

THIS AGREEMENT, made this _____ day of _____, 1970, by and between Henry M. Mason Company, hereinafter called the Contractor and the City of Portland, hereinafter called the Owner,

WITNESSETH that the Contractor and the Owner for the considerations hereinafter named agree as follows:

1. Scope of the Work: The Contractor agrees to provide all of the materials and perform all of the work to repair, rebuild and/or replace certain items in the Portland City Hall, Portland, Oregon, which were damaged by an explosion blast in November, 1970, as directed by the City Engineer. This work must be coordinated with work done by City forces and by other City contractors. All work shall be in accordance with the Project Drawings and Specifications as prepared by Moffatt, Nichol & Bonney, Inc., Engineers, herein and hereinafter referred to as the Engineer.

2. Time of Completion: It is understood that time is extremely important and the Contractor shall provide the necessary equipment and personnel and shall expedite the work as required to complete the entire work in the shortest possible time.

3. Overtime Work: Double shifting or work on other than a normal single shift work week basis shall be avoided unless specifically approved in writing by the City Engineer.

4. Contractor's Duties and Status: The Contractor recognizes the relations of trust and confidence established between him and the Owner by this Agreement. He covenants with the Owner to furnish his best skill and judgment and to cooperate with the City Engineer or his designee in forwarding the interests of the Owner. He agrees to furnish efficient business administration and superintendency and to use every effort to keep upon the work at all times an adequate supply of workmen and materials and to secure its execution in the best and soundest way and in the most expeditious and economical manner consistent with the interests of the Owner.

5. Contractor's Fee: The Owner agrees to pay the Contractor, in current funds as compensation for his services, a fixed fee which shall be determined as follows:

<u>Costs to be Reimbursed</u>	<u>Fixed Fee</u>
\$50,000 and below	\$6,000
\$50,000 to \$74,999	\$7,000
\$75,000 to \$99,999	\$8,750
\$100,000 and over	\$10,000

The exact amount of the fee will be determined immediately upon determination of total costs.

6. Costs to be Reimbursed: The Owner agrees to reimburse the Contractor in current funds paid directly to the Contractor, all costs necessarily incurred for the proper execution of the work, such costs to include the following items, and to be at rates not higher than the standard paid in the locality of the work except with prior consent of the Owner:

a. All labor directly on the Contractor's payroll, including social security and old age benefits and other payroll taxes related thereto.

b. Salaries of the Contractor's employees stationed at the field office, in whatever capacity employed. Employees engaged, at shops or on the road, in expediting the production or transportation of material, shall be considered as stationed at the field office and their salaries paid for such part of their time as is employed on this work.

c. Permit fees, royalties, damages for infringements of patents and costs of defending suits therefor if the patented article has been ordered by Owner to be used or installed, and for deposits lost for causes other than the Contractor's negligence.

d. Losses and expenses, not compensated by insurance or otherwise, sustained by the Contractor in connection with the work, provided they have resulted from causes other than the fault or neglect of the Contractor; such losses shall include settlements made with the written consent and approval of the Owner. No such losses and expenses shall be included in the cost of the work for the purpose of determining the Contractor's fee, but if, after a loss from fire, flood or similar cause not due to the fault or neglect of the Contractor, he be put in charge of reconstruction, he shall be paid for his services a fee proportionate to that named in paragraph 5 hereof.

e. Cost of hand tools not owned by the workmen, canvas and tarpaulins, consumed in the prosecution of the work, and depreciation on such tools, canvas and tarpaulins used but not consumed and which shall remain the property of the Contractor.

f. Minor expenses, such as telegraph, telephone service, expressage and similar petty cash items.

g. Materials, supplies, equipment and transportation required for the proper execution of the work, which shall include all temporary structures and their maintenance, including sales and other taxes related thereto.

h. The amounts of all subcontracts.

i. As a pro rata contribution to the premium on builder's all risk policy of insurance, \$2.85 per thousand dollars of total cost under this contract. Contractor shall supply without cost to City a copy of its public liability and property damage insurance, together with an endorsement approved as to form by the City Attorney, including the City, its officers, agents and employes as additional insureds, and also permitting claims by and providing coverage to officers, agents and employes of City as members of the public.

j. Rentals of all construction plant or parts thereof, including temporary buildings whether rented from the Contractor or others, in accordance with the rental agreements approved by the Engineer. Transportation of said construction plant and temporary buildings, costs of loading and unloading, cost of installation, dismantling and removal thereof and minor repairs and replacements during its use on the work, all in accordance with the terms of said rental agreements.

