

★ Roll Call Number

14-0039

Agenda Item Number

18

Date January 13, 2014

APPROVING AND AUTHORIZING THE EXECUTION OF AMENDMENT TO THE CONTRACT OF PURCHASE BETWEEN NORFOLK SOUTHERN RAILWAY COMPANY AND CITY OF DES MOINES FOR THE SOUTHEAST CONNECTOR PROJECT

WHEREAS, on October 25, 2010, by Roll Call No. 10-1786, City Council authorized acquisition of the necessary right-of-way and easements for the SE Connector Project; and

WHEREAS, 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 SE 14th Street and SE 30th Street, which included an interim milestone of December 2012 for the Norfolk Southern Railway Company ("NSR") agreement; and

WHEREAS, on December 17, 2012, by Roll Call No. 12-1914, City Council approved and authorized execution of the Contract of Purchase between the City and NSR for the partial acquisitions, temporary construction easements, permanent easement for roadway overpass, and total fee acquisition of property owned by NSR and required for the Southeast Connector; and

WHEREAS, the City of Des Moines and NSR have negotiated an amendment to the Contract of Purchase as necessary to extend the closing date by an additional 180 days and to amend NSR's conveyance of the fee acquisition property to be completed by quit claim deed.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That the First Amendment to Contract of Purchase between Norfolk Southern Railway Company and the City of Des Moines, in connection with the Southeast Connector Project, be and is hereby approved as substantially in the same form as on file in the office of the City Clerk, subject to approval as to form by the City Legal Department.
2. That the Mayor and City Clerk are hereby authorized and directed to execute and attest, respectively, said First Amendment for and on behalf of the City of Des Moines, Iowa, following approval as to form by the City Legal Department, and to return said First Amendment to the City Real Estate Division Manager for execution by Norfolk Southern Railway Company.
3. That the City Real Estate Division Manager is hereby authorized to administer the terms of said Contract of Purchase and First Amendment thereto, and to approve and execute further amendments or other documents pertaining to minor or unsubstantial changes to said Contract, following approval of the City's Legal Department as to form.

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- 4. That the Finance Director is authorized and directed to issue checks in the amounts necessary to carry out the transactions and to pay any unforeseen additional costs certified by the Legal Department and the Engineering Department; the Real Estate Division Manager is authorized and directed to obtain the checks, if any, needed to carry out these transactions and to deliver them to the payee, and to proceed to closing in accordance with standard real estate practices.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

RSU

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
VOSS	✓			
TOTAL	7			
MOTION CARRIED	APPROVED			
<u>T. M. Franklin Cownie</u> 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.

Diane Rauh City Clerk