



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL**

**DATE: MARCH 11, 2025**

**FROM: PUBLIC WORKS DEPARTMENT**

**WARDS: 1 AND 2**

**SUBJECT: THIRD STREET GRADE SEPARATION – SECOND AMENDMENT TO THE PROFESSIONAL CONSULTANT SERVICES AGREEMENT FOR THE PLANS, SPECIFICATIONS, AND ESTIMATE PHASE OF THE PROJECT WITH HDR ENGINEERING, INC., OF OMAHA, NEBRASKA, EXTEND TERM THROUGH DECEMBER 31, 2026 AND INCREASE THE CONTRACT TOTAL IN THE AMOUNT OF \$216,698.75 FOR A TOTAL CONTRACT AMOUNT OF \$2,808,642.56; UNDERPASS AGREEMENT WITH BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY (BNSF) IN THE AMOUNT OF \$10,200,000; RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR STATE SECTION 190 GRADE SEPARATION PROGRAM FUNDS; AND MATCHING FUNDS FROM BNSFOF \$3,750,482 – SUPPLEMENTAL APPROPRIATION**

## **ISSUES:**

Approve the Second Amendment to the Professional Consultant Services Agreement for additional Services for the Plans, Specifications, and Estimate Phase of the Third Street Grade Separation Project (Project), with HDR Engineering, Inc., of Omaha, Nebraska, to extend the Term of the Agreement and increase Compensation in the amount of \$216,698.75, for a total Contract amount of \$2,808,642.56; approve the Underpass Agreement with Burlington Northern Santa Fe Railway Company (BNSF) in the amount of \$10,200,000; adopt a Resolution authorizing the filing of an application with the California Department of Transportation for State Section 190 Grade Separation Program funds; and a supplemental appropriation of \$3,750,482 in BNSF matching funds.

## **RECOMMENDATIONS:**

That the City Council:

1. Approve the Second Amendment to the Professional Consultant Services Agreement for the Plans, Specifications, and Estimate (PS&E) phase of the Project with HDR Engineering, Inc., of Omaha, Nebraska, to extend the term of the agreement to December 31, 2026, and to provide additional services in the amount of \$216,698.75, for a total contract amount of \$2,808,642.56;
2. Approve the Underpass Agreement with Burlington Northern Santa Fe Railway Company (BNSF) in the amount of \$10,200,000;
3. Authorize the City Manager, or designee, to execute the Second Amendment to the

Professional Consultant Services Agreement and the Underpass Agreement, including making minor and non-substantive changes;

4. Following the execution of the Underpass Agreement, authorize the City Manager, or designee, to execute the right-of-way easement documents between the City and BNSF, including making minor and non-substantive changes;
5. Adopt a Resolution (Attachment 3):
  - a. Authorizing the filing of an application with California Department of Transportation (Caltrans) for State Section 190 Grade Separation Program funds.
  - b. Authorizing the execution of all required documents by the City Manager, or his designee.
  - c. Certifying that all matters prerequisite to the award of the construction contract can be accomplished within two years after allocation of the funds.
  - d. Certifying that sufficient local funds will be made available; and
6. With at least five affirmative votes, authorize the Chief Financial Officer, or designee, to record an increase in revenues and appropriate an equal amount of expenditures in the amount of \$3,750,482 in the Capital Outlay-Grants Fund, Third Street/BNSF Grade Separation from BNSF matching funds.

## **BACKGROUND:**

In April 2017, the City Council approved the Third Street/ BNSF line as the top priority railroad grade separation and directed the Public Works Department to begin the preliminary engineering design and environmental clearance of the Project.

Since then, the Public Works Department has completed the preliminary engineering design and environmental clearance of the Project and has been working on advancing the design and acquiring project funding. Public Works has been successful in securing and/or receiving commitments for \$81.25 million in Local, State, and Federal funds with an anticipated additional \$8,750,482 in state and BNSF railroad matching funds bringing the total to just over \$90 million to fully fund this effort. Currently, the Project is nearing completion of the final engineering design and right-of-way acquisition phases which are expected to be completed by October 2025. After their completion and upon receiving approval from Caltrans, Public Works will advertise the Project for construction. Construction of the Project is expected to commence in Summer 2026 and be completed in 24 months.

## **DISCUSSION:**

The Third Street Grade Separation project proposes constructing a railroad underpass at Third Street and the BNSF railroad tracks. Third Street will be lowered from Vine Street to Park Avenue and a bridge will be constructed to convey rail traffic. The project will require the realignment of Commerce Street, construction of slopes, retaining walls, storm water pump station, and relocation of wet and dry utilities.

The Consultant HDR Engineering, Inc. (HDR) has submitted a request for additional out of scope work detailed below (Attachment 1):

- Prepare sewer relocation plans, make changes to the stormwater pump station plans as requested by City's maintenance crew, and prepare Utilities Certification Documents for approval by Caltrans (\$185,092.87).
- Update the environmental Initial Site Assessment report because of changes to project footprint and number of parcels being impacted by the Project. This update was requested by Caltrans as part of the environmental studies approval (\$22,645.76).
- Prepare bridge soffit lighting plans (\$8,960.12).

HDR has agreed to provide the additional services for a total fee of \$216,698.75 resulting in a total revised contract amount of \$2,808,642.56.

Prior to construction, it is necessary for the City to enter into an Underpass Agreement with BNSF in the amount of \$10,200,000 (Attachment 2). The Underpass Agreement outlines both parties' obligations during and after construction of the Project. The Terms of the Agreement include:

- Granting of the necessary permanent and construction easements by BNSF.
- Granting of the necessary permanent and access easements to BNSF by the City.
- Conditions under which the City's Contractor may work in the railroad right-of-way.
- Reimbursement by the City for costs incurred by BNSF for inspection, permanent relocation of the 3 existing tracks, and railroad signal work.
- Annual maintenance of the new bridge superstructure, for the life of the bridge, by BNSF for a one-time amount of \$411,000 payable to BNSF upon the completion of the construction.
- Reimbursement by BNSF to the City in the amount of \$3,750,482 in matching funds upon the removal of the existing at-grade crossing from service during construction.

The permanent and access easement documents between the City and BNSF will be finalized and executed after the execution of the Underpass Agreement.

The Section 190 Grade Separation Program is authorized by Section 190 of the Streets and Highways Code. This competitive grant program provides \$15 million each year to local agencies for the construction of grade separation projects. The program is jointly administered by the California Public Utilities Commission (CPUC) and Caltrans. Local agencies submit project applications to the CPUC. The CPUC develops a priority list of projects. Local agencies whose projects are included on the priority list submit requests for an allocation of funds to Caltrans. Caltrans enters into funding agreements with local agencies for reimbursement of the cost to construct the grade separation.

The Third Street Grade Separation Project ranks number 3 (out of 36) on the CPUC Fiscal Year 2024-2025 California Grade Separation Fund Priority List and is eligible to receive \$5 million in Section 190 Grade Separation Program funds. To receive the funding, the City must:

1. Enter into all necessary agreements with the affected railroad;
2. Obtain all necessary orders from the CPUC; and
3. Provide a certified resolution by the City Council authorizing the filing of the application stating all matters prerequisite to the awarding of the construction contract can be accomplished within two years after allocation of funds for the project; and certifying sufficient local funds will be made available as the work of the project progresses.

It is necessary for the City Council to approve the Resolution, Attachment 3, to complete the funding application.

Section 1104 of Purchasing Resolution 24101 states the requirements for Change Orders and Amendments to existing Agreements. Section 1104(c) states that Awarding Entity Approval is required when the Change Order cumulatively exceeds “10% of the original contract price for Contracts and/or Purchase Orders previously approved by the Awarding Entity and the total Change Order amount will not exceed \$150,000”; and Section 1104(d) states that Awarding Entity Approval is required when “A Contract Amendment which extends the term of the agreement beyond one year of original expiration dated”.

The Purchasing Manager concurs that the recommended actions are in compliance with Purchasing Resolution No. 24101, Section 1104(c) and 1104(d).

### **STRATEGIC PLAN ALIGNMENT:**

This project aligns with **Strategic Priority 6 — Infrastructure, Mobility, and Connectivity** by improving safety, circulation, and providing critical infrastructure for our community to thrive and is in accordance with **Goal 6.3** — Identify and pursue new and unique funding opportunities to develop, operate, maintain, and renew infrastructure and programs that meet the community's needs.

Furthermore, this Project aligns with each of the five Cross -Cutting Threads as follows:

1. **Community Trust** — The Public Works Department has engaged community members regarding the Third Street Grade Separation, and the Project was developed in response to prior City Council action. Public Works will continue to inform and engage the public regarding the Grade Separation Project.
2. **Equity** — The Project will benefit all who travel on Third Street whether in a car, on foot, or via bicycle. It will provide a safer and more reliable roadway network to schools, shopping centers and to various neighborhoods. The Project will also improve the quality of life in the surrounding neighborhood.
3. **Fiscal Responsibility** — In order to maximize Local dollars, the City pursues Local, State, and Federal Grant funding for large and complicated construction projects.
4. **Innovation** — This Project will permanently relocate the existing tracks; minimizing impacts to rail operations and reducing the construction duration by eliminating the need to construct temporary shoofly tracks and temporary rail crossing.
5. **Sustainability & Resiliency** — This project will make the street safer by eliminating the at-grade railroad crossing.

### **FISCAL IMPACT:**

The total fiscal impacts of the recommended actions are as follow:

- Increase in contract with HDR: \$216,698.75; funding available in Measure A fund, Third Street/BNSF Grade Separation Project account number 9990130-440302;

- Underpass agreement with BNSF: \$10,200,000; funding is budgeted and available in the Measure A Fund, Third Street/BNSF Grade Separation Project account number 9990130-440309;
- California Department of Transportation Grade Separation Program Funding application/award: Increase in revenue and expenditures in the amount of \$3,750,482 in funds and accounts as indicated in Table 1 below.

**Table 1.** Supplemental Appropriation

<b>Fund</b>	<b>Project</b>	<b>Account</b>	<b>Amount</b>
Capital Outlay - Grants	Third Street/BNSF Grade Separation	<i>Revenue</i>	
		9990140-339000	\$3,750,482
		<i>Expenditures</i>	
		9990140-440309	\$3,750,482

Prepared by: Swetaben Patel, Principal Engineer  
 Approved by: Gilbert Hernandez, Public Works Director  
 Certified as to availability of funds: Kristie Thomas, Finance Director/Assistant Chief Financial Officer  
 Approved by: Kris Martinez, Assistant City Manager  
 Approved as to form: Jack Liu, Interim City Attorney

## Attachments:

1. Second Amendment to Professional Consultant Services Agreement with HDR Engineering
2. Underpass Agreement with BNSF
3. Section 190 Grade Separation Program Resolution
4. Presentation