7. Costs Not to be Reimbursed: Reimbursement of expenses to the Contractor shall not include any of the following:

a. Salary of the Contractor, if an individual, or salary of any member of the Contractor, if a firm, or salary of any officer of the Contractor, if a corporation.

b. Salary of any person employed, during the execution of the work, in the main office or in any regularly established branch office of the Contractor.

c. Overhead or general expenses of any kind, except as these may be expressly included in paragraph 6.

d. Interest on capital employed either in plant or in expenditures on the work, except as may be expressly included in paragraph 6.

8. Discounts: Trade discounts, for purchase of materials and services, shall accrue to the Owner, and cash discounts, for prompt payment of invoices, shall accrue to the Contractor.

9. Accounting: The Contractor shall check all materials and labor entering into the work and shall keep such full and detailed accounts as may be necessary to proper financial management under this agreement. The Engineer and the Owner, or their authorized representatives, shall be afforded access to the work and to all of the Contractor's records, correspondence, receipts, vouchers, memoranda, etc., relating to this Contract.

10. Progress Payment: The Contractor may submit periodically, but not more than once each month, a Request for Payment for work done and materials delivered and stored on the site and progress fee payment. Payment requests shall show in detail and as complete as possible, all monies paid out by the Contractor on account of the cost of the work during the period involved, with copies of

payroll for labor, records of equipment used and copies of all bills. The Engineer shall promptly verify the correctness of the Contractor's request for payment, and shall transmit the verified document to the City Engineer on behalf of Owner. Payment shall be due and payable promptly upon receipt by the Owner. Final payment shall be processed in the same manner. Progress payments shall include an item equal to 8.00% of the Costs to be Reimbursed for progress fee payments, up to the maximum fee allowance set forth in paragraph 5. Final fee payment shall be determined as stated in paragraph 5. Progress payments shall be for full amount of the Request for Payments, with no money retained.

11. Contractor shall diligently prosecute the work to be done under this contract in accordance with the drawings and specifications as set forth in paragraph 1 hereof. The Owner may at its option terminate this contract at any time and if terminated prior to completion of the work, full compensation for work already performed shall be made by Owner, including the fee applicable to the cost of the work performed up to the termination in accordance with paragraph 5 hereof.

12. Successors and Assigns: The agreement and all of the covenants hereon shall inure to the benefit of and be binding upon the Owner and the Contractor, respectively, and his partners, successors, assigns, and legal representatives. Neither the Owner nor the Contractor shall have the right to assign, transfer or sublet his interests or obligations hereunder without written consent of the other party.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed.

HENRY M. MASON COMPANY

By _____

(Title)

CITY OF PORTLAND

Approved as to form:

By _____
Mayor

City Attorney

By _____
Commissioner of Public Works

ORDINANCE No. 131899

An Ordinance authorizing execution of an agreement with Henry M. Mason Company, contractor, for work in repairing City Hall, waiving call for bids on an emergency basis, and declaring an emergency.

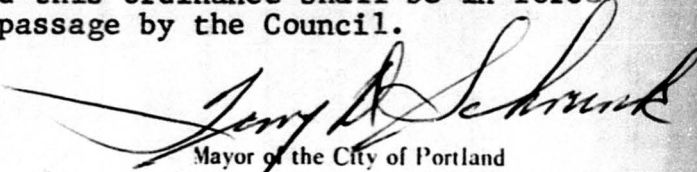
The City of Portland ordains:

Section 1. The Council finds that due to an explosion illegally contrived the City Hall was extensively damaged and that repairs are urgently necessary; that the repair and reconstruction work constitutes an emergency under the provisions of ORS 279.028 so that calling for bids and competitive bidding on such work should be waived since such procedures would result in substantial delay contrary to the public interest; that the firm of Henry M. Mason Company is experienced in contracting for such work and is willing to provide the repair and reconstruction services on a cost-plus basis under the general supervision of the Department of Public Works through its City Engineer and in accordance with the drawings and specifications to be prepared by Moffatt, Nichol & Bonney, Inc., Engineers, previously employed by the City therefor; that City insurer has approved such arrangement; that said contractor should be authorized to start immediately on such work and to work with City personnel in demolition and to work on the repair and reconstruction of the damaged portion of the City Hall; now, therefore, the Mayor and Commissioner of Public Works hereby are authorized to execute on behalf of the City an agreement with Henry M. Mason Company, contractor, substantially in accordance with the form of agreement attached to the original only of this ordinance, marked "Exhibit A", and hereby made a part hereof.

Section 2. The Mayor and Auditor hereby are authorized to draw and deliver warrants upon proper requisition approved by the Commissioner of Public Works or his duly authorized representative, such warrants to be charged to the appropriation General Fund, Bomb Damage (101.3828).

Section 3. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: In order that emergency repairs may be expedited as set forth above, therefore, an emergency hereby is declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, DEC - 3 1970


Mayor of the City of Portland

Attest:


Auditor of the City of Portland