

MCH:pf
2/5/80

Misc. Contracts & Agreements
No. 5446

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. Columbia Boulevard 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. 9956.

2. 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 or road upon such terms and conditions as are mutually agreeable. Under said authority, State and City plan and propose to construct the W. City Limits-N. Oswego Avenue Section of N. Columbia Boulevard, hereinafter referred to as "project". The location and limits of said project are approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof. The project will be financed with Interstate Transfer (e) (4) Funds with local matching funds provided by State and City.

3. It is proposed that the project will consist of all work necessary to provide four travel lanes, left-turn median, railroad overcrossing structure, landscaping, curbs, sidewalks, illumination and retaining walls. Right-of-way will be acquired as a participating part of the project. The State will perform the construction engineering. The 15 percent local matching funds will be provided by the State (9%) and the City of Portland (6%), approximately. All engineering, right-of-way acquisition, eligible utility relocations and construction work are to be included in the total project costs and participation.

4. 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, for performance of work upon any public highway within the state. When any money or a letter of credit is deposited, the State shall proceed with the project. Money so deposited shall be disbursed for the purpose for which it was deposited.

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 all engineering services, right-of-way acquisition, eligible utility relocations, and construction for the project. Said program shall include services of both State and City. State shall notify City in writing when authorized to proceed with each phase of the project.

2. State shall obtain all permits, prepare the contract documents, advertise for bids, award all contracts, and furnish all construction engineering, material testing, technical inspection and resident services for administration of the contract.

3. State shall arrange conferences with City during construction of the project to review the work in progress and assure conformance with the City project request. As a minimum, a pre-construction conference shall be arranged prior to proceeding with the contract work and at any time alternates are to be considered. State shall submit plans and estimates for City review and approval prior to advertisement for contract bid proposals.

4. State shall, upon receipt of itemized statements for 100 percent of actual costs incurred by City on behalf of the project, promptly reimburse City for 100 percent of said 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 upon completion of the project, furnish City with an itemized statement of the actual cost of the project.

CITY OBLIGATIONS

1. City shall not undertake any phase of the project 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, as a participating expense, assign a liaison engineer to assure that construction of the project is in conformance with applicable City requirements. The liaison engineer shall act as the coordinator between State and the various interested City Bureaus and Department during construction of the project.

3. 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 6 percent of the estimated total cost of said work. When the actual total cost of the project has been computed, an adjustment will be made in the City matching share of cost.

4. City shall be responsible for acquisition of the necessary right-of-way, including any easements which may be required for construction of the project. City may request State to perform the acquisition function subject to execution of a supplemental service agreement.

5. 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.

6. 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.

7. City shall present properly certified bills for 100 percent of actual costs incurred by City directly to the State Resident 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 incurred to date. City's actual costs, direct and indirect, eligible for federal participation shall be those allowable under the provisions of Federal Management Circular 74-4 and Office of Management and Budget Circular A-102, Attachments G and P.

8. City hereby accepts responsibility for any claims for damages from grade changes requested by City. Approval of plans shall be considered a request for a grade change.

9. Upon completion of the project, City shall not permit any encroachment upon the project right-of-way which will cause more than a temporary obstruction to the free and convenient flow of traffic over the project; and City shall not impose any regulations of traffic which shall unduly hinder the flow of traffic upon the project by granting preference to traffic entering from other intersecting roads or streets.

10. City shall, upon completion of the project, control all parking within the limits of the project. Any alterations in regard to traffic control measures shall have concurrence of State.

11. Upon completion of construction, 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.

12. 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.

13. City shall adopt an ordinance authorizing its designated 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 State and 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. Said contribution shall be on the basis of 9 percent by State and 6 percent by City, approximately. City shall contribute 100 percent of the cost of any portion of the project in which federal funds do not participate, EXCEPT construction engineering costs in which federal funds do not participate will be shared equally by State and City. Nonparticipation of federal funds in any portion of the project occurs when federal rules and regulations exclude an item or the available federal funds are depleted.

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; Titles 2 and 3 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; the Oregon Action Plan; Federal Management Circular 74-4; and Office of Management and Budget Circular A-102, Attachments G and P.

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.

