

ORDINANCE NUMBER O- 21020 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 07 2023

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE GRADE CROSSING SIGNAL AND SURFACE INSTALLATION AND MAINTENANCE AGREEMENT WITH THE SAN DIEGO ASSOCIATION OF GOVERNMENTS AND BNSF RAILWAY COMPANY, A DELAWARE CORPORATION FOR IMPROVEMENTS ON THE BAYSHORE BIKEWAY AT 32ND STREET AND AUTHORIZING THE MAYOR TO ACCEPT AN EASEMENT FROM BNSF RAILWAY COMPANY FOR THE USE OF THE BAYSHORE BIKEWAY AND RELATED ACTIONS.

WHEREAS, the Bayshore Bikeway is a planned 24-mile bike path around San Diego Bay, and the Barrio Logan Segment, which is being constructed by the San Diego Association of Governments (SANDAG), is an approximately 2.5-mile bike trail that will provide a continuous Class I bicycle facility between Park Boulevard and South 32nd Street along Harbor Drive within the City of San Diego; and

WHEREAS, in the interest of aiding vehicular travel and public safety and as part of the Bayshore Bikeway Barrio Logan Segment, SANDAG is undertaking improvements to the existing pedestrian ways at the intersection of 32nd Street with Harbor Drive and the BNSF Railway Company's (BNSF) right-of-way to accommodate the bicycle facility, including the removal of the existing pedestrian overpasses, improvements to the crossing surfaces and approaches, and the installation of railroad crossing signals and activation equipment (Project); and

WHEREAS, the City, SANDAG, and BNSF have negotiated a Grade Crossing Signal and Surface Installation and Maintenance Agreement (Agreement) that sets out each Party's obligations related to the construction and maintenance of the Project, and requires that BNSF grant the City an easement to allow the City to use and maintain portions of BNSF's right-of-way as more specifically described within the Agreement; and

WHEREAS, if the Agreement is entered into by the Parties, BNSF will grant the City an easement in the form attached to the Agreement, to allow the City to use and maintain the crossing; and

WHEREAS, the Agreement also sets forth the maintenance obligations of BNSF and the City following construction of the improvement; and

WHEREAS, under San Diego Charter section 99, the Agreement must be approved by a two-thirds vote of the City Council by ordinance because the Agreement will extend for a period of more than five years; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

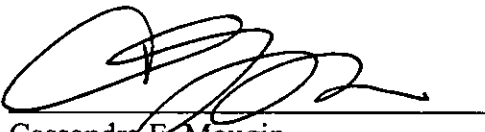
Section 1. That the Grade Crossing Signal and Surface Installation and Maintenance Agreement (Agreement) between the City, SANDAG, and BNSF, which once signed by all of the Parties will be on file in the Office of the City Clerk as Document No. OO - 21630.

Section 2. That the Mayor, or designee, is authorized to sign and deliver the Agreement, and all other documents necessary to carry out the terms and conditions of the Agreement, including the Easement Agreement, and the Memorandum of Easement.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

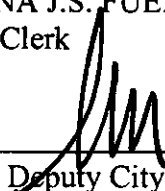
APPROVED: MARA W. ELLIOTT, City Attorney

By 
Cassandra E. Mougín
Deputy City Attorney

CEM:hm:cc
December 22, 2022
Or.Dept: Transportation Department
CC No.: N/A
Doc. No.: 3187971

I hereby certify that this Ordinance was passed by the Council of the City of San Diego, at this meeting of FEB 28 2023.

DIANA J.S. FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: 3/6/23
(date)

_____
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(The date of final passage is March 7, 2023, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

Passed by the Council of The City of San Diego on FEB 28 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 07 2023.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

FEB 07 2023, and on MAR 07 2023.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

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