



City Attorney's Office

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBER [IF APPLICABLE]

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND APPROPRIATE TWO HUNDRED FIFTY-TWO THOUSAND TWO HUNDRED THIRTY-SIX DOLLARS (\$252,236.00) IN TRANSPORTATION FUNDS FROM THE STATE OF CALIFORNIA SECTION 130 GRADE CROSSING IMPROVEMENT PROGRAM FOR THE RAILROAD CROSSING AT 85TH AVENUE, TO AWARD A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER IN AN AMOUNT NOT TO EXCEED THE GRANT AMOUNTS, INCLUDING ADDITIONAL FUNDS FROM THE FUNDING AGENCY IF NEEDED, AND AUTHORIZING THE CITY ADMINISTRATOR, OR HIS DESIGNEE, THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION OR THE ASSISTANT DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION, TO NEGOTIATE AND EXECUTE AGREEMENTS WITH UNION PACIFIC RAILROAD (UPRR) FOR RIGHT OF ENTRY, CROSSING IMPROVEMENTS AND MAINTENANCE, IN ACCORDANCE WITH CALIFORNIA PUBLIC UTILITY COMMISSION (CPUC) REGULATIONS AT 85TH AVENUE**

**WHEREAS**, Title 23, Section 130 of the United States Code (USC) provides state and local agencies for the funding of projects that eliminate hazards at railway-highway crossing; and

**WHEREAS**, The State of California Department of Transportation (Department) administers and appropriates the Section 130 projects and funds at the State level through the Department Section 130 Program; and

**WHEREAS**, The City with the California Public Utilities Commission (CPUC) and Union Pacific Railroad (UPRR) met and determined an eligible project for Section 130 funding at 85th Avenue rail road crossing; and

**WHEREAS**, The City with CPUC and UPRR jointly applied for Department Section 130 funding and were granted the City portion in the amount of \$252,236.00 for the project at 85th Avenue; and

**WHEREAS**, UPRR was also fully granted appropriate funds for the project at 85th Avenue rail; and

**WHEREAS**, the project will improve pedestrian, bicycle and vehicular safety in and around the UPRR tracks within the vicinity of 85th Avenue rail road crossing; and

**WHEREAS**, the City now desires to accept and appropriate the \$252,236.00 in Section 130 funds to the California Department of Transportation Fund (2140), Transportation Capital Projects Organization (30264), Project No. 1001436; and

**WHEREAS**, the Department of Transportation has requested a waiver of the 1.5% public art fee for this project because Section 130 Program guidelines prohibit the use of grant funds for public art; and

**WHEREAS**, there is no current agreement between the City and the Union Pacific Railroad for the construction and maintenance of the improvements at this location; and

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

**RESOLVED:** That the City Council hereby authorized acceptance and appropriation of the Section 130 funds in the amount of \$252,236.00 for the aforementioned improvements; and be it

**FURTHER RESOLVED:** That the grant funds be deposited and appropriated to the California Department of transportation Fund (2140), Traffic Capital Projects Organization (30264) Project No. 1001436; and be it

**FURTHER RESOLVED:** That for this project the 1.5% public art fee is waived because the State Section 130 grant guidelines prohibit the use of grant funds for public art; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is authorized, on behalf of the City of Oakland, to execute and submit all documents, payment requests, and related actions, as well as to appropriate any additional grant funds received for the completion of the project within the grant term; and be it.

**FURTHER RESOLVED:** The City Council authorize a resolution awarding construction contract to the lowest responsive and responsible bidder in an amount not to exceed thee grant amounts including additional funds from the funding agency if needed; and be it

**FURTHER RESOLVED:** That the City Administrator or his designee, the Director of the Department of Transportation, or the Assistant Director of the Department of Transportation be authorized and directed to negotiate and execute agreements with union pacific railroad (UPRR) for right of entry, crossing improvements and maintenance, in accordance with California public utility commission (CPUC) regulations at 85<sup>th</sup> Avenue, 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 - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of the  
City of Oakland, California