

152837

ORDINANCE NO.

An Ordinance authorizing the City to enter into an agreement with the State of Oregon by and through its Department of Transportation, Highway Division, providing for acquisition of right-of-way required for the Hollywood Business District Transportation Improvement Program, providing for payment, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Resolution No. 32460, adopted by the Council June 28, 1979, adopted Plan D (as amended), of the Hollywood District Transportation Study (Project).
2. Ordinance No. 151398, passed by the Council April 15, 1980, authorized Agreement No. 19451 with the Oregon Department of Transportation, providing for preliminary engineering, construction, operation and maintenance of the Hollywood District Transportation Improvements.
3. Preliminary engineering work has identified parcels of property, primarily for corner cutbacks, which will be required to construct the Project.
4. The Oregon State Highway Division of the Department of Transportation has prepared an agreement, for City approval, by which they will perform right-of-way acquisition, on behalf of the City, for the Project.
5. Oregon State Highway Department estimates the City's share of right-of-way acquisition costs will be \$22,500.
6. The advance deposit for the construction contract for the NW-SW 14th-16th Couplet Project was less than budgeted, resulting in savings which may be used for the local match for right-of-way acquisition for the Hollywood Project.

NOW, THEREFORE, the Council directs:

- a. 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.

Interstate Transfer Project
Hollywood District Transportation Improvements
FAU Route No. 9326

Agreement No. _____

THIS AGREEMENT, made and entered into, by and between the CITY OF PORTLAND, a municipal corporation of the State of Oregon by and through its City Officials, hereinafter called "City" and the STATE OF OREGON, by and through the Department of Transportation, Highway Division, hereinafter called "State";

W I T N E S S E T H :

RECITALS:

1. By authority granted in certain ORS provisions City entered into an Urban System Project Agreement concerning the Hollywood District Transportation Improvements Project. City officials have acted in this matter pursuant to Ordinance No. _____ adopted by its City Council on the _____ day of _____.
2. City is willing and able to finance its pro rata share of each of the following: (1) the right of way, (2) relocation costs, and (3) all expenses incurred by the acquisition program.
3. State has a Right of Way Staff capable of performing the real property acquisition phase for the Project and is also capable of assisting City in preliminary phases leading up to the acquisition phase of the project.
4. City and State propose to enter into this agreement for the purpose of employing State to perform services in the acquisition phase and other phases preliminary thereto for the project. City and State hereby pledge complete cooperation with each other in order to accomplish the project.

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

I

City agrees to and hereby does employ State and State agrees to act for City in performing the services hereinafter called for in this agreement in connection with the project. The parties hereto mutually agree to the following:

II

THINGS TO BE DONE

A. Preliminary Phase

1. State will provide survey approval and notice when FHWA funds are approved for the project.

2. State will provide estimate of real property costs, temporary easements, moving costs, incidentals, and demolition.
3. State will prepare Relocation Plan if necessary.

B. Acquisition Phase

1. General

- a. Both parties will strictly follow the laws, policies and procedures of the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", Federal-Aid Highway Program Manual Volume 7 and State of Oregon Right of Way Manual, Official Publication 74-4.
- b. State will pay all costs of real property, temporary easements and cost of services as set out in General Provisions.
- c. City will certify to the Right of Way Supervisor that the right of way is clear five weeks ahead of contract letting.

2. Legal Descriptions

- a. City will provide sufficient surveys, vesting deeds, maps and other data, so that legal descriptions of the property can be written.
- b. State will write legal descriptions, prepare property map, assign a file number and type option agreements.
- c. City to specify use to be made of property (nature of interest to be acquired) (duration of interest, if not perpetual).

3. Real Property and Title Insurance

- a. State will order preliminary title reports and title insurance at the appropriate times.
- b. State will provide encumbrance report.
- c. City will check encumbrances and notify State which are objectionable.
- d. City will approve sufficiency of title.

4. Appraisal Process

- a. State will appraise real property to be acquired.
- b. State will have appraisal reviewed by a qualified senior appraiser.

- c. Appraiser(s) to testify in court whenever and if need arises.

5. Negotiation

- a. State will handle this function.
- b. All monetary offers are to be made to the land owner in writing at the reviewed amount. Options above the approved figure are to have advance approval from the City. Options over the reviewed figure will be accompanied by an administrative review justification.

6. Relocation

- a. State will provide replacement housing and rent supplement benefit computations, moving cost estimates, incidental cost estimates and relocation review service.
- b. State will provide all relocation services to relocatees, process all claims and pay promptly.
- c. The City will contract with the Portland Development Commission (PDC) for services in processing appeals arising out of relocation actions through procedures established for such purpose, which procedures are in conformance with regulations of the City, Oregon Relocation Laws, and the Federal Relocation and Real Property Acquisition Policies Act as amended.
- d. State will assist and provide necessary evidence at relocation appeal hearing.

7. Property Management

- a. State will take possession of properties as tenants move out.
- b. State will handle disposal of all improvements and excess land.

C. Closing Phase

- 1. State will process options and settlements.
- 2. State will draw deeds and necessary releases and satisfactions and have them executed and recorded.
- 3. State will make payments for all property, incidental expenses, and relocation claims.

4. State will provide City with copies of all pertinent letters, title reports, deeds, other recorded documents, and obligations of real property acquisition.

D. Condemnation

1. State will handle entire condemnation action for City under the provisions of ORS 366.775.
2. City understands, if condemnation is necessary, title to all condemned properties will be taken in the name of the State and deeded to City after the condemnation has been completed.

GENERAL PROVISIONS

1. State, in the first instance, shall pay all costs of the project, collect Federal Aid funds from the Federal Highway Administration in the usual manner and furnish City with an itemized statement of the actual total cost of the project as soon as the same is available.

2. City shall, prior to any rights of way acquisition 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's matching share of the costs.

3. It is expressly understood that City shall contribute to the actual total cost of the project as follows:

City shall contribute 100 percent of the difference between the actual total cost of the project and the amount contributed by the Federal Government.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year hereafter written.

The State Highway Engineer, acting under delegated authority from the Oregon Transportation Commission, authorized the Right of Way Manager to approve and execute this contract on behalf of the Commission.

Dated this _____ day of _____, 1981.

APPROVED AS TO FORM:

STATE OF OREGON, by and through
its DEPARTMENT OF TRANSPORTATION
Highway Division

James S. Lacey
Asst. Attorney General
and Counsel

J. B. Boyd, Right of Way Manager

CITY OF PORTLAND, by and through
its City Officials

Commissioner of Public Works

APPROVED AS TO FORM:

City Auditor

City Attorney

Calendar No. **351**

ORDINANCE No. **152837**

Title

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THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
JORDAN	1	
LINDBERG	1	
SCHWAB	1	
STRACHAN	1	
IVANCIE	1	

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

FEB 5 1982

Filed _____

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *Frank Dwyer* Deputy

INTRODUCED BY
Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <i>MDL/mjt</i>

BUREAU APPROVAL
Bureau:
<u>Street & Structural Engineering</u>
Prepared By: _____ Date: _____
Steve Riddell:mmc 1-19-82
Budget Impact Review:
<input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not required
Bureau Head: <u><i>R. O. Schmidt</i></u>
<u>R. O. Schmidt, Chief</u>

CALENDAR	
Consent	Regular <input checked="" type="checkbox"/>

NOTED BY
City Attorney
City Auditor
City Engineer <u>John M. Lang</u>
Approved <u><i>John M. Lang</i></u>
By: _____