

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0570R

IN THE MATTER OF THE APPLICATION OF THE CITY OF FORT COLLINS FOR AUTHORITY TO CONSTRUCT LEMAY AVENUE REALIGNMENT BRIDGE OVER VINE STREET AND BNSF RAILWAY RIGHT OF WAY APPROXIMATELY 1/4 OF A MILE EAST OF THE INTERSECTION IN THE CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO.

**INTERIM COMMISSION DECISION DEEMING
APPLICATION COMPLETE AND APPROVING
PRELIMINARY DESIGN PLANS**

Mailed Date: December 5, 2019
Adopted Date: December 4, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the City of Fort Collins (Fort Collins) on October 21, 2019, seeking preliminary approval of conceptual level design plans to construct a new grade separated crossing of the Lemay Avenue realignment over Vine Street and the tracks of the BNSF Railway Company (BNSF), at railroad milepost 75.67 of the Front Range Subdivision, no National Inventory Number, in Fort Collins, County of Larimer, State of Colorado.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed October 22, 2019.

3. On November 21, 2019, BNSF filed a Notice of Intervention. BNSF does not contest or oppose the preliminary plans in the Application.

4. The Commission reviewed the record in this matter and deems that the Application as amended is complete within the meaning of § 40-6-109.5, C.R.S.

5. Now being fully advised in the matter, we approve the conceptual level design plans provided in the Application.

B. Findings of Fact

6. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application.

7. Fort Collins proposes to construct a new grade separated crossing of the Lemay Avenue realignment over Vine Street and the tracks of the BNSF. Fort Collins states that Lemay Avenue is a major north-south arterial roadway connection within Fort Collins that provides access to emergency services, schools, major retail centers and businesses south of the BNSF tracks. Growth in the area has created the need for a safe and efficient way for people to cross the tracks. This project is identified as the number one transportation need in Fort Collins Transportation Master Plan and Capital Improvement Plan.

8. The proposed new grade separation is designed as a single span bridge structure of 128'-5 3/8" from abutment to abutment that clear-spans the tracks of the BNSF and the relocated Vine Avenue. The bridge structure will provide a minimum of 23'6" of vertical clearance from the top of rail to the bottom of the bridge structure and will provide a minimum of 10' of horizontal from the edge of the BNSF right-of-way to the edge of the rockery wall. The proposed structure is 76'-0" out to out and provides for two 11' lanes in each direction of travel, a 4' median, one 12'-6' multi use path in each direction, and one 1'-6" of architectural railing with 2"x 2" meshing at a height of 10' minimum. The proposed minimum clearances meet or exceed the minimum requirements found in Rules 7324 and 7325 of the Commission Rules

Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* (CCR) 723-7.

9. Fort Collins states there are an estimated 10 to 12 trains per day that use the tracks at the location of the proposed crossing at a speed of 25 miles per hour (MPH) with no estimates for increases or decreases in the near future. Fort Collins anticipates that 27,200 vehicle per day (VPD) will use the bridge structure at a speed of 40 MPH within 5 years with traffic volumes increasing to 32,600 in twenty years.

10. Fort Collins estimates the cost of construction of the project at \$25M with Fort Collins paying for all costs of the project. Approximately \$9.8M of the funding is currently available with the remainder anticipated to be available in January 2021.

11. Fort Collins proposes to start construction in April 2020 and be complete with the project in December 2021 with the crossing opening to traffic in December 2021. Fort Collins is requesting preliminary approval of the attached plans and proposes that final plans will be provided to the Commission for approval in December 2019. Fort Collins has waived the applicable statutory period found at §40-6-109.5, C.R.S. regarding the time limit for decisions.

C. Conclusions

12. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

13. No intervenor that filed a petition to intervene or other pleading contests or opposes the Application.

14. Because the Application as amended is unopposed, the Commission finds that it will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, Commission Rules of Practice and Procedure, 4 CCR 723-1.

15. Based on the Findings of Fact, we find that good cause exists and that the requirements of public safety and necessity are met by approving Fort Collins preliminary level design plans consistent with the above discussion. Fort Collins will be expected to file final plans in this proceeding by December 31, 2019 for Commission review and approval.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the City of Fort Collins (Fort Collins) on October 21, 2019, seeking preliminary approval of conceptual level design plans to construct a new grade separated crossing of the Lemay Avenue realignment over Vine Street and the tracks of the BNSF Railway Company (BNSF), at railroad milepost 75.67 of the Front Range Subdivision, no National Inventory Number, in Fort Collins, County of Larimer, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. Fort Collins waiver of the applicable statutory period found at §40-6-109.5 regarding the time limit for decisions is noted.

3. The intervention of BNSF is granted.

4. The preliminary plans filed by Fort Collins are approved.

5. Fort Collins will be expected to file the final design plans for Commission review and approval by December 31, 2019.

6. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

7. The Commission retains jurisdiction to enter further decisions as necessary.

8. This Decision is effective on its Mailed Date.

**A. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 4, 2019.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Doug Dean'.

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners