

INTERGOVERNMENTAL AGREEMENT
between
THE CITY OF PORTLAND and THE PORT OF PORTLAND
for
THE CONSTRUCTION OF IMPROVEMENTS TO
THE RIVERGATE BLVD./LOMBARD INTERSECTION AND
THE CLOSURE OF THE RAMSEY BLVD. RAIL CROSSING

Parties: The City of Portland ("City"), a municipality
The Port of Portland ("Port"), a port district

RECITALS

- A. The Union Pacific Railroad Company (UPRR) has petitioned the Oregon Public Utilities Commission (RX 405) to close the existing railroad-highway grade crossing of N. Ramsey Boulevard and UPRR, St. John's Branch, Rivergate Lead, and Oregon Steel Mill Lead, in Portland, Oregon. The closure request is intended to solve a safety problem involving rail/vehicular conflicts.
- B. The Port and UPRR performed a traffic study which concluded that the closure of Ramsey would necessitate improvements to the intersection of Rivergate Blvd./N. Lombard St.
- C. The closure of the Ramsey Blvd. rail crossing and the improvement of the Rivergate Blvd./N. Lombard St. intersection are hereinafter referred to as the "Project". This work includes the construction of a cul-de-sac at Ramsey and the reconstruction of the Rivergate Blvd./N Lombard St. intersection as conceptually described in the report "Traffic Operations North Ramsey Boulevard Railroad Crossing Portland Oregon" by Carl Buttke dated August 30, 1989.
- D. The Port, City of Portland, PUC staff, UPRR, and Burlington Northern Railroad (BNRR) have developed a funding formula for the Project which is attached as Exhibit "A".
- E. A Hearings Officer of the Public Utilities Commission of Oregon heard this closure request on April 3.
- D. If approved by the PUC, the "Order" is anticipated to include the funding concept in Exhibit "A".

AGREEMENT

1. The Port's Duties

The Port agrees to:

- (a) Convey to the City of Portland \$130,000 for construction on the Project. This contribution is contingent on the contributions from the City, PUC, UPRR, and BNRR as shown on Exhibit "A". The Port's share shall be due upon award of a construction contract.
- (b) Re-landscape the area around the Ramsey Blvd. intersection.
- (c) Cooperate with the City in helping design and construction activities.
- (d) Provide any required Port owned Right-of-Way necessary for the Project.
- (e) Budget for the upgrade of Rivergate Blvd. to City standards at an estimated cost of \$500,000 within the next five fiscal years beginning with fiscal year 1992-1993, which budget shall be subject to Port Commission approval. After approval of a construction contract and completion of the road upgrade project, the Port will transfer this improved road to the City.

2. The City's Duties

The City of Portland agrees to:

- (a) Accept the contribution set forth in 1(a) above from the Port as the Port's contribution to the Project.
- (b) Contribute \$170,000 from City funds for construction of the Project.
- (c) Receive funds from the Public Utilities Commission, UPRR, and BNRR as shown on Exhibit "A" for construction.
- (d) Design, acquire right-of-way and manage construction of the Project.
- (e) Complete the Project within 18 months of the issuance of a PUC order initiating the Project.

3. Approval

The Port has the right to review and approve plans prior to the start of construction. Such approval shall not be unreasonably withheld.

4. Integration and Modification

This document incorporates the entire agreement of the parties regarding this matter, and supersedes all prior agreements and communications regarding the same matter. This Agreement may be modified only by a written document signed by the authorized representatives of each party.

5. Changed Conditions

The City and the Port agree that should the total project cost exceed the amount in Exhibit "A", that both parties shall participate in good faith to reduce project costs or increase available resources or a combination of these efforts to ultimately construct the project in the most beneficial configuration for the City and the Port.

6. City Project Manager

- (a) The City Project Manager shall be Brett I. Kesterson or such other person as shall be designated in writing by the head of the Bureau of Transportation Engineering.
- (b) The Port Project Manager shall be Jim Laubenthal or such other person as shall be designated in writing by Director of Real Estate Management and Development.
- (c) The Project Managers are authorized to approve work and billings hereunder, to give notices referred to herein, to terminate this Agreement as provided herein, and to carry out any other City or Port actions referred to herein.

7. Compliance with Laws

In connection with its activities under this Agreement, the City, and Port shall comply with all applicable federal, state, and local laws and regulations.

8. Oregon Law and Forum

- (a) This Agreement shall be construed according to the law of the State of Oregon.
- (b) Any litigation between the City and the Port arising under this Agreement shall occur, if in the state courts, in the Multnomah County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.

9. Indemnification

- (a) To the extent permitted by Oregon law, the Port shall hold harmless, defend, and indemnify the City and the City's officers, agents, and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from the Port's negligent work under this Agreement.
- (b) To the extent permitted by Oregon law, the City shall hold harmless, defend, and indemnify the Port and the Port's officers, agents, and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from the City's negligent work under this Agreement.

10. Workers' Compensation Insurance

- (a) The parties, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers. The Parties further agree to maintain workers' compensation insurance coverage for the duration of this Agreement.
- (b) In the event the Parties workers' compensation insurance coverage is due to expire during the term of this Agreement, the Parties agree to timely renew their insurance, either as a carrier-insured or a self-insured employer as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration, and if requested the Parties agree to provide each other such further certification of workers' compensation insurance as renewals of said insurance occur.