4. The parties hereto mutually agree that State may, upon request, obtain the necessary right-of-way and easements for construction of the project. Said right-of-way acquisition may be considered a part of the project, eligible for federal aid participation, and shall be subject to execution of a supplemental service agreement setting forth the terms and conditions of the various parties' activities. In the event that City requests said acquisition services by State, all necessary right-of-way purchased with federal aid participation shall be acquired in the name of State and thereafter transferred to City.

5. The parties hereto also mutually agree that if any parcel of real property purchased with federal aid participation is no longer needed for right-of-way, or other public purposes, the sale, transfer or exchange of such property shall be subject to applicable Federal and State statutes, rules and regulations which are in effect at the time of disposition. Reimbursement to State of the required proportionate share of the fair market value may be required.

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 January 24, 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

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

State Highway Engineer

Date _____

APPROVED AS TO FORM

City Attorney

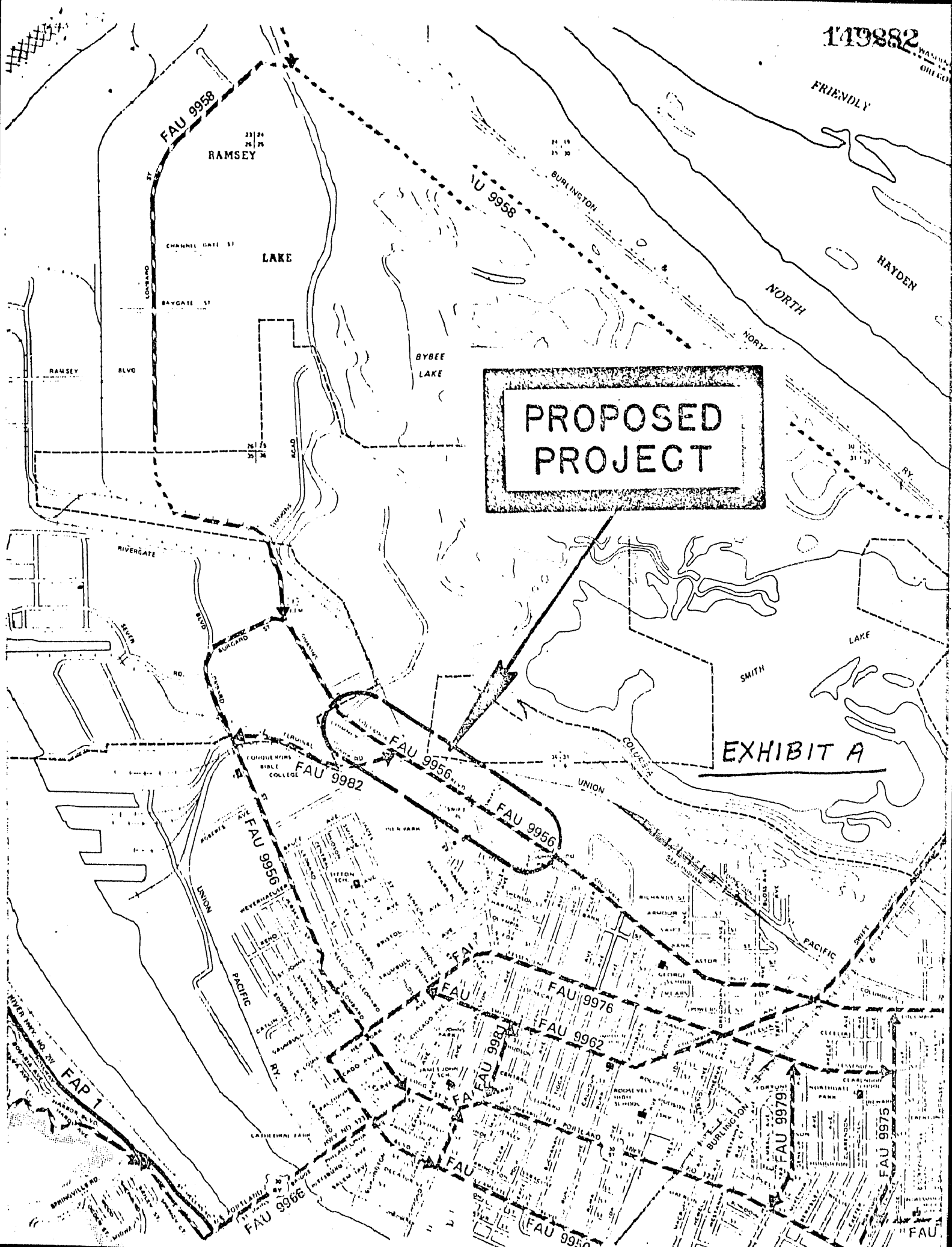
CITY OF PORTLAND, by and through
its designated City Officials

