

## SETTLEMENT AGREEMENT

THIS AGREEMENT made and entered into this \_\_\_\_\_ day of March, 1982, by and between the CITY OF PORTLAND, a municipal corporation (hereinafter "City"), SIUSLAW CONSTRUCTION COMPANY (hereinafter "Siuslaw") and FIREMAN'S FUND INSURANCE COMPANY (hereinafter "Surety").

1. City and Siuslaw have entered into a contract dated July 21, 1981 for the reconstruction of the Willamette Park Boatramp (hereinafter "Project").
2. Surety posted a performance and payment bond dated July 20, 1981 in connection with the Project.
3. Certain disputes have arisen between the City, Siuslaw and Surety regarding the Project.
4. An action has been filed by Siuslaw in the Multnomah County Circuit Court, Civil No. A8202-01228.
5. City denies the claims of Siuslaw and is prepared to counterclaim against Siuslaw and its Surety.
6. The parties recognize that the respective claims are disputed and, in an effort to avoid the substantial time and expense of litigation, have agreed to resolve certain of those claims at this time and attempt to resolve the balance of the matters in dispute while the Project is continuing.

## NOW, THEREFORE, IT IS AGREED:

1. City agrees, subject to the terms herein, to amend the contract to make a partial payment to Siuslaw of \$68,914.50 against any amounts due Siuslaw on the Project. Such payment shall not be regarded as an admission by City of any obligation to make a progress or partial payment or as a waiver of any claims against Siuslaw arising out of the Project. Siuslaw waives its right to claim that it is excused from or in any way not obligated to complete performance of the Project as a result of any failure of the City to make any progress or partial payment, but does not waive its right to claim damages as a result thereof.
2. Siuslaw agrees to complete the Project in accordance with the terms and conditions of the contract provided, however, that river conditions permit the contract to be completed on or before September 15, 1982.
3. If Siuslaw fails to complete its responsibilities under the contract on or before September 15, 1982, the City may complete the Project itself and reserves any and all

rights it has against Siuslaw and the Surety for any costs, expenses or damages for such completion. It is understood that, by allowing Siuslaw until September 15, 1982 to complete its performance, City reserves any and all rights it has against Siuslaw and its Surety to claim that Siuslaw should have completed the Project at an earlier time. It is further understood that by agreeing to complete the contract on or before September 15, 1982, river conditions permitting, Siuslaw reserves, except as otherwise provided herein, any and all rights which it has against the City arising out of its inability to complete the contract within the original contract time as modified by Change Order No. 1 dated July 18, 1981.

4. When the river level reaches a mean low elevation of 5.5, Siuslaw will correct the overhang currently existing on the ramp, will remove a pile of 3/4" minus rock on the ramp and, if there is a hole at the tie beam area, will fill that hole with 3/4" minus rock.

5. Siuslaw and the City each reserve, except to the extent otherwise provided herein, any and all claims, defenses or rights of any kind arising out of or related to the project.

6. Upon approval of this Agreement, the claims of Siuslaw asserted in Multnomah County Circuit Court Civil No. A8202-01228 shall be dismissed without prejudice and without costs to either party, but subject to the terms of this Agreement.

7. Upon approval of this Agreement, the parties will attempt to negotiate the claims of Siuslaw and the City. In the event such claims are not satisfactorily resolved by negotiation within 60 days of the date of any approval of this Agreement by the City Council, either party may take appropriate action including instituting litigation.

8. The parties agree, except as otherwise provided herein, that their rights and responsibilities are governed by the terms of their contract dated July 21, 1981 and Change Order No. 1 dated July 18, 1981.

9. Surety hereby consents to the terms of this Agreement and agrees that its responsibilities under the bond posted in connection with the Project shall extend to the responsibilities of Siuslaw hereunder.

10. It is understood that this Agreement is a partial resolution of disputed issues and neither party, by entering into this Settlement Agreement, acknowledges responsibility in any respect.

11. This Agreement is subject to the approval of the Commissioner in charge of the Parks Bureau and the City Council within two weeks after the date hereof. In the event it is not approved, it will be null and void.

CITY OF PORTLAND

BY \_\_\_\_\_  
Commissioner of Bureau of Parks

BY \_\_\_\_\_  
For the City Council

SIUSLAW CONSTRUCTION COMPANY

BY \_\_\_\_\_  
Title \_\_\_\_\_

FIREMAN'S FUND INSURANCE COMPANY

BY \_\_\_\_\_  
Title \_\_\_\_\_

## ORDINANCE NO. 153010

An Ordinance authorizing an agreement with Siuslaw Construction Company to settle certain claims arising under a contract for rehabilitation of Willamette Park Boat Ramp, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. City and Siuslaw have entered into a contract dated July 21, 1981, for the reconstruction of the Willamette Park Boatramp (hereinafter "Project").
2. Surety posted a performance and payment bond dated July 20, 1981, in connection with the Project.
3. Certain disputes have arisen among the City, Siuslaw, and Surety regarding the Project.
4. An action has been filed by Siuslaw in the Multnomah County Circuit Court, Civil No. A8202-01228.
5. City denies the claims of Siuslaw and is prepared to counterclaim against Siuslaw and its Surety.
6. The parties recognize that the respective claims are disputed and, in an effort to avoid the substantial time and expense of litigation, have agreed to resolve certain of those claims at this time and attempt to resolve the balance of the matters in dispute while the Project is continuing.

NOW, THEREFORE, the Council directs:

- a. The Auditor and the Commissioner-in-Charge are authorized to sign an agreement with Siuslaw Construction Company, which agreement is attached to the original of this ordinance and by this reference made part hereof.

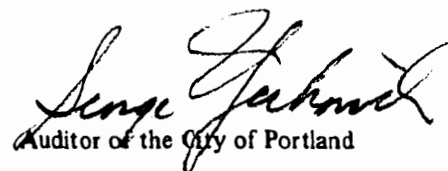
## ORDINANCE No.

Section 2. The Council declares an emergency exists because delay could jeopardize ratification of the compromise agreement; therefore, this ordinance shall be in force and effect from and after its passage by Council.

Passed by the Council, MAR 31 1982

COMMISSIONER JORDAN  
Ruth M. Spetter/clp  
March 25, 1982

Attest:

  
Auditor of the City of Portland

Calendar No. 792

ORDINANCE No. 153010

Title

An Ordinance authorizing an agreement with Siuslaw Construction Company to settle certain claims arising under a contract for rehabilitation of Willamette Park Boat Ramp, and declaring an emergency.

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

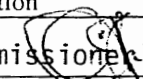
FOUR-FIFTHS CALENDAR	
JORDAN	
LINDBERG	
SCHWAB	
STRACHAN	
IVANCIE	

Filed MAR 26 1982

GEORGE YERKOVICH  
Auditor of the CITY OF PORTLAND

*George Yerkovich*  
Deputy

INTRODUCED BY
COMMISSIONER JORDAN

NOTED BY THE COMMISSIONER
Affairs
Finance and Administration
Safety  Commissioner Charles Jordan
Utilities
Works

BUREAU APPROVAL	
Bureau:	
Prepared By: R.M. Spetter	Date: 3/25/82
Budget Impact Review:	
<input type="checkbox"/> Completed <input type="checkbox"/> Not required	
Bureau Head:	

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

NOTED BY
City Attorney
City Auditor
City Engineer