

152959

RECEIVED
MAR 22 8 52 AM 1982
GEORGE W. H. AUDITOR
CITY OF PORTLAND, ORE.

EXHIBIT "A"

ACCEPTANCE BY _____

The undersigned, by and through its duly authorized representatives, hereby acknowledge that they have read the terms and conditions of Ordinance No. **152959** an Ordinance providing for continuation of progress payments during such interim period of time as may be necessary to complete the reconstruction of SW 20th Avenue from SW Salmon Street to approximately 300 feet north, and do hereby agree, each for the other, that such amendment to the contract will not be used or construed to have waived any rights or constitute a defense to any claim or right of either the City or the undersigned and provided further that the execution of this acceptance does not constitute an admission by the undersigned of any statement or allegation contained in said ordinance.

Dirt & Aggregate Interchange, Inc.

By: X *Henry H. Pelfrey*
Henry H. Pelfrey
President (Title)

APPROVED AS TO FORM

CITY ATTORNEY

[Handwritten mark]

United Pacific Insurance Co.
(Surety Company)

By: X *Robert W. [Signature]*
Attorney-in-fact (Title)

EXHIBIT "A"

A C C E P T A N C E

The undersigned, by and through its duly authorized representatives, hereby acknowledge that they have read the terms and conditions of Ordinance No. _____ an Ordinance providing for continuation of progress payments during such interim period of time as may be necessary to complete the reconstruction of SW 20th Avenue from SW Salmon Street to approximately 300 feet north, and do hereby agree, each for the other, that such amendment to the contract will not be used or construed to have waived any rights or constitute a defense to any claim or right of either the City or the undersigned and provided further that the execution of this acceptance does not constitute an admission by the undersigned of any statement or allegation contained in said ordinance.

Dirt & Aggregate Interchange, Inc.

By: _____

_____ (Title)

United Pacific Insurance Co.
(Surety Company)

By: _____

_____ (Title)

ORDINANCE NO. **152959**

An Ordinance amending Ordinance No. 152120, to provide for the continuation of progress payments to Dirt & Aggregate Interchange, Inc., contractor, for reconstruction of SW 20th Avenue from SW Salmon Street to approximately 300 feet north, Contract No. 19745, subject to certain terms and conditions, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The contract between the City of Portland and Dirt & Aggregate Interchange, Inc. for reconstruction of SW 20th Avenue from SW Salmon Street to approximately 300 feet north, as amended by previous Council action requires that Dirt & Aggregate Interchange, Inc. complete the work in all respects by December 10, 1981.
2. The contractor has already requested two contract time extensions for various reasons and items of work, and the City Engineer anticipates that additional time extension requests will be submitted.
3. The City Engineer recommends: (1) deferring any action on additional time extensions until completion of all work so that the contractor's diligence in pursuing the work and other factors can be considered, and (2) extending authorization to make progress payments beyond the specified completion date.
4. To date the contractor has been paid approximately 24 percent of the contract amount although approximately 95 percent of the work is complete.
5. The City Attorney's office has recommended that authorization of progress payments beyond the specified completion date of construction take the form of an ordinance with provision for acceptance by the Contractor and its Surety.

NOW, THEREFORE, the Council directs:

- a. The progress payments may continue to be made to the contractor for work completed subsequent to December 10, 1981, said date being the date specified for completion of the contract as amended, and further providing that payments made subsequent to December 10, 1981 will not be held to have waived any rights that the City has, or may have, under this contract, nor as a defense in any action or

ORDINANCE No.

suit at law that may hereafter be instituted in a court of law or equity involving the contract between the parties, to declare the contractor in default and to insist upon liquidated damages.

- b. The City Engineer, with the approval of the Commissioner in charge, is hereby authorized to continue progress payments to the Contractor if in their combined discretion such payments should continue.

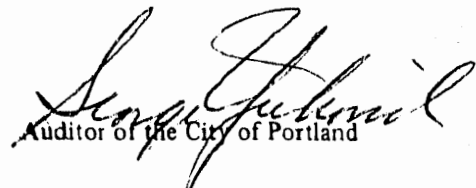
Section 2. This Ordinance shall have no force and effect until the acceptance by Dirt & Aggregate Interchange, Inc. and its Surety has been filed with the Auditor of the City, in the form of acceptance to be substantially in accordance with the terms and conditions of the original only hereof, marked Exhibit "A", and by reference made a part hereof.

Section 3. The Council declares that an emergency exists because further progress payments are necessary to insure that payment is made for labor and material expended by Dirt & Aggregate Interchange, Inc. and to enable it to meet its commitments to its suppliers and sub-contractors under the contract; therefore, this Ordinance shall, subject to acceptance as set forth in Section 2 hereinabove, be in force and effect from and after its passage by the Council.

Passed by the Council, MAR 10 1982

Commissioner Mike Lindberg
Dave Jensen:mh
March 3, 1982

Attest:


Auditor of the City of Portland

Calendar No. **615**

ORDINANCE No. 152959

Title

An Ordinance amending Ordinance No. 152120, to provide for the continuation of progress payments to Dirt and Aggregate Interchange, Inc., contractor, for reconstruction of SW 20th Avenue from SW Salmon Street to approximately 300 feet north, Contract No. 19745, subject to certain terms and conditions, and declaring an emergency.

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

FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

Filed MAR 4 1982

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By: *George A. Powell*
Deputy

INTRODUCED BY
Commissioner Mike Lindberg

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety
Utilities
Works <i>ML/MS</i>

BUREAU APPROVAL
Bureau: Street & Structural Engineering
Prepared By: <i>DJ</i> Date: 3/2/82
Budget Impact Review: <input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not required
Bureau Head: <i>R.O. Schmidt</i> R.O. Schmidt, Chief

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

NOTED BY
City Attorney
City Auditor
City Engineer <i>John M. Lang</i> John M. Lang, P.E.
By: