

**RESOLUTION NO. 1371**

**A RESOLUTION TO ENTER INTO A "SUPPLEMENTAL AGREEMENT" WITH THE UNION PACIFIC RAILROAD COMPANY (UPRR), ALLOWING THE CITY OF TROUTDALE TO MODIFY THE PLACEMENT OF ITS 12-INCH WATER MAIN HANGING FROM THE UPRR BRIDGE NO. 21.06.**

**WHEREAS**, this UPRR bridge is the railroad bridge providing an above ground crossing over the I-84 freeway, and is located on the most western end of the City limits where the railroad crosses I-84; and

**WHEREAS**, the Oregon Department of Transportation (ODOT) had a need to widen the east and west-bound lanes of the I-84 Freeway to accommodate the traffic demands; and

**WHEREAS**, as part of the widening improvements to these two I-84 lanes, it was necessary to also replace this UPRR bridge with a wider one; and

**WHEREAS**, as a result of widening the span of the railroad bridge, the pre-existing, City-owned 12-inch ductile iron water main hanging from the old bridge had to be relocated and hung from the new bridge, and

**WHEREAS**, in order to do this relocation of the 12-inch water main within the UPRR right-of-way legally and in accordance with the UPRR Real Estate Section, the subject "Supplemental Agreement", herewith attached, must be entered into and executed by both the UPRR and the City; and

**WHEREAS**, to enter and execute this "Supplemental Agreement", the City of Troutdale will be assessed \$1,000.00 by the UPRR for clerical, administrative and handling costs incurred as a result of this transaction; and


**WHEREAS**, the City of Troutdale will be assessed an additional fee of \$1,780.00 by the UPRR for the actual license and the right to allow City staff to legally access the UPRR right-of-way during repairs, maintenance, and regular operation of the 12-inch water main as may be required and deemed necessary by City staff, and

**WHEREAS**, by way of the attached "Supplemental Agreement", drafted by the UPRR and later reviewed and approved by the City of Troutdale, the City will be able to continue to utilize the UPRR right-of-way to continue to provide quality service to the residents north of the I-84 Freeway.


**NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE**

That the attached "Supplemental Agreement" between the Union Pacific Railroad and the City of Troutdale allowing the City to place its 12-inch water main on Railroad Bridge 21.06 is approved.

YEAS:	<u>7</u>
NAYS:	<u>0</u>
ABSTAINED:	<u>0</u>

  
Paul Thalhofer, Mayor

Dated: 4-30-98

  
George Martinez, City Recorder

Adopted: 4-28-98

C:\RESOL98

## SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
by and between **UNION PACIFIC RAILROAD COMPANY**, a Utah corporation, (hereinafter the Licensor)  
and **CITY OF TROUTDALE**, a municipality with a mailing address at 104 Kiblinf Street, Troutdale, Oregon  
97060 (hereinafter the Licensee).

### RECITALS:

By instrument dated May 3, 1979, the parties hereto or their predecessors in interest (if any), entered into an agreement (herein the "Basic Agreement") identified as Department No. 32517, Audit No. 128964, covering an underground 12" water pipeline encroachment attached to Railroad Bridge No. 21.06 with two track crossings located at or near Troutdale, Oregon.

The parties now desire to modify the Basic Agreement by substituting a new Exhibit A print.

### AGREEMENT:

NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

#### SECTION 1 - LICENSE FEE

Upon the execution of this Agreement, the Licensee shall pay to the Licensor a license fee of **ONE THOUSAND SEVEN HUNDRED EIGHTY DOLLARS (\$1,780.00)**.

#### SECTION 2 - LICENSOR GRANTS RIGHT

In consideration of the license fee to be paid by the Licensee and in further consideration of the covenants and agreements contained in the Basic Agreement, the Licensor hereby grants to the Licensee the right to reconstruct and thereafter, during the term hereof, to maintain and operate the Pipeline in the location shown on the attached print dated July 19, 1996 and marked Exhibit A and in conformity with the dimensions and specifications indicated on the Licensee's drawing No. 53467 on file in the records of the Licensor.

#### SECTION 3 - SUBSTITUTION OF PRINT

The print dated July 19, 1996, attached hereto as Exhibit A, shall be and hereby is substituted for the print dated February 26, 1979 attached to the Basic Agreement, and from and after the effective date herein whenever the term Pipeline is used in the Basic Agreement, or any amendment or supplement thereto (if any), such reference shall be deemed to refer to the Pipeline as shown on Exhibit A, hereto attached.

#### SECTION 4 - ADMINISTRATIVE HANDLING CHARGE

Upon the execution and delivery of this Agreement, the Licensee shall pay to the Licensor an administrative handling charge of **ONE THOUSAND DOLLARS (\$1,000.00)** as reimbursement for clerical, administrative and handling expense in connection with the processing of this Agreement.

#### SECTION 4 - SPECIAL PROVISIONS

- 1) The Pipeline hangers shall be hung utilizing the same holes designed for the floor beam attachments.
- 2) No holes shall be drilled in the web of the bridge girder.
- 3) All hardware, including but not limited to hangers and bolts, shall be galvanized or cambium plated.

- 4) Welding to any portion of the bridge structure is prohibited.
- 5) The sleeve opening through the Backwalls of the bridge shall be sealed watertight to prevent water from coming onto the abutment of the backwall.
- 6) Casings shall extend to the required 30' from centerline of track on the field side of the tracks.
- 7) The Licensee shall remove or free the Pipeline from the bridge should the Licensor need to perform maintenance on the bridge.

**SECTION 5 - PROTECTION OF FIBER OPTIC CABLE SYSTEMS**

A. Fiber optic cable systems may be buried on the Licensor's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenues and profits. Licensee shall telephone the Licensor at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Licensor's premises to be used by the Licensee. If it is, Licensee will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Licensor's premises.

B. In addition to other indemnity provisions of this Agreement, the Licensee shall indemnify and hold the Licensor harmless from and against all costs, liability, and expense whatsoever (including, without limitation, attorney's fees, and court costs and expenses) arising out of any act or omission of the Licensee, its contractor, agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Licensor's property, and (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents or employees, on Licensor's property. Licensee shall not have or seek recourse against Licensor for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Licensor's property or a customer or user of services of the fiber optic cable on Licensor's property.

**SECTION 6 - EFFECTIVE DATE**

This Supplemental Agreement shall be effective as of the date first herein written.

**SECTION 7 - AGREEMENT SUPPLEMENTAL**

This agreement is supplemental to the Basic Agreement, as herein amended, and nothing herein contained shall be construed as amending or modifying the same except as herein specifically provided.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed as of the day and year first hereinabove written.

**UNION PACIFIC RAILROAD COMPANY**

By: \_\_\_\_\_  
DIRECTOR - CONTRACTS

Witness:

**CITY OF TROUTDALE**

X \_\_\_\_\_

X *Paul Stehler*

Title: *Mayor*



## SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT is made as of the 6 day of August, 1996  
by and between **UNION PACIFIC RAILROAD COMPANY**, a Utah corporation, (hereinafter the Licensor)  
and **CITY OF TROUTDALE**, a municipality with a mailing address at 104 Kiblin Street, Troutdale, Oregon  
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B. In addition to other indemnity provisions of this Agreement, the Licensee shall indemnify and hold the Licensor harmless from and against all costs, liability, and expense whatsoever (including, without limitation, attorney's fees, and court costs and expenses) arising out of any act or omission of the Licensee, its contractor, agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Licensor's property, and (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents or employees, on Licensor's property. Licensee shall not have or seek recourse against Licensor for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Licensor's property or a customer or user of services of the fiber optic cable on Licensor's property.

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IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed as of the day and year first hereinabove written.

**UNION PACIFIC RAILROAD COMPANY**

By:

Carol H. Kehay  
DIRECTOR - CONTRACTS

*Contracts Representative*

Witness:

**CITY OF TROUTDALE**

X \_\_\_\_\_

X Paul Steiner

Title: Mayor