11. Subcontracting

The Parties shall not subcontract their work under this Agreement, in whole or in part, without the written approval of the other party. The Parties shall require any approved subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the subcontracting party as specified in this Agreement. Notwithstanding a party's approval of a subcontractor, the other party shall remain obligated for full performance hereunder, and the non-subcontracting party shall incur no obligation other than its obligations to the subcontracting party hereunder. The Parties agree that if subcontractors are employed in the performance of this Agreement, the subcontracting party and its subcontractors are subject to the requirement and sanctions of ORS Chapter 656, Workers' Compensation.

12. Assignment

12. Assignment

The Parties shall not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of each other.

Dated the ____ day of _____, 199__.

THE CITY OF PORTLAND

THE PORT OF PORTLAND

By _____
Commissioner of
Public Works

By *Mike Thorne*
Executive Director

Attested _____
City Auditor

Approved as to form
[Signature]

Approved as to form

~~APPROVED AS TO FORM~~
William W. Malone III
DEPUTY CITY ATTORNEY

EXHIBIT A
S RIVERGATE TRAFFIC IMPROVEMENT PROGRAM
9/4/91

	Ramsey St. Closure (cul-de-sacs)	Rivergate/Lombard Intersection improv.	Rivergate Blvd. Upgrade	TOTALS
Union Pacific & Burlington Northern Railroads	\$107,000			\$107,000
PUC		\$150,000		\$150,000
City		\$170,000		\$170,000
Port	Landscaping	\$130,000	\$500,000	\$630,000
PROJECT TOTALS	<u>\$107,000</u> =====	<u>\$450,000</u> =====	<u>\$500,000</u> =====	<u>\$1,057,000</u> =====

164735

ORDINANCE No. 164735

164735

- * Authorize an agreement with the Port of Portland for construction of improvements at N. Rivergate Blvd./N. Lombard St. intersection and the closure of the N. Ramsey Blvd rail crossing. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The Union Pacific Railroad Company (UPRR) petitioned the Oregon Public Utilities Commission (PUC) in June, 1989 to close the existing railroad grade crossing of N. Ramsey Blvd. in the Rivergate Industrial District to solve safety and traffic congestion problems resulting from rail/vehicular conflicts at this crossing.
2. The Port of Portland (Port) had completed a traffic study in 1989 which concluded that closure of the N. Ramsey Blvd. rail crossing would require realignment improvements to the nearby intersection of N. Rivergate Blvd./N. Lombard St.
3. The Port, UPRR, BNRR, PUC, and City with input and support from Oregon Steel Mills developed a plan and funding formula for N. Rivergate/Lombard intersection improvements and closure of the Ramsey Blvd rail crossing.
4. The N. Ramsey Blvd rail crossing will be closed to the public and be converted to a "private" crossing with special "break away" gates for use by emergency vehicles only and with a cul-de-sac on the east side of the crossing.
5. A PUC hearing was held on above mentioned petition on 4-3-91. As a result of the hearing, A PUC "Order" is now anticipated approving the requested closure, related street improvements, and funding formula.
6. The Port has prepared and agreement for the implementation and funding of the above mentioned improvements for City approval and execution.

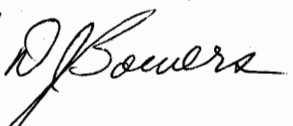
NOW THEREFORE, the Council Directs:

- a. The Commissioner of Public Works and the Auditor are hereby authorized to enter into agreement similar in form to the agreement attached to the original of this ordinance, and by this reference made a part hereof.

Section 2. The Council declares that an emergency exists because delay in executing this agreement would delay construction and the related economic and safety benefits to be derived from completion of this project; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, **OCT 16 1991**

Commissioner Earl Blumenauer
MSJ:wp
October 8, 1991
[MSJ]RAMSEYBLVD-AGMTORD

BARBARA CLARK
Auditor of the City of Portland
By  Deputy

1733

Agenda No.

ORDINANCE NO. 164735

Title

* Authorize an agreement with the Port of Portland for construction of improvements at N. Rivergate Blvd./N. Lombard St. intersection and the closure of the N. Ramsey Blvd rail crossing. (Ordinance)

INTRODUCED BY	Filed: OCT 10 1991
Commissioner Earl Blumenauer	Barbara Clark Auditor of the City of Portland
NOTED BY COMMISSIONER	
Affairs	By: <u>Cay Kershner</u> Deputy
Finance and Administration	For Meeting of:
Safety	Action Taken:
Utilities	___ Amended
Works <u>CB/Ly</u>	___ Passed to Second Reading
BUREAU APPROVAL	___ Continued to:
Bureau: Transportation Engineering	
Prepared by <u>MM</u> Date Mulvey Johnson 10/8/91	
Budget Impact Review:	
___ Completed <u>PO</u> ___ Not Required	
Bureau Head: <u>PO</u> Richard O. Schmidt, P.E.	

AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
				YEAS	NAYS
Consent <input checked="" type="checkbox"/>	Regular	Blumenauer	Blumenauer	<input checked="" type="checkbox"/>	
NOTED BY		Bogle	Bogle	<input checked="" type="checkbox"/>	
City Attorney		Kafoury	Kafoury	<input checked="" type="checkbox"/>	
City Auditor		Lindberg	Lindberg	<input checked="" type="checkbox"/>	
City Engineer R.O. Schmidt		Clark	Clark	<input checked="" type="checkbox"/>	
Approved by: <u>PO</u>					