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**Date** December 17, 2012

**APPROVING AND AUTHORIZING THE EXECUTION OF  
BURLINGTON NORTHERN SANTA FE RAILWAY GRADE CROSSING  
CONSTRUCTION AND MAINTENANCE AGREEMENTS AND EASEMENT AGREEMENT FOR  
THE SOUTHEAST CONNECTOR PROJECT**

WHEREAS, the Burlington Northern Santa Fe Railway Company (BNSF) owns a railroad upon railroad tracks that proceed in a southeasterly-northwesterly direction across proposed Southeast Connector and S.E. 15<sup>th</sup> Street right-of-way; and

WHEREAS, Southeast Connector and S.E. 15<sup>th</sup> Street will require new public street crossings over said BNSF railroad tracks to be designated DOT No. 929080R and 929081X; and

WHEREAS, in connection with the Southeast Connector Project, the City has proposed to undertake a project to construct the aforementioned railroad crossings including the installation of a new crossing surface and installation of appropriate gates and signals, within BNSF's railroad right-of-way at Southeast Connector, as well as a new railroad crossing within the City street right-of-way at S.E. 15<sup>th</sup> Street; and

WHEREAS, the BNSF requires closure of existing crossings in exchange for new crossings; and

WHEREAS, Grade Crossing Construction and Maintenance Agreements (Agreements) with BNSF provide that the existing public street crossings of S.E. 8<sup>th</sup> Street and S.E. 9<sup>th</sup> Street are to be closed prior to construction of the Southeast Connector – S.E. 9<sup>th</sup> to S.E. 15<sup>th</sup> and the existing public street crossing of Scott Avenue is to be closed at the completion of the construction of the Southeast Connector – S.E. 15<sup>th</sup> Street to S.E. 30<sup>th</sup> Street; and

WHEREAS, the Agreements include a lump sum payment for future maintenance of the railroad crossing surfaces, signal equipment and signal house in the amount of \$150,000 for the Southeast Connector and \$135,000 for the S.E. 15<sup>th</sup> Street; and

WHEREAS, the Agreements further require the City to reimburse BNSF for replacement of the crossing signal equipment and signal house in the event they are damaged, destroyed or obsolete and cannot be maintained; and

WHEREAS, the Southeast Connector crossing of the BNSF requires acquisition of an easement and a temporary easement during construction for a total cost of \$52,000; and

WHEREAS, the Agreements provide for the construction and maintenance by BNSF of the above-referenced railroad crossing improvements within the railroad tracks for the Project by BNSF, with reimbursement to be paid by the City to BNSF for the actual cost of materials and labor for said improvements, as currently estimated at \$1,184,142.

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

★ Roll Call Number

Agenda Item Number

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Date December 17, 2012

1. That the two Grade Crossing Construction and Maintenance Agreements and Easement Agreement between BNSF Railway Company and the City of Des Moines in connection with the Southeast Connector Project, copies which are now on file in the office of the City Clerk, be and are hereby approved as to form and content.
2. That the Mayor and City Clerk are hereby authorized and directed to execute said Agreements for and on behalf of the City of Des Moines, Iowa.
3. That the Engineering Department is hereby authorized to administer the terms of said Agreements.
4. That the Finance Director is authorized to make payment to the railroad for the required easement, and for actual construction costs upon receipt of an invoice acceptable to the Engineering Department.
5. That the Engineering Department is hereby authorized to close and barricade the existing street crossings of S.E. 8<sup>th</sup> Street and S.E. 9<sup>th</sup> Street at the south right-of-way of Elm Street, in exchange for construction and use of the new Southeast Connector crossing.
6. That the Engineering Department is directed to initiate vacation and permanent closure of Scott Avenue in the vicinity of the existing BNSF railway crossing east of S.E. 15<sup>th</sup> Street, in exchange for construction and use of the new S.E. 15<sup>th</sup> Street crossing, in accordance with terms of the Agreement.

(Council Letter Number 12-631 attached)  
Activity ID 06-2010-018 and 06-2012-006

Moved by \_\_\_\_\_ to adopt.

FORM APPROVED:

  
Kathleen Vanderpool  
Deputy City Attorney



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