; bridge joint replacement; minor drainage improvements; replacement of traffic signal loop detectors; traffic signal improvements; line striping; and traffic control.
2. The authorized start date of the Project for reimbursement purposes shall be the Department's Notice to Proceed.
3. The Municipality will be responsible for design and construction of the Project in accordance with the plans and specifications approved by the State.
4. Prior to the start of construction, the Municipality shall certify to the State that all improvements made as part of the Project are on public right-of-way and that no private properties, acquisitions, easements or other right-of-way permissions are required.
5. The Municipality will be responsible for payment of all costs associated with design and construction of the Project; the State will reimburse the Municipality up to and not exceeding Two Million Six Hundred Sixty Nine Thousand Nine Hundred Three and 00/100 Dollars (\$2,669,903.00) for such costs; costs in excess of said reimbursement are the responsibility of the Municipality. Supporting documentation of payment will be required for all reimbursements.
6. The Municipality will select a Project Manager to administer the Project. Such administration will include but not be limited to the maintenance of a Project account, as well as processing invoices, change orders, and contract addenda. The Municipality will maintain all financial records.
7. Pursuant to the provisions of Title 37 Chapter 14.1 of the General Laws of Rhode Island, the State reserves the right to require a plan to ensure that one or more Minority Business Enterprise (MBE) as defined therein, or Disadvantaged Business Enterprise (DBE) as provided in 49 CFR 26, has the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. The State shall not issue a Notice to Proceed to construction of the Project until such MBE/DBE plan, if required, has been approved. The Municipality and its contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of work under this Agreement.

At the pre-construction conference, the Municipality's contractor shall submit an MBE/DBE Plan for review and approval by the State. The plan shall demonstrate the manner in which the Municipality's contractor will achieve participation rates established by the State.

8. The Municipality will select a consultant to design the Project and develop the bid documents.

- A. In selecting the consultant, the Municipality will prepare a Request for Proposals (RFP) seeking an engineering consultant to develop the design and bid documents for the Project. The RFP will include the purpose of the Project, the scope of services, description of the work product to be provided, request for a budget, and schedule for completion of the Project, as well as the qualifications of the applicant.
 - B. The Municipality will submit the RFP to the State for review and approval. Upon such approval, the Municipality will advertise and issue the RFP in accordance with Federal and State statutes, regulations, and procedures.
 - C. All procurement actions by the Municipality will comply with 23 CFR Part 172.7, and 23 USC 112(b) (2). Federal reimbursement will be limited to the federal share of costs allowable under 48 CFR Part 31 (Federal Acquisition Regulations).
9. The Municipality shall submit a copy of the single audit report required under Office of Management and Budget (OMB) Circular A-133 for each year in which work was performed on the Project.
10. The design of the Project will conform to all State design standards and policies.
- A. The Municipality will submit the design plans to the State for review and approval at the preliminary stage of design and submit the plans, specifications, and estimates (hereinafter PS&E) at the 90% stage of design and at the PS&E stage of design. Such submissions will include but not be limited to all engineering, landscaping, and permitting requirements, as applicable to the Project.
 - B. The State will respond to the submissions within thirty (30) days of their receipt.
 - C. Review by the State is for the limited purpose of confirming that final design documents will be acceptable to the State and is not intended to relieve the Municipality of full responsibility with respect to errors and omissions.
11. The Municipality will work with the State to obtain an Environmental Determination of no significant impact for the Project in accordance with FHWA regulation at 23 CFR Part 771.117. Construction of the Project may proceed only after receipt of said Environmental Determination.
12. The State and the Rhode Island State Historical Preservation Officer (hereinafter the RISHPO) have determined that the following elements of work within existing bituminous asphalt paved roadway create no adverse effect to historic properties: pavement overlay, pavement matching, roadway surface joint repairs, pavement milling, pavement crack sealing, pavement seal coating, and in-kind replacement of pavement markings (striping) exclusive of curb painting (hereinafter, collectively, the Elements).

- A. Work comprised entirely of the Elements shall not require review by the RISHPO unless it is determined that a known historic roadway feature will be altered or an unknown historic roadway feature is uncovered during construction.
 - B. If such a feature is to be altered or is uncovered, the Municipality, the State and the RISHPO shall consult to develop an appropriate work plan that addresses the potential effects.
 - C. Work occurring outside of the Elements must be submitted by the Town for review and approval by the RISHPO.
13. The Municipality will construct the Project using the design approved by the State subject to the following requirements:
- A. In awarding the construction contract to the lowest qualified bidder, the Municipality will use competitive bidding for the Project in conformance with 23 CFR Part 635 and will comply with all provisions of Title 37, Chapter 2 of the Rhode Island General Laws.
 - B. The Municipality shall be responsible for ensuring that materials incorporated into the Project are in conformance with State Standards and Specifications.
 - 1. The Municipality shall submit a Materials Testing Schedule based upon the Department's Master Materials Testing Schedule to the State for review and approval before commencing construction.
 - 2. Steel, aggregate, soils, Portland cement concrete, and bituminous concrete utilized in construction of the Project shall be obtained from State approved sources and sampled and tested by personnel certified by either the Northeast Transportation Training and Certification Program, the National Institute for Certification of Engineering Technologies or American Concrete Institute, whichever may be applicable, for the materials being sampled and tested.
 - 3. Steel used in permanent placements shall comply with Buy America Requirements.
 - 4. The Municipality shall obtain certificates of compliance and mill certifications in accordance with the approved Materials Testing Schedule.
 - 5. The Municipality must certify that all materials used as part of the Project comply with the design specifications established for the Project.
 - 6. Contractor test results shall not be used for materials acceptance.
 - 7. All samples shall be random samples and all sampling and all testing shall meet the requirements of 23 CFR Part 637, Construction Inspection and Approval.
 - 8. Manufacturer certificates of compliance must accompany each shipment of product and must be received and accepted by the Project Manager prior to incorporating the product into the work. Under no circumstances will the State reimburse costs for items where a certificate of compliance is required and has not been received.

