

RIGHT OF WAY AGREEMENT  
 INTERSTATE TRANSFER PROJECT  
 WEST CITY LIMITS-NORTH OSWEGO AVENUE SECTION  
 NORTH COLUMBIA BOULEVARD

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";

WITNESSETH:

RECITALS:

1. By authority granted in certain ORS provisions City entered into an Urban System Project Agreement concerning improvement of the West City Limits-North Oswego Avenue Section of the North Columbia Boulevard. City officials have acted in this matter pursuant to Ordinance No. \_\_\_\_\_ adopted by its City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.
2. City is willing and able to finance its pro rata share of the right of way and relocation costs and 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 to accomplish the project.

NOW THEREFORE, the premises being in general as stated in the 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:

## 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.

## 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. State will provide City with a status report of the project every 30 days.
- d. 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 make review appraisal by qualified senior appraiser.
  - c. State will submit review appraisal to City who will promptly approve or disapprove the amount and notify State.
  - d. 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 review and approved figure. Offers and options above the approved figure are to have advance approval by City and options are to be accompanied by an administrative review justification.
  - c. All proposed legal settlements made by City over the reviewed and approved figure are to be cleared with the State, prior to settlement, to assure compliance with applicable regulations.
6. Relocation
- a. State will provide replacement housing benefit computations, moving cost estimates, incidental cost estimates and relocation review service.
  - b. State will submit additive computations to City who will promptly approve or disapprove the amount and notify State.
  - c. State will provide all relocation services to relocatees, process all claims and pay promptly.

- d. State will promptly establish an appeal procedure whereby displacees are informed of the procedure at the outset of negotiations.
- e. 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 improvement and excess land.

C. Closing Phase

1. State will process options and settlements at the amount approved by City.
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, upon request, will provide formats for condemnation resolutions, legal letters of offer, complaints and summons.
2. City will handle entire condemnation action.
3. City will send written request to State for any additional appraisals required for condemnation.
4. State will obtain appraisal and have reviewed by qualified senior appraiser.
5. State will submit reviewed appraisal to City for approval and use by their Attorney. The Attorney will offer the land owner or his representative the reviewed and approved figure.

## GENERAL PROVISIONS

1. State shall, in the first instance, pay all costs of the project, submit all claims for Federal 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.

2. 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.

3. All necessary right of way for this project shall be acquired in the name of City.

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 \_\_\_\_\_, 19\_\_\_\_.

APPROVED AS TO FORM:

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

*James S. Sealee*  
Asst. Attorney General  
and Counsel

\_\_\_\_\_  
J. B. Boyd, Right of Way Manager

APPROVED:

CITY OF PORTLAND, by and through its City Officials

\_\_\_\_\_  
City Engineer

By \_\_\_\_\_  
~~Mayor~~ Auditor

By \_\_\_\_\_  
Commissioner of Public Works

\_\_\_\_\_  
City Attorney

An Ordinance authorizing the City to enter into a supplemental right-of-way agreement with the Oregon Department of Transportation, Highway Division, providing for right-of-way acquisition for the N Columbia Boulevard between N Oswego Avenue and the westerly City limits project, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. Columbia Boulevard 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. 140517, 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 Boulevard 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. On March 12, 1980, Council considered the construction finance agreement for the Columbia/Oswego to West City Limits project.
7. In order to receive authorization to begin right-of-way acquisition, the Oregon Department of Transportation needs to provide the Federal Highway Administration with a right-of-way agreement, supplementing the construction agreement, similar to the agreement attached to the original of this Ordinance.

ORDINANCE No.

149309

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:mnc  
 March 11, 1980

Attest:

*Benjamin M. Priddy*  
 Mayor of the City of Portland

*George F. Johnson*  
 Auditor of the City of Portland



Calendar No. 960

ORDINANCE No. 149309

Title

An Ordinance authorizing the City to enter into a supplemental right-of-way agreement with the Oregon Department of Transportation, Highway Division, providing for right-of-way acquisition for the N Columbia Boulevard between N Oswego Avenue and the westerly City limits project, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Ivancie	1	
Jordan	1	
Lindberg	1	
Schwab	1	
McCready	1	

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 mgf</i>

BUREAU APPROVAL	
Bureau:	
Street & Structural Engineering	
Prepared By: Steve Riddell:mmc	Date: 3-11-80
Budget Impact Review:	
<input type="checkbox"/> Completed <input type="checkbox"/> Not required	
Bureau Head: <i>D Vargas</i>	
David Vargas, Acting Chief	

NOTED BY
City Attorney
City Auditor
City Engineer Approved: <i>John M. Lang</i>
John M. Lang, Acting City Engr.
By: <i>D Vargas</i>

Filed MAR 14 1980

GEORGE YERKOVICH  
Auditor of the CITY OF PORTLAND

By: *Gordon C. Reed*  
Deputy