



CITY OF OAKLAND

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OFFICE OF THE CITY CLERK  
OAKLAND

2014 JUL 10 PM 12:34

# AGENDA REPORT

**TO:** HENRY L. GARDNER  
INTERIM CITY ADMINISTRATOR


**FROM:** Brooke A. Levin  
Director, OPW

**SUBJECT:** UPRR Crossing Agreements

**DATE:** June 19, 2014

Administrator

Date

Approval 



7/7/14

**COUNCIL DISTRICT:** 3, 5

## RECOMMENDATION

Staff recommends that the City Council approve a resolution authorizing the City Administrator, or his designee, the Director of Public Works or the Assistant Director of Public Works, Bureau of Engineering and Construction, to negotiate and execute agreements with Union Pacific Railroad (UPRR) for crossing improvements and maintenance, in accordance with California Public Utility Commission (CPUC) regulations at:

- Broadway and Embarcadero West intersection (No. 001D-6.70)
- Fruitvale Avenue south of San Leandro Boulevard (No. 001D-9.80)
- 23<sup>rd</sup> and 29<sup>th</sup> Avenues, near Glascock Street (Nos. 0010-10.39-C and 0010-10.40-C)

## OUTCOME

Approval of the resolution will allow the City Administrator or his designee, to finalize negotiations and execute agreements with UPRR for the subject crossing locations at mutually acceptable terms. The agreements are required as part of the Right of Entry Permit necessary for the construction of Grade Crossing Improvements at Broadway and Fruitvale Avenue (C459010, C458910), and the 23<sup>rd</sup> Ave/ 29<sup>th</sup> Ave Rail Crossing Improvement Project (No. G381112) approved by the City Council earlier this year. (See *Attachment A* - Location Map)

The agreements will spell out roles and responsibilities for UPRR and the City, and outline their respective responsibility to operate and maintain the improved crossings that will be built by the projects, consistent with state law as regulated by the CPUC. Final execution of the agreements is subject to review by the City Attorney's Office.

## BACKGROUND/LEGISLATIVE HISTORY

As part of the Federal Highway Administration's (FHWA) Section 130 Program, federal funds were granted to both the City and UPRR to make improvements to the two crossings in question in partnership with the California Public Utility Commission (CPUC). The City was granted

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\$357,500 for the Broadway crossing, and \$276,169 for the Fruitvale Avenue crossing as outlined in Resolutions No. 83952, and 83953 respectively. The City completed the design of its portion of the projects and awarded the contract to Ray's Electric Inc. on January 7, 2014 under Resolution No. 84783.

At the Broadway crossing, the projects will install ADA compliant pedestrian crossings, repair paving, and install roadway striping. At the Fruitvale Avenue crossing, the projects will install a pre-signal that will reduce vehicle queuing over railroad tracks, ADA compliant pedestrian crossings, and a median to prevent vehicles from circumventing the railroad arms.

As part of the Caltrans I-880 5<sup>th</sup> Avenue Overhead Seismic Retrofit Project, Caltrans agreed to pay the City and UPRR for railroad track and crossing improvements along the Glascock track and Fruitvale Lead track, near 23<sup>rd</sup>/29<sup>th</sup> Avenues. On March 18, 2014, by Resolution No. 84887, the City awarded a contract to install crossing safety signals at this location.

Now that there are plans to make crossing improvements, UPRR and the City need to enter into crossing maintenance agreements to document respective areas of responsibility, consistent with state law, as regulated by the CPUC. Further, UPRR has required, prior to issuing a right-of-entry permit to the City's contractors, that maintenance agreements be executed.

### ANALYSIS

Public Works, Transportation Services Division received federal and Caltrans grants to design roadway and pedestrian safety improvements at the Broadway, Fruitvale and 23<sup>rd</sup>/29<sup>th</sup> Avenue crossings. UPRR and the CPUC reviewed and approved the plans, but after award of the construction contract, UPRR required that crossing agreements with the City be in place before they would grant a Right of Entry permit to the City's contractor. The agreements will delineate each agency's roles and responsibilities for operations and maintenance of the crossings in question.

The agreement includes topics such as:

- Cost of flaggers provided by UPRR during roadway crossing construction
- UPRR approval process for roadway improvements that alter the rail crossing
- Responsibility for maintenance of the roadway approaches (area crossing the tracks, 2-foot outside of the tracks)
- Requirement for City to obtain a Contractor's Right of Entry prior to performing work
- Responsibility for maintenance of automatic grade crossing protection (gates)
- Cost of executing agreement (\$3,000.00, which will be covered by the grants)

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Staff will negotiate items in the agreement to be cost-neutral. Should there be items that entail that assumption of ongoing costs, staff will return to the City Council.

### **PUBLIC OUTREACH/INTEREST**

There was no public outreach specific to the maintenance agreements that are the subject of this report. Normal process for public notification to residents and businesses will be followed prior to actual construction of the crossing improvements.

### **COORDINATION**

Public Works, Transportation Services Division consulted and coordinated with the City Attorney's office and Budget Office in the writing of this report and the content.

### **COST SUMMARY/IMPLICATIONS**

**FISCAL IMPACT:** Long term maintenance costs will be negotiated to the mutual benefit of the City and UPRR; there are no net cost savings or expenditures that are expected to result from the execution of agreements. The responsibilities of both the City and UPRR are regulated by state law, as administered by the CPUC, absent an agreement. The agreements serve to provide documentation to the specific crossing locations to the benefit of all parties.

### **FISCAL/POLICY ALIGNMENT**

The agreements are a requirement for UPRR to grant the City's contractor a Right of Entry permit, making it possible to complete construction of the proposed crossing safety improvements, as well as clarifying ongoing maintenance responsibilities after the improvements have been constructed.

**SUSTAINABLE OPPORTUNITIES**

**Economic:** Execution of the agreements with UPRR will improve roadway user safety at the Broadway and Fruitvale crossings, facilitating pedestrian access, and improve economic activity in the Jack London and Fruitvale Commercial Districts. The Fruitvale crossing in particular will improve the connectivity between Alameda and the core of the Fruitvale Commercial District contributing to the Fruitvale District's growth.

**Environmental:** None.


**Social Equity:** None.

**CEQA/NEPA**

The projects are categorically exemption from both the California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) requirements.

For questions regarding this report, please contact Wladimir Wlassowsky, Transportation Services Division Manager, at 510-238-6383.

Respectfully submitted,

  
\_\_\_\_\_  
BROOKE A. LEVIN  
Director, Oakland Public Works

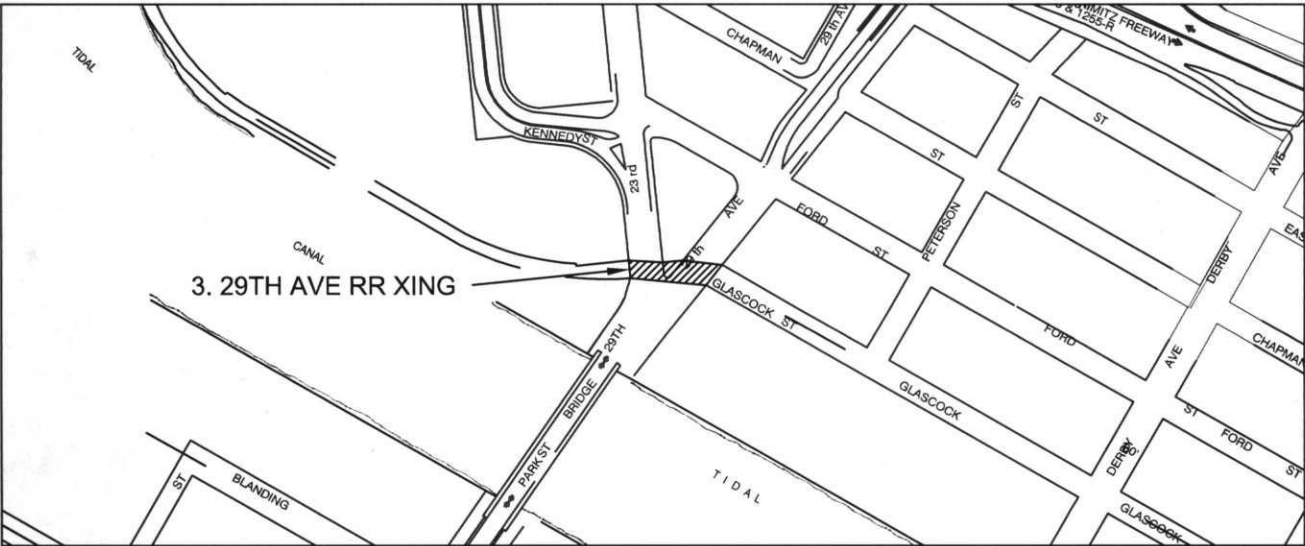
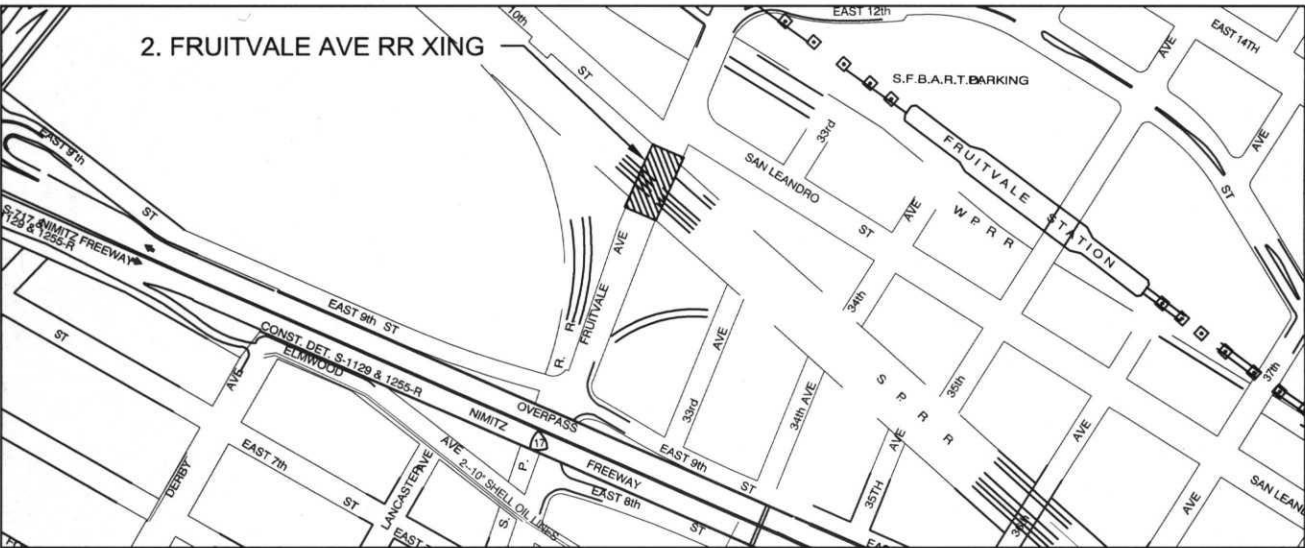
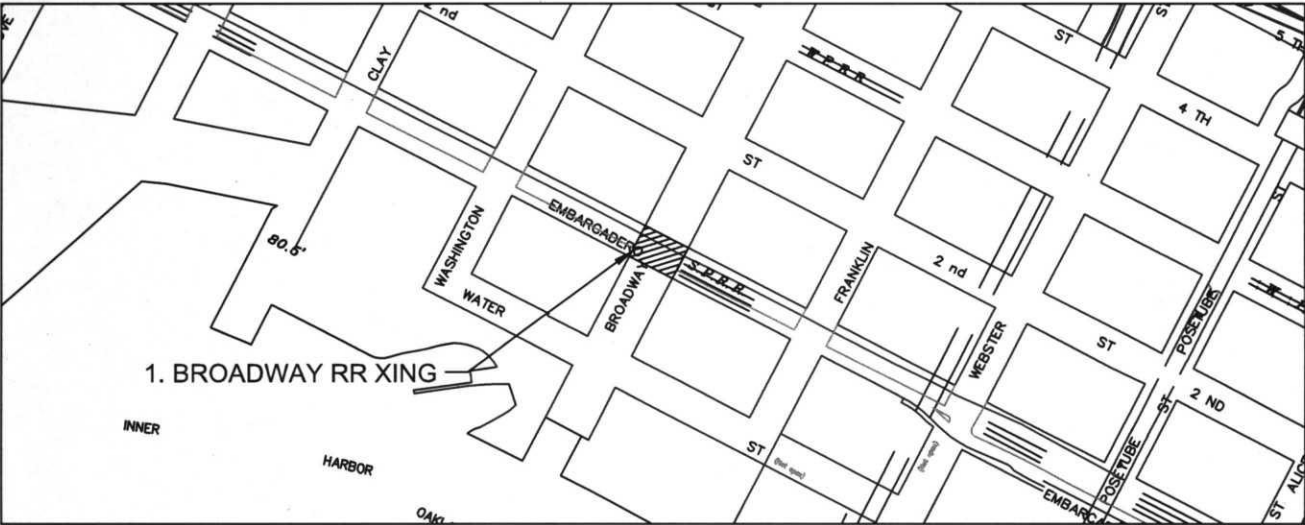
Reviewed by:  
Michael Neary, P.E., Assistant Director  
OPW, Bureau of Engineering and Construction

