

ACCEPTANCE

FEB 16 7 58 AM '82

Portland, Oregon, February 11, 1982

GEORGE YERKOVICH
Auditor of the City of Portland,
Room 202, City Hall
Portland, Oregon 97204

Dear Sir:

This is to advise the City of Portland, Oregon, that I hereby accept the terms and provisions of

Ordinance No. 152836, passed on February 10, 1982, being, "An Ordinance amending Contract No. 18725 between the City of Portland and Stadeli Pump & Construction Company, Inc., accepting notice of termination, from Stadeli Pump & Construction Company, Inc., authorizing a takeover agreement between the City of Portland and Fireman's Fund Insurance Company as surety on the performance payment bond furnished per contract specifications, providing for acceptance; and declaring an emergency",

and in consideration of the benefits to be received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

Very truly yours,

FIREMAN'S FUND INSURANCE COMPANY

[CORPORATE SEAL]

* *B. Michael*

121 SW Salmon Portland, Ore.
Address

APPROVED AS TO FORM

Christopher P. Thomas

~~EXX~~ ~~AS TO FORM~~

***When an acceptance is required from a firm or corporation the Acceptance must be signed by an officer of the firm or corporation stating his or her official title, and corporations must affix the corporate seal.**

"We accept subject to the substitution of the following language in Ordinance No. 152836, Section 1, the following:

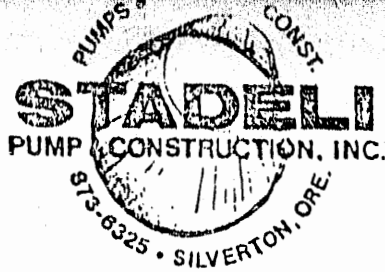
(over)

- 2. "Fireman's Fund Insurance Company, as Surety on the performance bond required per contract specifications, copy of which is attached to the original only of this ordinance as Exhibit "B" and made a part hereto, has elected to procure the performance of the remaining work under the contract subject to expenditures not to exceed the limits established in the bond".
- 3. "The City Engineer recommends and the Commissioner in charge approves, that Fireman's Fund Insurance Company procure the performance of the remaining work under the contract and that the form of agreement attached to the original of this ordinance as Exhibit "C" and made a part hereof, is a proper form of agreement, approved by the City Attorney".

APPROVED AS TO FORM

Christopher P. Thomas
 CITY ATTORNEY

Christopher P. Thomas
 CITY ATTORNEY



January 5, 1982

Fireman's Fund Insurance Co.
c/o J. Terrence Bittner
Attorney at Law
One SW Columbia
Portland, OR 97258

Re: Stadeli Pump & Construction, Inc.
City of Lincoln City Project - N. Highway 101
Sewerage LID No. 8039
Fireman's Fund Bond No. SC 637-2266
City of Portland Project - N. Lombard Street
Pump Station No. 8021
Fireman's Fund Bond No. 635-3135
City of Lake Oswego Project - Palisades Pump
Station No. 8040
Fireman's Fund Bond No. 637-2265
City of Portland - Ground Water Leveling
Program No. 8151
Fireman's Fund Bond No. 637-2266

Gentlemen:

This letter will confirm our oral discussions relative to the above captioned contracts and our company's inability to meet its payment and other bond and performance obligations on the above captioned contracts.

It should be pointed out that with respect to the City of Portland Ground Water Project and the City of Lake Oswego Palisades Pump Station Project, that performance has been completed, but there are certain unpaid obligations. With respect to the remaining two projects, City of Lincoln City N. Highway 101 Project and City of Portland N. Lombard Project, completion has not occurred. However, we are, without financial assistance, unable to complete these projects.

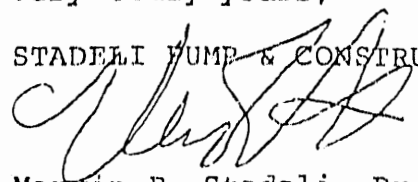
Therefore, due to circumstances beyond our control, we are unable to continue the performance of these contracts and will therefore be forced to be in default of our contractual and bond obligations. We regret to say that without your financial assistance we cannot rectify this situation and will therefore be forced to abandon the above referenced projects.

Fireman's Fund Ins. Co.
Jan 5, 1982
Page 2

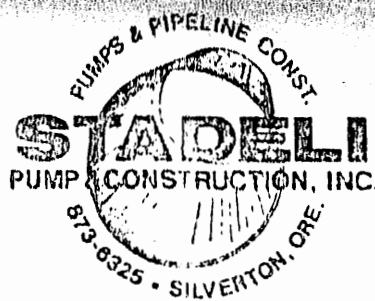
In such event, and as appears in all likelihood probable, you must therefore take such steps as in your discretion you consider necessary and appropriate in order to perform your obligations as surety on the bonds covering such contracts and secure your rights with respect to any contract amounts which would otherwise be due and payable to our company.

Very truly yours,

STADELI PUMP & CONSTRUCTION, INC.



