

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 21-215

AUTHORIZING APPROVAL OF THE UNDERPASS AGREEMENT AND
ASSOCIATED EASEMENT AGREEMENT WITH BNSF
FOR THE MEADOWDALE BEACH PARK AND ESTUARY RESTORATION PROJECT

WHEREAS, the county-owned tidelands at Meadowdale Beach Park are separated from the lower park lawn area by the 100-foot wide right-of-way owned by Burlington Northern Santa Fe Railway Company (BNSF); and

WHEREAS, BNSF's Scenic Subdivision Line Segment 50, which includes two main tracks supported by a raised rock-armored embankment is located within the 100-foot BNSF right-of-way along with a culvert conveying Lunds Gulch Creek, a salmon-bearing stream through the embankment; and

WHEREAS, a major park development project completed in 1988 included securing an agreement with BNSF for shared use of the 6-foot wide, 5.5-foot high, 60-foot long culvert for the purpose of providing public beach access; and

WHEREAS, over time, increased runoff and rainfall events within the gulch have resulted in sediment delivery, flooding, public safety, and fish impediment issues at the entrance to and within the culvert and under flooded conditions public determined to get to the beach trespass across BNSF right-of-way; and

WHEREAS, a Preferred Alternative to address the multiple issues was developed through a public process during a Feasibility Phase in 2014-2015, and included replacing the undersized culvert and approximately 128 linear feet of hard armored BNSF railroad embankment with a multi-span railroad bridge, providing a widened opening for creek meander and sediment delivery, restoring a pocket estuary for juvenile Chinook and other salmonids, and providing an ADA-accessible path under the bridge separated from the creek; and

WHEREAS, improvements proposed by the Preferred Alternative are located within the BNSF right-of-way requiring landowner cooperation for implementation of this project; and

WHEREAS, BNSF requires execution of an Underpass Agreement, in the form of a standard BNSF template, between Snohomish County and BNSF prior to construction of any improvements within the BNSF right-of-way; and

WHEREAS, BNSF conveyed to the County at the sixty (60) percent design phase that it was BNSF's preference to use BNSF track and bridge crews to perform the majority of bridge construction with the County procured contractor, under Bid PW-002-21SB, to construct temporary facilities to support bridge construction, and other appurtenant bridge-related items outside BNSF's scope of work; and

WHEREAS, the County-procured contractor will also construct the improvements below the bridge within BNSF's right-of-way including the underpass trail and estuary improvements; and

WHEREAS, the Underpass Agreement outlines County and BNSF construction responsibilities, provides cost estimates and indicates that BNSF will own and maintain the bridge while the County will own and maintain the underpass trail, estuary and the security fencing and signage; and

WHEREAS, the Underpass Agreement includes the Easement Agreement (Exhibit B) for public beach access and estuary improvements across BNSF's right-of-way and maintenance for both; and

WHEREAS, Jones, Lang LaSalle (JLL) Brokerage Inc., who provides real estate services to BNSF, determined the appraised value of the permanent and temporary easements at a value of \$430,294 (Four Hundred Thirty Thousand, Two Hundred Ninety-Four Dollars) for the permanent easement and \$124,614 (One Hundred Twenty-Four Thousand, Six Hundred Fourteen Dollars) for the temporary easement; and

WHEREAS, Exhibit C (Contractor Requirements) and Exhibit C-1 (Agreement Between BNSF Railway Company and the Contractor) of the Underpass Agreement were included in the Meadowdale Beach Park and Estuary Restoration Project bid documents (Bid 002-21SB) which requires the awarded contractor to execute Exhibit C1 with BNSF in compliance with the Underpass Agreement; and

WHEREAS, Exhibit D of the Underpass Agreement provides estimates of BNSF costs for the project including \$125,461 (One Hundred Twenty-Five Thousand, Four Hundred and Sixty-One Dollars) for flagging, \$133,066 (One Hundred Thirty-Three Thousand, Sixty-Six Dollars) for Main 2 track raise, \$111,100 (One Hundred and Eleven Thousand, One Hundred Dollars) for inspection, and \$1,585,150 (One Million, Five Hundred Eighty-Five Thousand, One Hundred and Fifty Dollars) for bridge construction for a total construction cost of \$1,954,777 (One Million, Nine Hundred Fifty-Four Thousand, Seven Hundred and Seventy-Seven Dollars); and

WHEREAS, Capital Improvement Program (CIP) funding for Meadowdale Beach County Park has been included in the Park 6-yr CIPs since 2016 and the engineer's estimate for construction by the County-procured Contractor, BNSF and consultant services for this project is \$15,000,000 (Fifteen Million Dollars); and

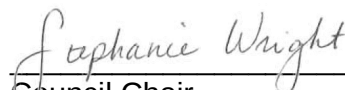
WHEREAS, funding for the Meadowdale Beach Park and Estuary Restoration Project includes awards from seven (7) grants totaling \$6,954,078 (Six Million, Nine Hundred Fifty-Four Thousand, Seventy-Eight Dollars), with the remaining \$8,045,922 (Eight Million, Forty-Five Thousand, Nine Hundred Twenty-Two Dollars) from REET 2 funding and tax-exempt bond funds as approved in Motion 20-401; and

WHEREAS, the Federal Rail Administration grant will reimburse the County for payments made to BNSF for construction costs at a rate of 46.5263% or a total of \$909,485.41 (Nine Hundred Nine Thousand, Four Hundred Eighty-Five Dollars and Forty-One Cents) based on estimated costs in Exhibit D, and Snohomish County will be responsible for 53.4737% of estimated construction costs or \$1,045,291.59 (One Million, Forty-Five Thousand, Two Hundred Ninety-One Dollars and Fifty-Nine Cents) plus the temporary and permanent easement cost of \$557,408 (Five Hundred Fifty-Seven Thousand, Four Hundred and Eight Dollars) for a total of \$1,602,699.59 (One Million, Six Hundred and Two Thousand, Six Hundred Ninety-Nine Dollars and Fifty-Nine Cents);

NOW, THEREFORE, ON MOTION, the Snohomish County Council hereby approves and authorizes the County Executive to execute the 1) Underpass Agreement with BNSF and 2) Easement Agreement for the purpose of constructing the portion of proposed improvements as part of the Meadowdale Beach Park and Estuary Restoration Project within the BNSF right-of-way.

PASSED this 7th day of June, 2021.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Council Chair

ATTEST:



Asst. Clerk of the Council