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Date December 17, 2012

**APPROVING AND AUTHORIZING THE EXECUTION OF
NORFOLK SOUTHERN RAILWAY COMPANY CONSTRUCTION AND
FLAGGING AGREEMENT FOR THE SOUTHEAST CONNECTOR PROJECT**

WHEREAS, the Norfolk Southern Railway Company (NSR) owns and operates a railroad and operates the Burlington Northern Santa Fe (BNSF) railroad, both within the area near and adjacent to the Southeast Connector Project; and

WHEREAS, under separate agreement, the BNSF will construct new crossings at the Southeast Connector and S.E. 15th Street; and

WHEREAS, the Southeast Connector includes construction of roadway improvements adjacent and over the NSR rail lines; and

WHEREAS, NSR has certain requirements that must be satisfied to allow construction on or near the railroad; and

WHEREAS, at City project cost, the NSR will provide the necessary switch tenders, flagmen, watchman and other protective services and devices to promote safety and insure continuity of train operations as may be necessary in connection with the work performed by the BNSF and the City's contractors; and

WHEREAS, the City and NSR have negotiated the terms of the Agreement to provide necessary provisions for construction of improvements required for the Southeast Connector Project, with reimbursement to be paid by the City to NSR for actual cost of work, as currently estimated at \$233,188.

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

1. That the Agreement (Norfolk Southern Railway Company) in connection with the Southeast Connector Project, be and is hereby approved as substantially in the same form as the copy of which is now on file in the office of the City Clerk, subject to final negotiation and approval by the City Engineering and Legal Departments.
2. That the Mayor and City Clerk are hereby authorized and directed to execute the final approved version of said Agreement for and on behalf of the City of Des Moines, Iowa.

★ **Roll Call Number**

Agenda Item Number

7

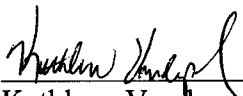
Date December 17, 2012

3. That the Engineering Department is hereby authorized to administer the terms of said Agreement.
4. That the Finance Director is authorized to make payment to the railroad for the actual costs upon receipt of invoices acceptable to the Engineering Department.

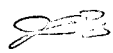
(Council Letter Number 12-628 attached)
Activity ID 06-2010-018 and 06-2012-006

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

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.

Mayor

City Clerk