

ORDINANCE NO. 070158

Authorizing the Director of Public Works to enter into an agreement with The Kansas City Terminal Railway Co. (KCT) for Project No. 89005541; authorizing the Director of Public Works to expend funds in the amount of \$1,665,000.00; and authorizing the Director of Public Works to expend the appropriated funds in subsequent years based on actual invoices received by KCT and subject to future funding authorized and allocated by the Council; and that the Director of Public Works is authorized to expend \$295,000.00 currently appropriated in Account No. 3090-898032-890055431-B KCTRR Retaining Walls.

WHEREAS, pursuant to numerous previous agreements, acts and undertakings (“Prior Cost Sharing Agreements”) between the City, Hannibal & St. Joseph Railway Company, the Chicago, Burlington and Quincy Railroad Company, successor in interest to the Chicago, Burlington and Quincy Railway Company, the parties have agreed to share equally the ownership and the cost of constructing, repairing, maintaining and reconstructing that certain retaining wall described on Exhibit A and depicted on Exhibit B, copies of which are attached and incorporated into the agreement; and

WHEREAS, by notice from the City to the KCTR dated January 18, 2005 (“Notice”), the City asserts that a portion of the Retaining Wall described and depicted on Exhibit C, a copy of which is attached and incorporated into the Agreement by reference (the “Damaged Wall Portion”) has become damaged due to settling and water erosion (“2005 Event”); and

WHEREAS, the parties desire to affirm and restate their Prior Cost Sharing Agreements, desire to set forth their obligations as to the repair of the Damaged Wall Portion, and further desire to set forth a process by which the parties shall undertake the future construction, repair, maintenance and reconstruction of the Retaining Wall; and

WHEREAS, pursuant to the Prior Cost Sharing Agreements and this Cost Sharing Agreement, the City has requested that KCTR contribute one-half of the cost to repair the Damaged Wall Portion as set forth in the Notice of the 2005 Event and KCTR agrees to contribute one-half of the cost to repair the Damage Wall Portion in accordance with the Notice, subject to and conditioned upon the terms and processes herein stated; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the Director of Public Works is hereby authorized to execute, on behalf of the City, a cost-sharing agreement, similar to the one attached with the Kansas City Terminal Railway Co. for the repair to retaining walls separating Beardsley Road from KCT Track west of downtown, KCPW Project No. 89005541. The agreement requires each agency to contribute one-half of the cost to repair the retaining walls in six locations.

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Section 2. That the Director of Public Works is hereby authorized to expend funds in the amount of \$1,665,000.00, fifty percent of the actual construction cost including a 10% contingency.

Section 3. That the Director of Public Works is authorized to expend appropriated funds in the 5-Year Capital Improvements Plan as recommended by PIAC and subject to future funding authorized and allocated by the Council.

Section 4. That the Director of Public Works is authorized to expend \$295,000.00 currently appropriated in Account No. 3090-898032-89005541-B KCTRR Retaining Walls.

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

Debra R. Hinsvark
Director of Finance

Approved as to form and legality:

Brian T. Rabineau
Assistant City Attorney