Marvin R. Stadel, President



152836

January 5, 1982

Re: Stadeli Pump & Construction, Inc.
City of Portland Project - N. Lombard St. Pump
Station No. 8021
Fireman's Fund Bond No. 635-3135

Gentlemen:

The purpose of this letter is to further instruct you with respect to our default in performance on the above captioned contract.

We are hereby waiving any rights under our contract with respect to the time of notice, opportunity to cure default, and any other rights we may have relative to contract terms.

We trust this will facilitate the problems occasioned by our default and assist you and the surety in an orderly completion of the project.

Very truly yours,

STADELI PUMP & CONSTRUCTION, INC.


Marvin R. Stadeli, President

EXHIBIT B

PERFORMANCE AND PAYMENT BOND

#SC6353135

KNOW ALL MEN BY THESE PRESENTS That, we STADELI PUMP AND CONSTRUCTION, INC., AS Principal, and FIREMAN'S FUND INSURANCE COMPANY a corporation organized and existing under the laws of the State of CALIFORNIA, and duly authorized to transact a surety business in the State of Oregon, as Surety, are held and firmly bound unto the CITY OF PORTLAND, a municipal corporation of the State of Oregon, in the penal sum of ONE MILLION FORTY SIX THOUSAND TWO HUNDRED FIFTY NINE AND NO/100----- Dollars (\$1,046,259.00-----), lawful money of the United States of America, for the payment whereof well and truly to be made, we and each of us, jointly and severally, bind ourselves, our and each of our heirs, executors, administrators, successors and assigns firmly by these presents.

THE CONDITIONS of this obligation are such that, whereas the above-bounden Principal did on this 24TH day of JUNE 1979, enter into a contract with the CITY OF PORTLAND for NORTH LOMBARD STREET WASTEWATER PUMPING STATION

Bid No. 101 for Furnishing All Labor, Materials and Equipment for Construction of North Lombard Street Wastewater Pumping Station for the Bureau of Sanitary Engineering,

which contract hereby is made a part hereof as if fully copied herein;

NOW, THEREFORE, if the said Principal faithfully, punctually, and completely performs and abides by all covenants, conditions and agreements of said contract, including payment of money to CITY OF PORTLAND, (which includes plans and specifications made a part thereof and any addenda thereto), and with all laws, ordinances, regulations and orders of the State of Oregon and the City of Portland, and the agencies and bureaus thereof, directly or indirectly governing or applicable to, the Principal's performance under the said contract, including but not limited to ORS 279.312 which hereby is made a part hereof as if fully copied herein, and shall make payment promptly, as due, to all subcontractors and to all persons supplying to the Principal or his (its) subcontractors equipment, supplies, labor or materials for the prosecution of the work or any part thereof, provided for in said contract, then this obligation shall be null and void, otherwise to be in full force and effect.

Surety agrees (1) that no extension of time allowed said Principal for completion of work or for delivery under the said contract shall impair this obligation, or reduce any period of maintenance or warranty provided in said contract; (2) that no change made in the terms of provisions of said contract, without notice to the Surety, shall impair this obligation, but any such change shall automatically increase the obligation of the Surety hereunder in a like amount, PROVIDED that such increase shall not exceed twenty-five percent (25%) of the original amount of this obligation without consent of the Surety; and (3) that this obligation shall continue to bind the said Principal and Surety notwithstanding successive payments made hereunder for successive breaches, until the full amount of this obligation is exhausted.

Surety further agrees that no termination or cancellation of this bond shall relieve the Surety from his or its obligation for the performance by the Principal of any and/or all provisions of said contract, including all guaranty provisions relating thereto, as to work performed or materials or equipment delivered prior to the termination or cancellation.

IN WITNESS WHEREOF, the Principal and Surety have caused these presents to be executed this 23RD day of JUNE, 1980.

STADELI PUMP & CONSTRUCTION, INC.

BY [Signature] Principal
(Title)

APPROVED AS TO FORM
Approved as to Form.

[Signature]
City Attorney

FIREMAN'S FUND INSURANCE COMPANY

Surety

BY [Signature]
KATHLEEN M. SADOWSKI Attorney in Fact

Approved:

[Signature]
Mayor
City of Portland, Oregon

COUNTERSIGNED:

A. G. SADOWSKI COMPANY/KATHLEEN M. SADOWSKI
Oregon Resident Agent

AGREEMENT

This agreement, entered into this _____ day of _____, between the City of Portland, hereinafter called the Owner; and the Fireman's Fund Insurance Company, a corporation organized and existing under the laws of the State of California and licensed and permitted to do business in the State of Oregon, hereinafter called the Surety.

W I T N E S S E T H T H A T

WHEREAS, Stadel Pump & Construction Co., Inc., a corporation organized under the laws of the State of Oregon, hereinafter called the Contractor, has failed to complete its contract dated July 12, 1980, identified as follows:

North Lombard Pump Station as set forth in the specifications, schedules and drawings of the contract, and change orders;

WHEREAS, Stadel Pump and Construction Co., Inc. has admitted voluntary default and is unable to complete the contract.

