

FINAL EVALUATION
(As required by ORS 279C.355)

**Public Improvement Project to
Install Railroad Crossing Safety Improvements at Street Crossings in Salem
Direct Negotiations Contract**

Project Name: Railroad Crossing Safety Improvement Project – Phase II
Exemption Approval: Council Meeting, April 27, 2015
Contractor: Union Pacific Railroad
Designer: Union Pacific Railroad

PROJECT DESCRIPTION

The scope of work for the Union Pacific Railroad (UPRR) portion of the project included the design and construction of pedestrian flashers, four-quadrant gates, crossing panels, and signal equipment upgrades at Silverton Road NE and Woodrow Street NE.

INTRODUCTION AND BACKGROUND

In November 2008, Salem voters approved a \$99.8 million general obligation bond to fund street and bridge projects in the City. One of the projects in the measure included the construction of vehicular and pedestrian safety improvements at railroad crossings. On May 10, 2010, City Council approved a safety improvement project at the following ten UPRR crossing locations: Mill Street SE, State Street, Court Street NE, Chemeketa Street NE, Marion Street NE, Center Street NE, D Street NE, Market Street NE, Madison Street NE, and Sunnyview Avenue NE.

On December 9, 2013, City Council approved a second phase of the project to provide similar vehicular and pedestrian safety improvements at UPRR street crossings with Woodrow Street NE and Silverton Road NE. This second phase was funded with savings realized from the street bond program and complemented the original project by extending the Railroad Quiet Zone from its previous end point at Market Street NE, north to Silverton Road NE.

The objective of the project was to provide vehicular and pedestrian safety improvements at the crossings in order for a railroad “Quiet Zone” to be implemented along the UPRR corridor at these locations. Crossing improvements required work to be performed on the tracks or signals owned and operated by UPRR. Because these additional safety measures were requested by the City and were beyond those necessary for UPRR to operate its facilities, the full cost of the improvements were funded by the City. Since only UPRR can complete improvements to their facilities, an exemption to the competitive bidding process was required in conformance with the applicable provisions of the *Oregon Revised Statutes* (ORS).

Prior to approving an exemption to the competitive procurement process, the City’s *Public Contracting Rules* (PCR) 9.7 and ORS 279C.355 require the contracting agency to conduct a public hearing, allowing any interested parties to comment on the draft findings. No comments were received from the City’s public hearing on this matter.

On April 27, 2015, City Council acting in its capacity as the local contract review board, approved staff's recommendation by adopting findings in support of an exemption from the competitive bidding process and authorized direct negotiations with UPRR to develop a contract for this project. The exemption applied only to the work performed by UPRR on facilities they own and operate. The work performed by the City on non-UPRR operated facilities was competitively bid in compliance with the requirements of ORS Chapter 279C and the City's *Public Contracting Rules*.

ORS 279C.355 and PCR 9.7 require a final evaluation of the public improvement project upon its completion. The evaluation must including the following:

1. The actual project cost as compared with original project estimates.
2. The amount of any Guaranteed Maximum Price (GMP).
3. The number of project change orders issued by the contracting agency.
4. A narrative description of successes and failures during the design, engineering and construction of the project.
5. An objective assessment of the use of the alternative contracting process as compared to the findings required by ORS 279C.355.

ACTUAL PROJECT COST VS. ORIGINAL PROJECT ESTIMATE

The original cost estimate for UPRR work was \$1,122,337. The final actual cost was \$701,527, which is 37 percent below the original estimate.

GUARANTEED MAXIMUM PRICE (GMP)

There was no GMP for the work as federal law allows the railroad to be paid their fully burdened costs on these types of projects.

NUMBER OF PROJECT CHANGE ORDERS ISSUED

There were no project change orders for work performed by UPRR at the crossings.

PROJECT SUCCESSES AND FAILURES

In general, construction of the Railroad Crossing Safety Improvements was a successful project. A summary of some of the specific successes follow:

1. **Schedule:** The direct negotiation allowed UPRR to design, coordinate review, order materials, and schedule work crews in an organized manner. Their familiarity with the work and their facilities allowed them to complete the improvements in a timely manner.

2. **Cost Control and Management:** The actual cost for work performed by UPRR was completed under the total estimated cost. This was a direct result of allowing UPRR staff to design improvements to their own facilities. UPRR also scheduled crews to complete the improvements when they were in the area performing other maintenance activities.
3. **Community Impacts:** UPRR timed their work with other maintenance activities in the area and were able to minimize disruptions for pedestrians and the traveling public. UPRR's familiarity with the work allowed them to complete the work in a timely manner.
4. **Public Safety:** Construction operations in the vicinity of railroad crossings are risky. By having UPRR work crews perform the work, the likelihood of a safety issue arising from contractor errors, train scheduling issues, and track outages was minimized. This provided a benefit to the public as no train accidents occurred during the construction of the improvements.

OBJECTIVE ASSESSMENT OF ALTERNATE CONTRACTING PROCESS

The alternate contracting process provides agencies with another tool to respond to the challenging demands of delivering complex projects. For this particular project, work could only be performed by UPRR as they do not utilize contractors on their facilities. The direct negotiation process provided the City with a method to fund public improvements on a private railway. The improvements were funded on a time and materials basis in accordance with rules established by the federal government. Detailed invoices were submitted by UPRR and carefully reviewed by the City to ensure billing was appropriate and in conformance with UPRR agreements. As a result, the City was able to proactively manage activities and expenditures for the project.

The contracting process also allowed the required improvements to be coordinated, scheduled and completed by UPRR in a manner that utilized labor resources while they were already in the area performing other maintenance activities. This resulted in efficient delivery of the project and significant cost savings.

In summary, the direct negotiation process provided for the successful delivery of the required improvements and is an effective and efficient tool for public agencies performing this type of work.