

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	December 17, 2012
	Agenda Item No.	6
	Roll Call No.	<u>12-1912</u>
	Communication No.	<u>12-631</u>
	Submitted by:	Jeb E. Brewer, P.E., City Engineer

AGENDA HEADING:

Approving and Authorizing the execution of Burlington Northern Santa Fe (BNSF) Railway Grade Crossing Construction and Maintenance Agreements and Easement Agreement for the Southeast Connector Project

SYNOPSIS:

Recommend Approval of two Grade Crossing Construction and Maintenance Agreements with BNSF Railway for proposed at-grade crossings for the Southeast Connector and SE 15th Street. The agreements address construction of crossings, installation of appropriate gates and signals, purchase of required temporary and permanent easements through a separate Easement Agreement, maintenance of crossing improvements and future replacement. Costs for construction will be based on actual expenses.

FISCAL IMPACT:

Amount: \$1,521,142 (Estimated)

Funding Source: 2012-13 CIP, Page Street-35, Southeast Connector-S.E. Sixth Street to S.E.14th Street, STR219, \$700,000 in TIF Bonds and 2012-13 CIP, Page Street-36, Southeast Connector-S.E. 14th Street to S.E. 30th Street, STR249, \$821,142 in G.O. Bonds.

ADDITIONAL INFORMATION:

The Grade Crossing Construction and Maintenance Agreements negotiated between the City of Des Moines and BNSF Railway Company provides for construction of at-grade crossings with the Southeast Connector and S.E. 15th Street. The agreements include construction of crossings, installation of new crossing surface, installation of appropriate gates and signals, maintenance of crossing improvements and future replacement. The Southeast Connector Crossing also includes purchase of required temporary and permanent easements with a separate Easement Agreement as an Exhibit to the Construction and Maintenance Agreement. Costs for construction will be based on actual expenses.

The costs include the following:

- \$745,264 Estimated cost of SE Connector crossing construction, crossing surface, gates & signals
- \$438,878 Estimated cost of S.E. 15th Street crossing construction, crossing surface, gates & signals
- \$ 52,000 Temporary and permanent easements

\$150,000 Lump sum payment for maintenance of SE Connector rail crossing, gates & signals
\$135,000 Lump sum payment for maintenance of S.E. 15th Street rail crossing, gates & signals

These Agreements will construct the at-grade crossings included in the preferred alternative for the Southeast Connector Project. Flagging required on the rail line during roadway and railroad construction will be performed by Norfolk Southern Railway (NSR) by separate agreement. The rail is operated by NSR, and owned by BNSF. Efforts to avoid the major rail crossing by re-using a former rail embankment to serve the one rail customer were not successful. The BNSF, as the owner, determined that other business opportunities necessitated the continued operation of the existing rail line. For the purpose of the current Southeast Connector project, BNSF has also discontinued discussion regarding removal of rail west of SE 18th Street.

When negotiating new public crossings, BNSF requires closure of existing at-grade crossings. In exchange for the new Southeast Connector crossing, existing crossings to be closed are S.E. 8th and S.E. 9th Streets at the south right-of-way of Elm Street. Neither S.E. 8th Street or S.E. 9th Street currently extends north of Elm Street. Access to the few properties along Elm Street, west of S.E. 8th Street will be via S.E. 7th Street and Elm Streets. This City Council action includes closure of the two crossings. The Southeast Connector crossing agreement requires these closures to be in place before construction of the Southeast Connector at-grade crossing begins.

In exchange for the new S.E. 15th Street crossing, the Agreement provides for the existing crossing of Scott Avenue to be closed following the construction of the Southeast Connector – S.E. 15th Street to S.E. 30th Street. The future closure of Scott Avenue east of S.E. 15th Street will require local traffic, including traffic wanting to enter the eastern driveways of the City's Municipal Service Center to use the Southeast Connector or Maury Street to S.E. 18th Street. Scott Avenue is proposed for closure as part of the development of Phase 2 of the Municipal Service Center. Future private crossings needed for the Municipal Service Center will require BNSF permission.

On August 27, 2012, by Roll Call No. 12-1328, City Council approved Department of Transportation Conditional and Preliminary Term Sheet for the TIGER Discretionary Grant for the Southeast Connector Project between S.E. 14th Street and S.E. 30th Street. The Term Sheet included an interim milestone of December 2012 for the BNSF and NSR agreements. Execution of this Agreement will satisfy the established deadline for BNSF.

PREVIOUS COUNCIL ACTION(S):

Date: August 27, 2012

Roll Call Number: [12-1328](#)

Action: Items regarding the Southeast Connector Project, SE 14th to SE 30th Street: (A) [Approving](#) the execution of Department of Transportation Conditional and Preliminary Term Sheet for the TIGER Discretionary Grant. ([Council Communication No. 12-450](#)). Moved by Coleman to adopt. Motion Carried 7-0.

Date: August 27, 2012

Roll Call Number: [12-1329](#)

Action: Items regarding the Southeast Connector Project, SE 14th to SE 30th Street: (B) [Authorizing Agreement for Preliminary Engineering Services with Norfolk Southern Railway Company for rail impacts associated with the Southeast Connector. \(Council Communication No. 12-454\)](#). Moved by Coleman to adopt. Motion Carried 7-0.

Date: June 25, 2012

Roll Call Number: [12-0963](#)

Action: [Approving](#) supplemental agreements to the Southeast Connector Professional Services Agreement with Kirkham Michael & Associates to provide additional design and construction phase services for the Southeast Connector Projects. ([Council Communication No. 12-327](#)). Moved by Hensley to adopt. Motion Carried 7-0.

Date: January 26, 2009

Roll Call Number: [09-137](#)

Action: [Authorizing](#) notification of the City's preferred alternative for the Southeast Connector. ([Council Communication No. 09-031](#)). Moved by Meyer to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Future commitment to fund the replacement of crossing signal equipment and signal house when damaged, destroyed or obsolete and cannot be maintained.

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