

**City of Minneapolis**  
**Request for Committee Action**

**To:** Transportation & Public Works  
**Date:** 10/11/2016  
**Referral:** N/A  
**From:** Public Works Department  
**Prepared by:** Peter J. Pfister P.E., Water Treatment and Distribution  
**Presented by:** Peter J. Pfister P.E., Water Treatment and Distribution  
**File type:** Action  
**Subcategory:** Contracts & Agreements

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**Subject:**

Occupancy Permit with Burlington Northern Santa Fe Railway

**Description:**

Authorizing an agreement with Burlington Northern Santa Fe Railway (BNSF) to obtain a permit for Temporary Occupancy related to a project to perform maintenance repairs to a shallow utility tunnel under BNSF property.

**Previous Actions:**

None

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**Ward/Address:**

Ward 1

**Background/Analysis:**

Water Treatment and Distribution Services owns five pipes that cross the property of BNSF along 37th Avenue Northeast, between Main Street and East River Road. Three of these pipes are contained inside a concrete tunnel which is in need of rehabilitation.

In order to perform the tunnel rehabilitation work, City and contractor personnel will need to access and use BNSF property. BNSF requires a permit be obtained for such use, and one of the requirements to obtain the permit is entering into a written agreement. The proposed agreement will include the following key terms and conditions:

- BNSF allows the City and its Contractor to use its property as described in the agreement for completing rehabilitation of the water main tunnel.
- BNSF waives any license fees.
- The parties agree that the preexisting property rights, obligations, and interests of either party will be unchanged by the agreement.
- The City must indemnify BNSF against liability associated with the City's use of BNSF property under the agreement.
- City and its contractor agree to abide by all laws applicable to the work, and to abide by BNSF Safety Policies and Procedures.
- City agrees to reimburse BNSF for its costs associated with the work, including flagperson and equipment rental.

**Financial Review:**

**No additional appropriation required, amount included in current budget.**

**Attachments:**

None