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Date May 23, 2011

APPROVING AND AUTHORIZING THE EXECUTION OF A NEW PEDESTRIAN AT-GRADE CROSSING AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY AND IOWA INTERSTATE RAILROAD, LTD., IN CONJUNCTION WITH THE S.W. 63rd STREET TRAIL CONNECTOR PROJECT

WHEREAS, on March 14, 2011, by Roll Call No. 11-0440, the City Council of the City of Des Moines, Iowa, approved an agreement with the City of West Des Moines for design and construction of the 63rd Street Recreational Trail from Railroad Avenue to Tyler Avenue for the 63rd Street Trail Connector Project (“the Project”), and on March 28, 2011, by Roll Call No. 11-0549, following notice and public hearing, City Council further authorized acquisition of property interests for the Project; and

WHEREAS, the Union Pacific Railroad Company (“UPRR”) owns and operates a railroad and Iowa Interstate Railroad, LTD (“IIR”) operates a railroad upon railroad tracks that proceed in an easterly-westerly direction across S.W. 63rd Street between Railroad Avenue and Tyler Avenue, across which property interests are required for the Project and a pedestrian at-grade crossing must be installed in accordance with Project plans adjacent to the existing public street crossing on S.W. 63rd Street in the vicinity of Milepost 362.2 on UPRR’s Perry Subdivision having a DOT Crossing Number 193 045N; and

WHEREAS, in connection with the S.W. 63rd Street Trail Connector – Railroad Avenue to Tyler Avenue project, the City has proposed to undertake a project to construct the aforementioned railroad crossing within UPRR right-of-way; and

WHEREAS, the City, UPRR and IIR have negotiated the terms of a New Pedestrian At-Grade Crossing Agreement to provide for the construction of the above-referenced railroad crossing improvements within the railroad right-of-way for the Project by IIR, and granting of property interest by license from UPRR to the City for future use, operation, and maintenance of the crossing for the benefit of the City and the public, with \$11,345.00 license cost due to UPRR upon execution on this Agreement, and additional reimbursement to be paid to IIR for actual cost of materials and labor for construction of said crossing improvements currently estimated to be \$33,425.28, which costs are to be paid by West Des Moines in accordance with the above-described agreement.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA, that:

1. The Agreement for New Pedestrian At-Grade Crossing in connection with the S.W. 63rd Street Trail Connector – Railroad Avenue to Tyler Avenue project, a copy of which is now on file in the office of the City Clerk, be and is hereby approved; the Mayor and City Clerk are hereby

★ **Roll Call Number**

Agenda Item Number

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Date May 23, 2011

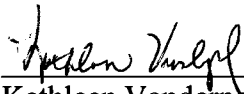
authorized and directed to execute said Agreement for and on behalf of the City of Des Moines, Iowa; and the Clerk is directed to return said Agreement to the Real Estate Division for submittal to and execution by the other parties and recording after said execution.

2. The City's Engineering Department and Real Estate Division are authorized and directed to make payment for the crossing license in accordance with standard real estate practices and to record the fully executed Agreement in the office of the Polk County Recorder.
3. The Engineering Department is hereby authorized to administer the terms of said Agreement.
4. The Finance Director is authorized to make payment to the railroad for the actual construction costs upon receipt of an invoice acceptable to the Engineering Department, which amount will thereafter be reimbursed by payment from West Des Moines.

(Council Communication Number 11-293 attached)

Activity ID 11-2003-022

Moved by _____ to adopt.

FORM APPROVED: 
 Kathleen Vanderpool
 Deputy City Attorney

 Funding Source: 2011-2012 CIP, Page Parks Improvements-17, Recreation Trails, PKS045

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

 Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

 City Clerk