

MCH:pf
6/5/80
Revised: 6/20/80

Misc. Contracts & Agreements
No. 6805

CONSTRUCTION-FINANCE AGREEMENT
INTERSTATE TRANSFER PROJECT

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, Highway Division, hereinafter referred to as "State"; and the CITY OF PORTLAND, a municipal corporation within the State of Oregon, acting by and through its designated City Officials, hereinafter referred to as "City".

W I T N E S S E T H

RECITALS

1. N. Going Street is a part of the Federal Aid Urban System network under the jurisdiction and control of the City of Portland, and has been designated as FAU Route No. 9926.

2. By the authority granted in ORS 366.425, as amended by Chapter 365, Oregon Laws, 1979, any county or city may deposit monies, or an irrevocable letter of credit, with the Department of Transportation for performance of work upon any public highway within the State. When any money or a letter of credit is so deposited, the state shall proceed with the proposed project. Money so deposited shall be disbursed for the purpose for which it was deposited.

3. By the authority granted in ORS 366.775, State and City may enter into agreements for the construction, reconstruction, improvement or repair of any street, highway, road or bridge upon such terms and conditions as are mutually agreeable to the contracting parties. Under said authority, State and City plan and propose to construct the N. Basin Avenue - Pacific Highway Section of N. Going Street, hereinafter referred to as "project". The location of said project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof. Certain portions of the project will be financed with Interstate Transfer (e)(4) Funds with the required local matching funds to be provided by the City of Portland at no expense to State.

4. It is proposed that the project will consist of all work necessary to 1) construct a noise barrier on both sides of Going Street between Denver Avenue and the Pacific Highway; 2) provide a pedestrian/bikeway on the north side of Going Street between Greeley Avenue Ramp and Interstate Avenue. Portions of the right-of-way will be acquired as a participating cost of the project. The City will acquire the necessary right-of-way and perform the construction engineering.

NOW, THEREFORE, the premises being in general as stated in the foregoing RECITALS, it is agreed by and between the parties hereto as follows:

STATE OBLIGATIONS

1. State shall submit a program to the Federal Highway Administration with a request for approval of federal aid participation in all engineering, right-of-way acquisition, eligible utility relocations and construction work for that portion of the project funded with Interstate Transfer Funds. No work shall proceed until said approval has been obtained. Said program shall include services to be provided by both State and City. State shall notify City in writing when authorized to proceed with each phase of the work.

2. State shall, as a participating expense, assign a liaison engineer to provide advice and guidance to City and to monitor the work in progress for compliance with acceptable procedures, standards and related report forms during the right-of-way and construction phases of the project. All billings received from City must be approved by the liaison engineer prior to presentation to the Highway Division Accounting Office for payment.

3. State shall review and approve plans, specifications and estimates prepared and submitted by City, prepare the contract documents, advertise for bid proposals, award all contracts, perform all required laboratory testing of materials, process and pay all contractor progress estimates, check final quantities and costs, and oversee and provide intermittent inspection services during construction of the project. The actual cost of services provided by State will be included in the total project costs and, when the actual total cost of the project has been computed, City will be billed for the matching share of said costs.

4. State shall, upon receipt of approved monthly itemized statements for 100 percent of actual costs incurred by City on behalf of the project to date, promptly reimburse City 100 percent of the federal aid participating share of costs.

5. State shall, in the first instance, pay all costs of the project, submit all claims for federal aid participation to the Federal Highway Administration in the normal manner, compile accurate cost accounting records and, when the actual total cost of the project has been computed, furnish City with an itemized statement of said costs.

CITY OBLIGATIONS

1. City shall not undertake any Interstate Transfer Funded phase of the work prior to receiving written authorization from State. All work and records of such work shall be in conformance with Federal statutes, regulations and the Oregon Action Plan.

2. City shall assign the City engineer and his staff to be in responsible charge of the project, and to review, approve and forward to the State Liaison Engineer all billings due the City. City shall certify that all materials used are in substantial compliance with the controlling specifications and that the completed project meets the quantity requirements of the contract.

3. City shall obtain the necessary right-of-way, easements and permits and, upon award of a contract, furnish all construction engineering, field testing of materials, technical inspection and resident engineer services for administration of the contract.

4. City shall, on a monthly basis, present properly certified bills for 100 percent of actual costs incurred by City on behalf of the project directly to the State Liaison Engineer for review and approval. Said bills shall be in a form acceptable to State and documented in such a manner as to be easily verified. Billings shall be presented for periods of not less than one month duration, based on actual expenses to date. City shall be reimbursed for 100 percent of the federal aid participating share of eligible expenses. City's actual costs, direct and indirect shall be those allowable under the provisions of Federal Management Circular 74-4 and OMB Circular A-102, Attachments G and P.

5. City shall prior to proceeding with each phase of work covered by this agreement, forward to State an advance deposit, or irrevocable letter of credit, in the amount of 100 percent of the difference between the estimated total cost of said work and the amount anticipated to be contributed by the Federal Highway Administration. When the actual total cost of the project has been computed, an adjustment will be made in the City matching share of costs.