WHEREAS, the Owner desires to effect the undelayed completion of the work covered by said contract in order to preserve continuity of performance, expedite completion, and to avoid the delay and inconvenience of reletting; and

WHEREAS, the Surety is willing and desires to procure the performance of the work as a measure of cooperation with the Owner and as measure to minimize excess costs.

NOW THEREFORE, the Owner and the Surety hereby agree as follows:

1) The Surety undertakes and agrees to procure the performance of all work remaining to be completed in accord with all the terms and conditions of the original contract.

2) The Owner will pay directly to Surety such amounts that become due in accordance with the payment provisions of said original contract, plus any additional compensation to which the Surety may become entitled pursuant to terms of the contract.

3) All payments made by the Surety relating to completion of this project, less amounts paid to Surety by Owner, shall be credited against the penal limit of the performance and payment bonds executed by the Surety. The Surety shall not be obligated to expend funds in excess of the penal limits of said performance bond.

Owner

Surety

121P1

APPROVED AS TO FORM

Christopher P. Thomas
CITY ATTORNEY

ORDINANCE NO. 152836

An Ordinance amending Contract No. 18725 between the City of Portland and Stadel Pump & Construction Company, Inc., accepting notice of termination from Stadel Pump & Construction Company, Inc., authorizing a takeover agreement between the City of Portland and Fireman's Fund Insurance Company as surety on the performance payment bond furnished per contract specifications, providing for acceptance; and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. That notice of termination of Contract No. 18725 between the City of Portland and Stadel Pump & Construction Company, Inc., for construction of the North Lombard Pump Station, was given the City of Portland by copies of two letters dated January 5, 1982 from Stadel Pump & Construction Company, Inc., to the Fireman's Fund Insurance Company, attached to the original only of this ordinance, marked as Exhibit "A" and made a part hereof.
2. Fireman's Fund Insurance Company, as surety on the performance bond required per contract specifications, copy of which is attached to the original only of this ordinance as Exhibit "B" and made a part hereto, has elected to take over and complete the performance of the contract on behalf of Stadel Pump & Construction Company, Inc., subject to expenditures not to exceed the limits established in the bond.
3. The City Engineer recommends and the Commissioner in charge approves, that Fireman's Fund Insurance Company be authorized to complete the project on behalf of Stadel Pump & Construction Company, Inc., and that the form of agreement attached to the original only of this ordinance as Exhibit "C" and made a part hereof, is a proper form of agreement, approved by the City Attorney.

NOW, THEREFORE, the Council directs:

- a. Contract No. 18725 between the City of Portland and Stadel Pump & Construction Company, Inc., is hereby amended by accepting notice of termination from Stadel Pump & Construction Company, Inc., as set forth in Exhibit "A", authorizing an agreement between the City of Portland and Fireman's Fund Insurance Company as set forth in Exhibit "C" to provide for takeover of the project, on behalf of Stadel Pump & Construction Company, Inc., pursuant to the performance and payment bond that was furnished the City of Portland marked Exhibit "B" and the contract specifications. Except as provided in this ordinance, all other items and conditions required by contract documents remain the same.

ORDINANCE No.

- b. This ordinance shall become an effective amendment to the Contract No. 18725 when it's terms and conditions are accepted by Fireman's Fund Insurance Company, filed with the City Auditor and approved by the City Attorney.

Section 2. The Council declares that an emergency exists in order to provide for a transition with the least possible delay to the project, subject to acceptance as provided in Paragraph b above; therefore, this ordinance shall be in force and effect from and after it's passage by the Council.

Passed by the Council, FEB 10 1982

Commissioner Mike Lindberg
 February 2, 1982
 Stanley Torgrimson:es

Attest:

Serge Tchouinik
 Auditor of the City of Portland

Calendar No.

ORDINANCE No. 152836

Title

An Ordinance amending Contract No. 18725 between the City of Portland and Stadel Pump & Construction Company, Inc., accepting notice of termination from Stadel Pump & Construction Company, Inc., authorizing a takeover agreement between the City of Portland and Fireman's Fund Insurance Company as surety on the performance payment bond furnished per contract specifications, providing for acceptance; and declaring an emergency.

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	

INTRODUCED BY
Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER

Affairs

Finance and Administration

Safety

Utilities ~~ITF~~

Works Public Works MDL/mgf

BUREAU APPROVAL

Bureau: Sanitary Engineering

Prepared By: S. Torgrimson Date: 2/2/82

Budget Impact Review:
 Completed Not required

Bureau Head: J. P. Niehuser

CALENDAR

Consent Regular XX

NOTED BY

City Attorney

City Auditor

City Engineer John Lang

John Lang

Filed FEB 5 1982

GEORGE YERKOVICH Auditor of the CITY OF PORTLAND

By *Frank Tompkins* Deputy