

RESOLUTION 2025-050
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE MAYOR TO EXECUTE A LICENSE AGREEMENT
WITH BNSF RAILWAY COMPANY FOR RAILROAD CROSSING SIGNAL
EQUIPMENT WITHIN THE PUBLIC RIGHT-OF-WAY FOR NORTH
TIMBERLINE ROAD

A. The purpose of this item is to authorize the Mayor to execute a License Agreement (the "License Agreement") with BNSF Railway Company ("BNSF") for railroad crossing signal equipment, controls, and related infrastructure (the "Crossing Signal") covering 600 square feet (the "License Area") located within the boundaries of North Timberline Road at the intersection of Timberline and Vine.

B. To aid vehicular travel and public safety, the City is undertaking a project to improve the existing at-grade railroad crossing of the railroad right-of-way at the intersection of Vine Drive and Timberline Road (the "Project").

C. BNSF owns and operates the line of railroad at this Vine Drive and Timberline Road railroad crossing. As part of the Project improvements, BNSF plans to install the Crossing Signal and will be responsible for performing any work on its own railroad equipment and fixtures.

D. August 14, 2023, the City and BNSF entered into a Grade Crossing Construction and Maintenance Agreement (the "C&M Agreement") for the Project as authorized by the Colorado Public Utilities Commission in proceeding number 23A-0114R.

E. Review of construction plans for the Project revealed that the Crossing Signal would be located, in part, within City right-of-way, rather than entirely within properties owned by BNSF.

F. City staff and BNSF have negotiated and hereby propose the License Agreement for the City to authorize BNSF to install and maintain the Crossing Signal within the City right-of-way.

G. The Fort Collins Charter, Article XI, Section 10 provides that the City Council may grant a permit at any time for the use or occupation of any street, alley, or public place and that such permit shall be revocable by the Council at its pleasure, whether or not such right to revoke is expressly reserved in such permit.

H. The City Council finds and determines that the License Agreement is in the best interests of the City, that it will aid in advancing the public's health, safety, and welfare by facilitating the Project, and that the Mayor be authorized to execute the License Amendment between the City and BNSF.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the City Council authorizes the Mayor to execute, on behalf of the City, the License Agreement with BNSF, in substantially the form attached hereto as Exhibit A, with additional or modified terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Resolution.

Passed and adopted on May 6, 2025.

Mayor

ATTEST:

City Clerk

Effective Date: May 6, 2025

Approving Attorney: Heather N. Jarvis