Prepared by:  
Wladimir Wlassowsky, P.E.  
Transportation Services Division Manager  
OPW, Bureau of Engineering and Construction

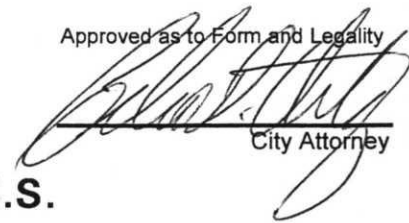
Attachment A – Location Map

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# Attachment A - Location Map



**OAKLAND CITY COUNCIL**



City Attorney

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**RESOLUTION No. \_\_\_\_\_ C.M.S.**

Introduced by Councilmember \_\_\_\_\_

**APPROVE A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR HIS DESIGNEE, THE DIRECTOR OF PUBLIC WORKS OR THE ASSISTANT DIRECTOR OF PUBLIC WORKS, BUREAU OF ENGINEERING AND CONSTRUCTION, TO NEGOTIATE AND EXECUTE AGREEMENTS WITH UNION PACIFIC RAILROAD (UPRR) FOR CROSSING IMPROVEMENTS AND MAINTENANCE, IN ACCORDANCE WITH CALIFORNIA PUBLIC UTILITY COMMISSION (CPUC) REGULATIONS AT:**

- **BROADWAY AND EMBARCADERO WEST INTERSECTION (NO. 001D-6.70)**
- **FRUITVALE AVENUE SOUTH OF SAN LEANDRO BOULEVARD (NO. 001D-9.80)**
- **23<sup>RD</sup> AND 29<sup>TH</sup> AVENUES, NEAR GLASCOCK STREET (NOS. 0010-10.39-C AND 0010-10.40-C)**

**WHEREAS**, the City of Oakland has received grants and funding to design and construct railroad crossing safety improvements at three street crossings of railroad tracks, in coordination with UPRR; and

**WHEREAS**, the locations are: 1) No. 001D-6.70 (Broadway and Embarcadero West intersection), 2) No. 001D-9.80 (Fruitvale Avenue south of San Leandro Boulevard), and 3) Nos. 0010-10.39-C (29<sup>th</sup> Avenue) and 0010-10.40-C (23<sup>rd</sup> Avenue), near Glascock Street ; and

**WHEREAS**, the City has previously awarded construction contracts to Ray's Electric Inc. to construct said safety improvements as the crossings, under Resolutions No. 83952, 83953 and 84783; and

**WHEREAS**, no City/Railroad agreements for construction of the improvements or ongoing maintenance are currently in place at these locations; and

**WHEREAS**, UPRR has required that the City execute crossing agreements, prior to issuing the City's contractor permits to construct said railroad crossing safety improvements, now, therefore, be it

**RESOLVED**, the City Administrator or his designee, the Director of Public Works, or the Assistant Director of Public Works, Bureau of Engineering and Construction, be authorized and directed to negotiate and execute railroad crossing agreements with UPRR, subject to review and approval by the Office of the City Attorney, and be it

**FURTHER RESOLVED**, that an original copy of agreements be kept on file with the City Clerk, once executed.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, GALLO, GIBSON-MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California