

ORDINANCE/RESOLUTION REQUEST

****Please submit to Mayor's Legislative Team by 5 pm Wednesday**

1. Title: Request for an ordinance approving the execution of: 1) an Agreement Regarding Street Crossings (the "Agreement") with the Union Pacific Railroad (the "UP") and 2) a companion Grant of Easements document that grants the UP perpetual easements (the "Easements") for rail crossings at Rio Court, 13th Avenue and Shoshone Street.

2. Requesting Agency: Public Works

3. Contact Person *with actual knowledge of proposed ordinance*

Name: Brian Pinkerton

Phone: 720-865-2524

Email: brian.pinkerton@denvergov.org

4. Contact Person *with actual knowledge of proposed ordinance who will present the item at Mayor Council and who will be available for first and second reading, if necessary*

Name: Brian Pinkerton

Phone:

Email:

5. Describe the proposed ordinance, including what the proposed ordinance is intended to accomplish, who's involved

a. Scope of Work

The construction of the West Corridor will require RTD's acquisition of a portion of UP's rail corridor commonly known as the "Burnham Yard North Lead." As a result of such an acquisition by RTD, certain of the UP's trackage and other railroad facilities located on the Burnham Yard North Lead will need to be relocated for the UP's railroad operations. As part of such relocation, the UP will need to acquire the Easements to operate its railroad across Rio Court, 13th Avenue and Shoshone Street (the "Street Crossings").

Both the UP and the City have the power of eminent domain but the law is not clear that one or the other power is dominant. To avoid the significant and unnecessary expenditure of time and money on litigation or eminent domain proceedings, and to accommodate the compatible public uses of the Street Crossings by both the UP and the City, the UP and the City intend to stipulate in the Agreement that the City shall convey the Easements to the UP.

By granting the Easements within the Street Crossings, the City does not concede the dominance of the UP's power of eminent domain nor does it stipulate as to the UP's ability to condemn any City property other than within the Street Crossings.

The relocation of those certain facilities of the UP and any other activity within the Street Crossings undertaken pursuant to the Agreement and/or the Grant of Easements shall be accomplished at no cost to the City, except for any costs required to be paid by the City pursuant to any PUC approvals and/or any rules and regulations of the PUC. The grant

by the City to the UP of the Easements as contemplated by the Grant of Easements is compatible with the existing City uses within the Street Crossings and will not require any Appropriation of Funds (as such capitalized terms are defined in Section 20-16 of the Denver Revised Municipal Code).

b. Duration

c. Location

Rio Court, 13th Avenue and Shoshone Street

d. Affected Council District

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e. Benefits

See above

f. Costs

none

6. Is there any controversy surrounding this ordinance, groups or individuals who may have concerns about it? Please explain.

This is a “one time” unique situation and should not set precedent. There are no public groups or individuals that have expressed unusual concern over the Agreement or the Grant of Easements.

(Completed by Mayor’s Office): **Ordinance Request Number:**

Date: