

RESOLUTION NO. 2030

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE PORT OF PORTLAND FOR THE WARRANTY OF THE PUBLIC IMPROVEMENTS ASSOCIATED WITH THE TROUTDALE REYNOLDS INDUSTRIAL PARK PHASE I

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

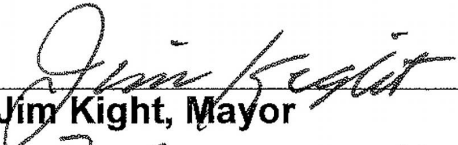
1. Construction of the public improvements associated with the Troutdale Reynolds Industrial Park Phase I (TRIP) was recently completed by the Port of Portland.
2. The Port of Portland is required by the Troutdale Development Code (TDC) to provide a warranty against defects in materials and workmanship for the public improvements for a period of two years following completion.
3. At the time that the TRIP subdivision was approved by the Troutdale Planning Commission, the TDC did not specify the form of the required warranty.
4. The Port of Portland has proposed an Intergovernmental Agreement (IGA) to guaranty their warranty obligations to the City in lieu of the typical bond or cash deposit.
5. The City's legal staff has reviewed the proposed IGA and finds it to be in order.

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

Section 1. The Mayor is authorized to execute an intergovernmental agreement with the Port of Portland for the warranty of the public improvements associated with the Troutdale Reynolds Industrial Park Phase I.


Section 2. This resolution is effective upon adoption.

YEAS: 7
NAYS: 0
ABSTAINED: 0



Jim Kight, Mayor
February 11, 2010

Date



Sarah Skroch, Deputy City Recorder

Adopted: February, 9, 2010

INTERGOVERNMENTAL AGREEMENT

FINANCIAL ASSURANCE IN SUPPORT OF CERTIFICATE OF COMPLETION

PROJECT TITLE: TRIP PHASE I PUBLIC IMPROVEMENTS
CITY OF TROUTDALE NO. 07-064

Parties: The Port of Portland ("Port")
The City of Troutdale ("City")

Recitals

A. The Port has completed the project named above (the "Project") in accordance with City standards, and the Project has been reviewed, permitted, and inspected by the City.

B. Prior to the City's issuance of a Certificate of Completion for the Project, Troutdale Development Code Section 7.410(B) requires the Port to submit a financial assurance in an amount which is not less than ten percent of the cost of the improvements, which runs for a period of two years following issuance of the Certificate of Completion, and which requires the Port to promptly correct all deficiencies of workmanship and materials relating to the Project for that period.

C. This Intergovernmental Agreement (the "Agreement") establishes the financial assurance applicable to the Project under Troutdale Development Code Section 7.410(B).

Agreement

1. **Correction of Deficiencies of Workmanship and Materials; Term.** For a period of two years following the date of the City's issuance of the Certificate of Completion for the Project, and subject to Section 2, the Port will correct or cause to be corrected all deficiencies of Project workmanship and materials at no cost to the City. The Port shall have no obligations under this Agreement after such time period.

2. **Amount of Assurance.** The cost of the improvements for the Project is deemed to be \$4,807,707. Ten percent of such cost is \$480,771; therefore, the amount of the financial assurance established by this Agreement is \$480,771.

3. **Response Timeliness.**

a. Except as set forth in Section 3b, the Port shall commence the correction of defective workmanship or materials under this Agreement within 15 business days after receiving written notice of the defect from the City. If the Port fails to commence corrective action within such timeframe, the City may cause the correction to be made and may recover the reasonable cost of the correction from the Port.

b. If the City discovers a defect covered by this Agreement, and, in the City's opinion, delay in correction of the defect would cause serious loss or damage, the City shall

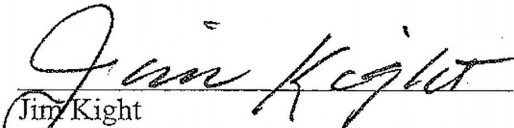
immediately notify the Port by the fastest commercially reasonable means. The notification shall include the following information: (1) the nature and extent of the defect; (2) the fact that the City believes delay in the correction of the defect would cause serious loss or damage; and (3) the date and time by which the City expects the Port to commence correction of the defect, provided that such date and time must be at least eight business hours after the Port receives the notification. If the Port has not commenced correction of a defect by the time stated in a notification given under this subsection, or if the Port fails to expeditiously pursue the correction, the City may cause the correction to be made and may recover the reasonable cost of such correction from the Port.

c. For the purposes of this Agreement, the Port shall be deemed to have commenced the correction of a defect if the Port has commenced design of the correction, has ordered its contractor to commence the correction, or has solicited bids, quotations, or proposals to accomplish the correction.

4. **Form of Financial Assurance.** The City waives any requirement under the Troutdale Development Code or which may exist elsewhere that the financial assurance established by this Agreement be submitted in the form of a surety bond, cashier's check, certified check, or irrevocable letter of credit. This waiver applies exclusively to Phase I of the Project, and shall not apply to any future phase of the Port's Troutdale Reynolds Industrial Park (TRIP) development or any other future project undertaken by the Port within the City.

THE CITY OF TROUTDALE

THE PORT OF PORTLAND

By: 
Jim Kight
Mayor

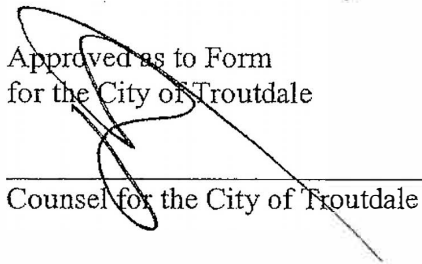
By: 
for Bill Wyatt
Executive Director

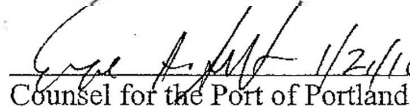
Date: February 12, 2010

Date: 22 Jan 2010

Approved as to Form
for the City of Troutdale

Approved as to Legal Sufficiency
for the Port of Portland


Counsel for the City of Troutdale

 1/24/10
Counsel for the Port of Portland