

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY (UPRR), IN ACCORDANCE WITH CALIFORNIA PUBLIC UTILITY COMMISSION (CPUC) REGULATIONS, FOR THE REVIEW OF THE EMBARCADERO CORRIDOR SAFETY IMPROVEMENTS, UPON EXECUTION OF A SIGNED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE PORT OF OAKLAND TO FACILITATE THE DEVELOPMENT OF TRANSPORTATION PROJECTS BOTH WITHIN AND OUTSIDE THE PORT AREA AND AN EXECUTED SUPPLEMENTAL AGREEMENT BETWEEN THE PORT OF OAKLAND AND THE CALIFORNIA STATE TRANSPORTATION AGENCY THAT INCLUDES COSTS TO REIMBURSE UPRR AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) FINDINGS

WHEREAS, the Waterfront Ballpark District Final Environmental Impact Report requires the implementation of the Embarcadero Corridor Safety Improvement project as a California Environmental Quality Act (CEQA) mitigation measure by the Project sponsor (the Oakland Athletics) and analyzes the environmental impacts of those projects; and

WHEREAS, on July 20, 2021, the City Council approved Resolution 88744 C.M.S, approving the term sheet for a future Development Agreement (“Term Sheet Resolution”); and

WHEREAS, the Term Sheet Resolution expressed City Council’s direction for staff to take on the responsibility of delivering all necessary offsite transportation infrastructure improvements, including improvements along the Embarcadero corridor, while making every reasonable effort to protect the General Fund, and to pursue the use of Federal, State, Regional and other funding sources for the Project’s offsite transportation infrastructure, including the funding and implementation of the Embarcadero Corridor Safety Improvement Project; and

WHEREAS, the 2021 Budget Act (A.B. 128; Statutes of 2021, Ch. 21) (the “Act”) allocated up to \$279,500,000 to the California State Transportation Agency (“CalSTA”) for the

Port of Oakland for improvements that facilitate enhanced freight and passenger access in and around the seaport and waterfront, and to promote the efficient and safe movement of goods and people (the “Grant”); and

WHEREAS, the West Oakland & Jack London Square Rail Safety Enhancement Project has been identified as one of the Grant investment categories; and

WHEREAS, the projects along the Embarcadero Corridor include a pedestrian and bicycle grade separation, a vehicular grade separation, an emergency vehicle access route, and at-grade rail safety improvements consistent with ACTC’s 2018 “Grade Crossing Toolkit,” including intersection safety improvements, fencing, and additional enhancements along the corridor to improve safety and reduce confusion for all modes; and

WHEREAS, the implementation of the Embarcadero Corridor Safety Improvements by the City requires UPRR engagement in the design phase in accordance with CPUC regulations, and UPRR requires a reimbursement agreement to be executed prior to their engagement; and

WHEREAS, UPRR has required that the City reimburse UPRR’s costs in an amount estimated not to exceed \$900,000.00 following execution of the Agreement; and

WHEREAS, the City and Port of Oakland are in the final stages of a securing a portion of the Grant funding through a Supplemental Agreement that would reimburse the City for costs associated with the UPRR reimbursement agreement; now, therefore, be it

RESOLVED: That the City Administrator be authorized to negotiate and enter into an Agreement with UPRR, pending approval of an MOU between the Port of Oakland and the City of Oakland for the use of CalSTA grant funds, and an executed supplemental agreement that includes costs to reimburse UPRR, and subject to review and approval by the Office of the City Attorney; and be it

FURTHER RESOLVED: The City, as lead agency under CEQA, prepared and certified an environmental impact report for the Howard Terminal Project that reviews future actions by the City to be funded as a part of the actions described in this Resolution. Furthermore, some of the actions approved herein also may be exempt from environmental review under CEQA, or are not considered projects defined by CEQA Section 21065 and CEQA Guidelines Section 15378(b)(4) and (5) as fiscal activities and organizational activities that do not result in direct or indirect physical changes to the environment. The City will conform to state and federal statutes, regulations, and procedures, as required by CEQA; and be it

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

FURTHER RESOLVED: that the City Administrator, is authorized on behalf of the City of Oakland to execute and submit all documents, payment requests, and related actions consistent with the authorizations set forth in this Resolution.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California