By _____

Auditor

By _____

Commissioner of Public Works



**PROPOSED
PROJECT**

EXHIBIT A

FAU 9958

RAMSEY

LAKE

BURLINGTON

FRIENDLY

HAYDEN

NORTH

BYBEE
LAKE

**PROPOSED
PROJECT**

LAKE

SMITH

FAU 9982

FAU 9956

FAU 9956

FAU 9956

FAU 9976

FAU 9962

FAU 9981

FAU 9950

FAU 9979

FAU 9975

FAP 1

FAU 9966

FAU

ORDINANCE NO. **149282**

An Ordinance authorizing the City to enter into an agreement with the Oregon Department of Transportation providing for construction, right-of-way acquisition, financing, utility adjustment and maintenance of N. Columbia Blvd. between N. Oswego Avenue and the westerly City limits, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Columbia Blvd. between Burr and the westerly City limits was identified by Resolution No. 31843 adopted March 9, 1975 as a project which could be designed utilizing FAU funds.
2. The proposed project was subsequently split at N. Oswego Avenue in order for the portion between Burr and Oswego Avenues to be constructed without being delayed for right-of-way acquisition on the Oswego to westerly City limits portion.
3. By Ordinance No. 140516 passed by Council September 2, 1975, the City entered into an agreement, No. 14979, with the State of Oregon through its Department of Transportation providing for design of Columbia Blvd. between N. Oswego Avenue and the westerly City limits.
4. A public hearing was held May 3, 1978 to receive testimony regarding the proposed improvements.
5. Resolution No. 32423, adopted by Council May 9, 1979 approved final design and construction of a curbed four lane roadway with left turn median, a structure crossing over the Union Pacific Railroad tracks, a sidewalk/bikeway, illumination, noise berms, closure of N. Terminal Road and construction of a truck turn-around on N. Lombard Street at N. Sever Road.
6. In order to receive authorization to begin right-of-way acquisition, the Oregon Department of Transportation needs to provide the Federal Highway Administration with an agreement similar to the agreement attached to the original of this Ordinance setting forth construction, finance and maintenance responsibilities.
7. ODOT will submit a supplemental City/State right-of-way agreement describing the right-of-way requirements when the right-of-way descriptions have been written.

ORDINANCE No.

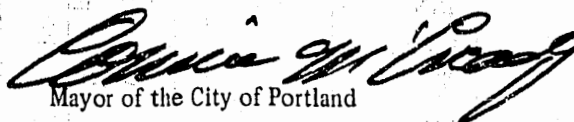
NOW, THEREFORE, the Council directs:

- a. The Auditor and the Commissioner of Public Works 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.


Section 2. The Council declares that an emergency exists because delay in executing this agreement will delay right-of-way acquisition, which will result in delaying construction and realization of the benefits of this project; therefore, this Ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **MAR 19 1980**

Commissioner Mike Lindberg
Steve Riddell:lr
March 4, 1980


Mayor of the City of Portland

Attest:


Auditor of the City of Portland

Calendar No. ²¹⁹~~259~~

ORDINANCE No. 149282

Title

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MAR 13 1980

CONTINUED TO MAR 19 1980

MAR 7 1980

Filed _____

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *Gordon Ball*
Deputy

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 <i>ML/SA</i>

BUREAU APPROVAL
Bureau: Street & Structural Engineering
Prepared By: Steve Riddell:lr
Date: March 4, 1980
Budget Impact Review:
<input checked="" type="checkbox"/> Completed <input type="checkbox"/> Not required
Bureau Head: <i>David J. Vargas</i> David J. Vargas, Acting Chief

NOTED BY
City Attorney
City Auditor
City Engineer <i>[Signature]</i>

ORDINANCE No.

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ORDINANCE NO. 149282

MAR 19 1980

Passed by the Council, MAR 19 1980

Commissioner Mike Lindberg
 Steve Riddell:lr
 March 4, 1980

Clavin W. Long
 Mayor of the City of Portland

Attest:

George Zubovik
 Auditor of the City of Portland