6. City shall relocate or cause to be relocated, all utility conduits, lines, poles, mains, pipes and such other facilities where such relocation is necessary in order to conform said utility and other facilities with the plans and ultimate requirements of the project. Only those utility relocations which are eligible for federal participation under Federal Aid Highway Program Manual, Volume 1, Chapter 4, Section 4, shall be included in the total project costs and participation; all other utility relocations shall be at the sole cost of City or others.

7. City shall, five weeks prior to the bid opening, furnish State with an estimate, based on the plans for the project, of the cost of eligible reimbursable utility relocation work so the work can be properly coordinated into the project and receive proper authorization.

8. Upon completion of the project, City shall thereafter, at its own cost and expense, maintain and operate the project in a manner satisfactory to State and/or the Federal Highway Administration.

9. City agrees that should it cancel or terminate the project prior to its completion, it will reimburse State for any costs that have been incurred by State in behalf of the project.

10. City shall adopt an ordinance authorizing its City Officials to enter into this agreement and the same shall be attached hereto and become a part hereof.

GENERAL PROVISIONS

1. The parties hereto mutually agree and understand that City shall contribute 100 percent of the difference between the actual total cost of the project and the amount contributed by the Federal Highway Administration.

2. The parties hereto agree and understand that they will comply with all applicable Federal and State statutes and regulations, including but not limited to: Title 6, U.S.C., Civil Rights Act; Title 18, U.S.C., Anti-Kickback Act; Title 23, U.S.C., Federal Aid Highway Act; and Title 2 and 3 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

3. Provisions of state and federal law applicable to public contracts and agreements of this type are hereby incorporated by reference as if fully set forth herein.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written. City has acted in this matter pursuant to Ordinance No. _____, adopted by its City Council on the _____ day of _____, 1980.

This project was approved by the State Highway Engineer on May 20, 1980 under delegated authority from the Oregon Transportation Commission.

The Oregon Transportation Commission, by a duly adopted delegation order, authorized the State Highway Engineer to sign this agreement for and on behalf of the Commission. Said authority is set forth in the Minutes of the Oregon Transportation Commission.

APPROVAL RECOMMENDED

Metropolitan Administrator

APPROVED AS TO FORM

City Attorney

STATE OF OREGON, by and through
its Department of Transportation,
Highway Division

State Highway Engineer

CITY OF PORTLAND, by and through
its designated City Officials

By _____
Auditor

By _____
Commissioner of Public Works

ORDINANCE NO. **150183**

An Ordinance authorizing the City to enter into an agreement with the Oregon Department of Transportation Highway Division, providing for right-of-way acquisition and construction, payment of the City share of costs for the North Going Street Noise Mitigation project, authorizing the drawing and delivery of warrants, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Ordinance No. 146703, passed by Council October 25, 1978, authorized an agreement with the Oregon Department of Transportation providing for preliminary engineering and environmental analysis of the Going Street Noise Mitigation project.
2. The Oregon Department of Transportation, the Metropolitan Service District and the Federal Highway Administration have agreed to authorize \$1,105,000 in I-505 withdrawal funds to pay a portion of the right-of-way and ~~construction costs of the~~ project.
3. There is \$195,000 budgeted for local match in the FY 1980-81 appropriation of the Bureau of Street and Structural Engineering, \$180,000 from HCD funds and \$15,000 from the General Fund.
4. The Oregon Department of Transportation has submitted a proposed agreement for City approval covering finance and construction of the Going Street Noise Mitigation.

NOW, THEREFORE, the Council directs:

- a. That the Commissioner of Public Works and the Auditor are authorized to execute, on behalf of the City, an agreement similar in form to the agreement attached to the original of this Ordinance, and by this reference made a part hereof.
- b. The Mayor and the Auditor are hereby authorized to draw and deliver warrants chargeable to the Bureau of Street and Structural Engineering (159.260) payable to the City Treasurer for the Oregon Department of Transportation as the City's share of project costs.

Calendar No. 2840

ORDINANCE No. 150183

Title

An Ordinance authorizing the City to enter into an agreement with the Oregon Department of Transportation Highway Division, providing for right-of-way acquisition and construction, payment of the City share of costs for the North Going Street Noise Mitigation project, authorizing the drawing and delivery of warrants, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	/	
Jordan	/	
Lindberg	/	
Schwab	/	
McCready	/	

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	
Lindberg	
Schwab	
McCready	

INTRODUCED BY
Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER

Affairs
Finance and Administration
Safety
Utilities
Works *MLimg7*

BUREAU APPROVAL

Bureau:
Street & Structural Engineering
Prepared By: Victor F. Rhodes Date: 7-25-80
Budget Impact Review:
 Completed Not required
Bureau Head: *David J. Vargas*
David J. Vargas, Acting Chief

CALENDAR

Consent Regular

NOTED BY

City Attorney
City Auditor
City Engineer Approved: *John M. Lang*
By: *[Signature]*

Filed JUL 31 1980

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By: *[Signature]*
Deputy

150183