

AGENDA ITEM SUMMARY

City Council



STAFF

Jonathan Piefer, Senior Real Estate Specialist
Mark Laken, Civil Engineer II

SUBJECT

Resolution 2025-050 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.

EXECUTIVE SUMMARY

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

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

The City entered into a Grade Crossing Construction and Maintenance Agreement (the "C&M Agreement") dated August 14, 2023, with BNSF Railway Company ("BNSF") to improve the existing Timberline Road at-grade crossing of the railroad right-of-way (the "Project"). The C&M Agreement was authorized by the parties and approved by the Colorado Public Utilities Commission and the City and BNSF have executed it.

The Project will improve public safety and vehicular travel at this crossing. The Project was initiated by the City and will be financed through state and federal funding sources. However, BNSF will be responsible for performing any work on its own railroad equipment and fixtures, including the crossing signal equipment, controls, and related infrastructure (the "Crossing Signal"), and such work includes the initial installation and all maintenance responsibilities relating to the Crossing Signal.

During the review of the construction plans for the Project, the City discovered that the Crossing Signal would be located, in part, within City right-of-way, rather than entirely within properties owned by BNSF. Accordingly, BNSF requested formal documentation from the City permitting the installation and maintenance of the Crossing Signal. Given the cost of the Crossing Signal, including the potential cost of removal of the Crossing Signal if a permit were to expire without renewal, BNSF was unwilling to rely on the standard Encroachment Permit and requested a formal easement from the City. Given the long term plans for this intersection (an overpass that will obviate the need for this Crossing Signal), City staff decided that an easement was not appropriate and that a license agreement was the proper mechanism to

authorize the Crossing Signal, and the parties subsequently negotiated and approved the terms of the License Agreement.

City staff is seeking Council approval of the License Agreement under the Fort Collins Charter, Article XI, Section 10 pertaining to Revocable permits, because the terms fall outside of City Code Section 23-116, which authorizes the City Manager to execute permits and licenses subject to certain conditions. Specifically, the License Agreement involves the installation of fixtures and improvements that could require use of the property for more than five years (falls outside of Sec. 23-116(a)(1)) and that could be considered permanent (falls outside of Sec. 23-116(a)(2)). The Fort Collins Charter, Article XI, Section 10 provides, "The Council may grant a permit at any time for the use or occupation of any street, alley, or public place. Such permit shall be revocable by the Council at its pleasure, whether or not such right to revoke is expressly reserved in such permit."

There is no compensation required from BNSF for the License Agreement, because the City requested the relocation of the Crossing Signal as part of the Project.

CITY FINANCIAL IMPACTS

There are no material financial impacts to the City.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

None.

PUBLIC OUTREACH

None.

ATTACHMENTS

1. Resolution 2025-050
2. Exhibit A to Resolution
3. Vicinity Map
4. Grade Crossing Construction and Maintenance Agreement