- C. The Municipality must certify that prevailing wage (Davis Bacon) rates have been paid during the construction of the Project. Certifications of prevailing wage rates must be provided with each invoice, subject to review and acceptance by the State in accordance with State procedures.
 - D. For projects within the State highway right-of-way, in accordance with 23 CFR 635.105, the State shall assign an engineer to ensure that the Project receives adequate supervision and inspection to insure that the Project is completed in accordance with approved plans and specifications.
14. The following are the General Program Requirements for the submission of reimbursement requests by the Municipality:
- A. The Municipality shall invoice the State for work completed by the contractor on the Project and the cost of materials supplied by the contractor to the Project in accordance with State requirements and procedures.
 - B. The Municipality shall submit reimbursement requests with a cover letter signed by the Project Manager containing the following language and provisions:


“I hereby certify that the materials and work for which payment is being requested meets the requirements of the contract documents and approved change orders in all respects, except as noted below. This certification is made in full cognizance of the Federal False Statements provision under United States Code, title 18, section 1020, and I am duly authorized to certify on behalf of City of Providence. ”
15. The following are the General Program Requirements for the finalization and closeout of the Project:
- A. Finalization and acceptance of the Project shall be performed by the State. The following items are required to finalize and close the Project:
 - 1. Final inspection report
 - 2. Corrective action plan(s) and Punch list resolutions
 - 3. Letter of Project acceptance certifying that the Project has been completed in accordance with the contract documents
 - 4. MBE/DBE certification
 - 5. Prevailing Wage Rate Certification (Davis Bacon)
 - 6. Anti Collusion Certification
 - 7. Materials Testing Certifications
 - 8. Certification by the Project Manager that all certificates of compliance and mill certifications are on file
 - 9. Copy of Single Audit Report (s) issued in years in which work was performed or a copy of the program specific audit if applicable
 - 10. Equal Employment Opportunity statement

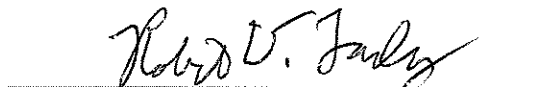
16. The Project shall be subject to inspections by the State in accordance with State-funded project procedures. All findings must be satisfactorily addressed before final reimbursement by the State.
17. Upon completion of the Project, the Municipality will be responsible to maintain all aspects of the Project in accordance with the plans and specifications developed for the Project at its own cost and expense.
18. All costs billed under this Agreement are subject to audit. The Municipality agrees to maintain all records pertaining to the costs incurred in performance of the Project and this Agreement for a period of three (3) years from the date of final payment and all other pending matters are closed.
19. The State reserves the right to terminate this Agreement if state or federal funds are rescinded or not authorized.
20. The Mayor will take all necessary steps to receive authority from the Providence City Council to enter into and execute this Agreement including but not limited to submission of this Agreement to the Providence City Council for ratification and submission of proof of such authority to the State prior to construction of the Project.
21. This Agreement may not be altered or amended except by written agreement signed by all the parties.

IN WITNESS WHEREOF, The Rhode Island Department of Transportation and the City of Providence have caused this Agreement to be executed by duly authorized officials on the _____ day of _____, 20[].

DEPARTMENT OF TRANSPORTATION

RECOMMENDED FOR APPROVAL:

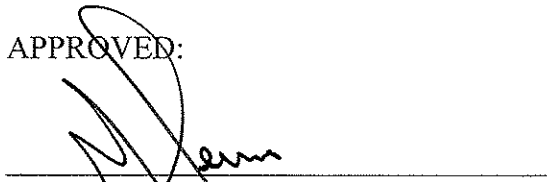

CHIEF ENGINEER
DATE: 11/9/10


CHIEF FINANCIAL OFFICER
DATE: 11-15-10

APPROVED AS TO FORM:

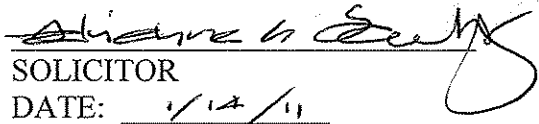

EXECUTIVE COUNSEL
DATE: 11/19/10

APPROVED:



DIRECTOR
DATE: 11/22/10

CITY OF PROVIDENCE


APPROVED AS TO FORM:


SOLICITOR
DATE: 1/14/11

APPROVED:


MAYOR, CITY OF PROVIDENCE
DATE: 1/20/11

EXAMINED AND APPROVED:


DIVISION ADMINISTRATOR
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
DATE: 12-21-2010