

REPORT TO THE BOARD OF MAYOR & ALDERMEN

DATE: July 27, 2026

FROM: Tim Gwaltney, P.E., Deputy Town Engineer

SUBJECT: Agreement with Norfolk Southern Railway Company for the Byhalia Corridor Signal Coordination Project

INTRODUCTION:

The purpose of this agenda item is to approve an agreement with Norfolk Southern Railway Company for a wire and/or pipe occupation within a Public Right-of-Way related to the Byhalia Corridor Signal Coordination project.

BACKGROUND:

The Byhalia Corridor Signal Coordination project involves installing underground fiber optic lines along Byhalia Road from Poplar Avenue southward to Shelby Drive, then eastward to Sycamore Road. After completion, six traffic signals along the corridor will be interconnected, allowing for signal timing synchronization and improved traffic flow. A timeline of the project follows:

- July 2021, Town applied to the TN Department of Transportation (TDOT) for a Congestion Mitigation Air Quality (CMAQ) grant for this project
- January 2022, Town was informed that the project had been selected for funding
- July 2022, Town placed the project in its FY23 Capital Investment Program
- January 26, 2023, Town entered into a TDOT Local Programs Contract – 100% Reimbursable
- March 10, 2023, received Notice to Proceed to the environmental phase (NEPA) and the Federal Highway Administration (FHWA) obligated funds
- July 26, 2024 – Received NTP to the Design Phase
- October 2, 2025 – Received NTP to the Right-of-Way (ROW) Phase, including Railroad Coordination
- January 23, 2026 – Board of Mayor and Aldermen Approved (BMA) Acknowledgement Form (Agreement) from Norfolk Southern Railway Company (NSR) for Wire and/or Pipe Occupation within the Limits of a Public ROW
- April 14, 2026 – Town requested revisions to the original agreement due to NSR's requiring insurance limits beyond that allowed by State of Tennessee law (Exhibit 3)
- July 2, 2026 – Received Revised Agreement (Exhibit 4)

DISCUSSION:

The Town is required to approve an Acknowledgement Form for Wire and/or Pipeline Occupation (Agreement) within the railroad's right-of-way as part of construction of traffic signal fiber optics. The location is the Byhalia Road crossing (Exhibit 1). The BMA approved the original Agreement in February of this year. However, when staff submitted the Town's Certificate of Insurance along with an explanation for not meeting some of NSR's requirements, NSR declined to fully execute the agreement. The Town then requested NSR revise the original Agreement (Exhibit 3) and they obliged (Exhibit 4). The Town is now required to pay a one-time license fee in the amount of \$25,000.00.

Below is additional explanation from the Town's Risk Manager which is attached as Exhibit 5:

The issue is not simply the amount of insurance the Town carries. As a TN municipality, the Town is subject to the Governmental Tort Liability Act (GTLA), which limits the liability the Town can assume by contract and provides statutory limits on tort claims. NSR requested insurance and indemnity provisions that exceeded what the Town can legally provide.

NSR agreed to modify those provisions to accommodate the Town's legal limitations. In exchange, NSR advised that the \$25,000 license fee is the adjusted fee to account for the additional risk they believe they are assuming. Purchasing another insurance policy would not change the Town's legal authority under the GTLA or allow the Town to agree to indemnify obligations that are prohibited by law.

Upon the Town receiving proof of payment, the appropriate paperwork will be submitted to TDOT for 100% reimbursement.

STAFF RECOMMENDATION: Staff recommends approval of the Agreement.

**BUDGET IMPACT:
CIP**

Fund	Dept.	Obj. Code	Description	Approved Line Item Budget	Previous Expenses	Proposed Expense	Balance	Budget Impact
131	43120	939-202301	Byhalia Rd Signal Coordination	\$916,730.00	\$229,100.00	\$25,000.00	\$662,630.00	N/A

ATTACHMENTS:

[Exhibit 1 - Vicinity Map.pdf](#)
[Exhibit 2 - Cover Letter.pdf](#)
[Exhibit 3 - Redlined Agreement.pdf](#)
[Exhibit 4 - Revised Agreement.pdf](#)
[Exhibit 5 - Risk Manager Correspondence.pdf](#)
[Exhibit 6 - NS RR Correspondence - 7-10-26.pdf](#)

PROPOSED MOTION:

To approve the agreement with Norfolk Southern Railway Company for a Wire and/or Pipeline Occupation within the limits of the Public Right-of-Way, as required for the installation and maintenance of traffic signal fiber related to the Byhalia Corridor Signal Coordination project.

Board Action: Motion By _____ Seconded By _____

Vote Total	Hall	Jordan	Robbins	Marshall	Stamps	Fraser
Yes						
No						
Abstain						