

City of Minneapolis
Request for Committee Action

To: Transportation & Public Works
Date: 2/16/2016
From: City Attorney's Office
Prepared by: Robin Hennessy
Presented by: Susan Segal
File type: Action
Subcategory: Settlement

Subject:

Legal Settlement - BNSF Track Expansion at 7th Street NE

Description:

Approving the settlement of a legal dispute in a matter relating to BNSF's track expansion at 7th Street, NE, in which the City and BNSF will enter into a settlement agreement to resolve issues arising out of BNSF's construction of a new retaining wall on property originally platted as city right of way:

- The parties will reserve respective rights to claim ownership of underlying property.
- BNSF will indemnify the City against any damage occurring to existing city infrastructure.
- BNSF will add a sound and debris buffer to the top of its retaining wall to protect adjacent property.
- BNSF will refrain from occupying or obstructing the city's paved cul-de-sac.

Authorizing the City Attorney's Office, and the Department of Public Works, to execute any documents necessary to effectuate the settlement.

Previous Actions:

None.

Ward/Address:

Ward 1
7th Street NE and Lowry Avenue

Background/Analysis:

During August, 2015 City officials became aware of a track expansion by Burlington Northern Santa Fe Railroad, in the area immediately south of Lowry Avenue near 7th Street NE. The track expansion included construction of a new retaining wall on property originally platted as city right of way. The expansion raised objections from neighboring owners whose parcels abut BNSF property. The 1st Ward office worked together with the Department of Public Works and the City Attorney's Office to seek a resolution protecting the public's health safety and welfare, as well as the city's property interests.

Following several weeks of property research, correspondence, and meetings with BNSF, the City Attorney's Office negotiated a settlement agreement that includes the following terms:

- The parties will reserve respective rights to claim ownership of underlying property.
- BNSF will indemnify the City against any damage occurring to existing city infrastructure, which includes an active sanitary sewer pipe.

- BNSF will add a 5 foot tall sound and debris buffer to the top of its retaining wall to protect adjacent property.
- BNSF will refrain from occupying or obstructing the city's paved cul-de-sac.
- The City will refrain from disturbing or objecting to the construction of BNSF's retaining wall.

In addition, BNSF has committed to revegetation of the area and property conveyances in separate agreements that will be executed between BNSF and each affected owner.

The Department of Public Works has reviewed and approved of the proposed settlement agreement.

Financial Review:

No financial impact.