

## ORDINANCE NO. 1480

AN ORDINANCE authorizing the Mayor and Recorder of the City of Albany, Oregon, to execute a contract in writing with the State of Oregon by and through its State Highway Commission for the construction of a drainage canal and canal siphon along and parallel with the new Pacific Highway now being constructed through said City, and declaring an emergency.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. The Mayor and Recorder of the City of Albany are hereby authorized and directed to enter into a contract in writing with the State of Oregon, by and through its State Highway Commission for the construction of a drainage canal siphon along and parallel with the New Pacific Highway now being constructed through said city, which said contract shall be substantially in words and figures as follows;

### A G R E E M E N T

THIS AGREEMENT, made and entered into this 23 day of August, 1939, by and between the STATE OF OREGON, by and through its State Highway Commission, hereinafter called the "State", party of the first part, and the CITY OF ALBANY, a municipal corporation of the State of Oregon, by and through its City Council, hereinafter called the "City", party of the second part:

### W I T N E S S E T H

#### RECITALS:

1. The State has rerouted the Pacific Highway East into and through the City of Albany and is now engaged in the construction of a highway over said new route.
2. It is the purpose of the City to construct or cause to be constructed simultaneously with the construction of said highway a drainage canal, which canal is to be located partially along and parallel with said highway on the easterly side thereof, and partially between the divided units thereof.
3. The City has requested the State and the State has agreed to cooperate with the City in the construction of said proposed canal in the manner and to the extent hereinafter set forth.
4. The State is acquiring right of way needed in connection with the construction of the highway, but such right of way will not be adequate to accommodate both highway and canal.
5. The construction of said canal simultaneously with the construction of the said highway will result in a saving to the City, and will likewise result in a benefit and saving to the State because of the fact that the material excavated from the canal ditch can be used in the construction of the highway roadbed.
6. The State and the City have agreed to cooperate in the location and construction of said canal, and each has agreed to do the things herein specifically set out and to contribute to the cost of said project the amounts herein set forth.

NOW, THEREFORE, the premises being in general as stated in the foregoing recitals, it is hereby mutually agreed as follows, to-wit;

#### THINGS TO BE DONE BY THE STATE:

1. The State shall at the time it procures options for right of way for the said highway procure alternate options covering the land needed for right of way and the land which will be necessary for the construction and maintenance of said canal. The options shall be so worded and taken that the cost of land for right of way, including damages, and the cost of land for canal ditch, including damages, may be clearly distinguishable, except on the section where the highway units are divided.
2. The State shall include as a part of its highway project the construction of the canal and the construction of a canal siphon under the Santiam Ditch at Station 473+75 adequate to serve the purpose for which the same are to be constructed. Included also in the specifications covering the State's highway project shall be specifications and obligations for the construction of all necessary culverts and other drainage structures or highway crossings, including the reconstruction of the culvert on the existing highway, which culvert is opposite highway station 499 on the new highway route.
3. The State shall likewise provide for the construction of a necessary outlet ditch.
4. The State shall be responsible for the maintenance of all culverts or structures incorporated in the highway roadbed and which are over the canal.

#### THINGS TO BE DONE BY THE CITY:

1. The City shall reimburse the State for the cost of the real property acquired for use in connection with the construction of said canal, including damages connected therewith, and shall reimburse the State for the cost of the construction of the canal siphon, and the City shall assume the cost of the maintenance and upkeep of said canal, canal siphon and outlet ditch.
2. Permit the State to use for highway roadbed construction the materials produced in excavating for the said canal and outlet ditch.
3. The City shall also make available to the State necessary easements or

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right of way over which to construct the outlet ditch. 4. It is agreed that the estimated cost of constructing the canal siphon is the sum of \$2000.00, and it is estimated that the cost of procuring additional right of way necessary for the construction and maintenance of said canal ditch and canal siphon, including damages, is the sum of \$1000.00, and the City hereby deposits with the State its certified check in the sum of \$3000.00. It is understood, however, that the City is to reimburse the State for the total cost of the additional right of way and the total cost of the construction of the canal siphon, and should the amount of said certified check prove insufficient to pay the said sums when accurately determined then the City agrees to pay to the State the difference between the amount of the said certified check and the actual cost of the construction of said canal siphon. Should the actual cost of said items for which the City is to reimburse the State be less than the amount of said certified check, then the State shall return to the City the said difference.

GENERAL:

It is the intention that title to the right of way for the canal to be acquired under this agreement shall be vested in and accepted by the City, except that the portions of such right of way between the separated units of the highway shall be by easement for canal purposes only. The amount to be charged to and paid by the City for such easement shall be one and one-half (1.5) cents per square foot.

IN WITNESS WHEREOF, the parties hereto have subscribed their names and affixed their seals the day and year first above written.

STATE OF OREGON, by and through its STATE HIGHWAY COMMISSION

By H.F. Cabell As Chairman

ATTEST:

Secretary

By C.B. Aldrich As Commissioner

APPROVED:

By As Commissioner Party of the First Part

State Highway Engineer

CITY OF ALBANY

ATTEST:

BY K.R. Horton

BY A.G. Senders Party of the Second Part

Section 2. The Recorder is hereby authorized and directed to issue a general fund warrant, chargeable against the emergency fund, payable to the State of Oregon in the sum of \$3000.00 in payment of the cost of said canal and siphon as provided in said contract.

Section 3. WHEREAS the peace, health and safety of the people of the City of Albany is involved and that by reason thereof an emergency exists and is hereby declared to exist, therefore this ordinance shall be and become immediately effective upon its final passage by the Council and approval by the Mayor.

Passed by the Council this 23rd day of August, 1939. Approved by the Mayor this 23rd day of August, 1939.

A.G. Senders Mayor

ATTEST K.R. Horton Recorder of the City of Albany, Oregon.

STATE OF OREGON ) COUNTY OF LINN ) ss. CITY OF ALBANY )

I, K.R. Horton, Recorder of the City of Albany, Linn County, State of Oregon, do hereby certify that the foregoing copy of Ordinance # 1480, has been by me carefully compared with the original ordinance bill # 1599, now on file in this office, and that it is a true and correct copy of the whole of said Ordinance Bill # 1599, passed by the Council on the 23rd day of August, 1939, and approved by the Mayor on the 23rd day of August, 1939.

Witness my hand and official signature and the seal of the City of Albany, Oregon, this 24th day of August, 1939.

Recorder of the City of Albany, Oregon