

Decision No. C24-0039

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0530R

IN THE MATTER OF THE APPLICATION OF THE CITY OF FORT COLLINS FOR AUTHORITY TO ADD ONE DETACHED SIDEWALK AT THE CHERRY STREET CROSSING OF TRACKS OWNED BY BNSF RAILWAY COMPANY, USDOT NO. 244-642N, IN LARIMER COUNTY, STATE OF COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

Mailed Date: January 19, 2024

Adopted Date: January 17, 2024

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 30, 2023, requesting authority to add an additional detached sidewalk to the south side of the roadway at the crossing of Cherry Street crossing with the tracks of the BNSF Railway (BNSF) at railroad milepost 74.52 of the Front Range Subdivision, National Inventory No. 244642N in Fort Collins, County of Larimer, in the State of Colorado.

2. On November 6, 2023, Staff of the Commission sent a Deficiency Letter to Fort Collins requesting names of utilities by the project and asking if a front sheet from a previous project was included in error.

3. On November 16, 2023, Fort Collins amended its Application (Amended Application) providing the missing information and clarifying the Application.

4. On December 19, 2023, BNSF filed a Notice of Intervention. BNSF does not context or oppose the Application.

5. The Commission deems the Application complete within the meaning of

6. § 40-6-109.5, C.R.S.

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

8. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

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

10. Fort Collins requests authority to add an 8-foot detached sidewalk to the south side of the roadway at the Cherry Street crossing. The purpose of the sidewalk installation is to provide connectivity between Mason Street and College Avenue for pedestrians and bicycles on the south side of Cherry Street.

11. There have been nine accidents at the Chery Street crossing since 1975 including two injury accidents in 1986 and 1990, seven property damage only accidents in 1978, 1983, 1985, 1988, 1989, and 1991. There are no reported pedestrian or bicycle accidents at this crossing.

12. Fort Collins states there are currently approximately 6,519 vehicles per day (VPD) using the crossing in 2023 at a posted speed limit of 25 miles per hour (MPH) with an estimated five percent heavy vehicles using the crossing. Fort Collins estimates 685 pedestrian and bicycle users currently. Traffic is projected to grow to approximately 6,610 VPD and 772 pedestrian and bicycles per day by 2028, and 6,883 VPD and 1,041 pedestrians and bicycles per

day by 2043. There are currently approximately six through train movements per day using the crossing at speeds of up to 20 MPH with no current projections of future train traffic growth.

13. The estimated cost for the work at the crossing is \$50,302 with the adjacent property owner funding the cost of the project.

14. Fort Collins anticipates starting the project in December 2023 and estimates completing the project by June 2024. We will require Fort Collins to file the signed Construction and Maintenance Agreement prior to starting any work on the rail line portion of this project. Given the proposed start date and today's date, we will require the signed construction and maintenance agreement to be filed no later than March 31, 2024, prior to the start of rail construction and removal. We will also require Denver to inform the Commission in writing that the crossing work is complete and operational within ten days of completion. The Commission will expect this letter by June 30, 2024. However, the Commission does understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

C. Conclusions

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

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

17. Because the Application is unopposed, the Commission 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 Code of Colorado Regulations 723-1.

18. Based on the Findings of Fact, we find good cause exists and that the requirements of public safety are met by granting the Application consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the City of Fort Collins (Fort Collins) on October 30, 2023, as amended on November 16, 2023, requesting authority to add an additional detached sidewalk to the south side of the roadway at the crossing of Cherry Street crossing with the tracks of the BNSF Railway (BNSF) at railroad milepost 74.52 of the Front Range Subdivision, National Inventory No. 244642N in Fort Collins, County of Larimer, in the State of Colorado is deemed complete.

2. The intervention by BNSF is granted.

3. The Application is granted.

4. Fort Collins is authorized and ordered to proceed with the proposed construction of the detached pedestrian and bicycle sidewalk on the south side of Cherry Street crossing in Fort Collins, Colorado.

5. Fort Collins shall file a copy of the signed Construction and Maintenance Agreements for this project by March 30, 2024, prior to starting work at the crossing.

6. Fort Collins shall inform the Commission in writing that the crossing changes are complete and operational within ten days of completion. We shall expect this letter by

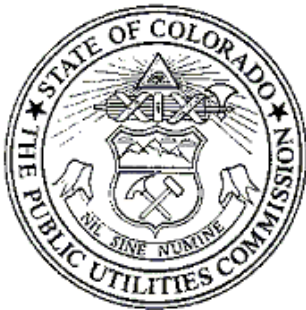
7. June 30, 2024. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

8. 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.

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 17, 2024.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners