"COUNTY'S ORIGINAL"

Agmt. No. 006163044

AGREEMENT

Union Pacific Railroad Company Crossing Signals with Gates

Project No. 87 X-2967-01 HSIP-X296(701) Sedgwick County, Kansas

Agreement between the Union Pacific Railroad Company, the County of Sedgwick, Kansas and the Secretary of Transportation of the State of Kansas, relative to the construction and maintenance of Highway Crossing Signals under Section 130, United States Code 23.

* * * * * * * * * * * * * *

This agreement, made and entered into this ______ day of ______, by and between the Union Pacific Railroad Company, a Delaware Corporation, hereinafter referred to as the "Company", the County of Sedgwick, Kansas, hereinafter referred to as the "County", and the Secretary of Transportation of the State of Kansas, hereinafter referred to as the "Secretary".

WITNESSETH:

WHEREAS, the Secretary proposes to submit to the Federal Highway Administration of the United States Department of Transportation a project providing for the installation of railway-highway crossing signals, flashing light straight post type with gates at a grade crossing (DOT #595009E) on W 3rd Street, Sedgwick County, Kansas, said project to be known and designated as Project No. 87 X-2967-01; HSIP-X296(701) and more particularly described as follows:

at the intersection of W 3rd Street and the Company's tracks approximately 2,200 feet West and 1,800 feet South of the Northeast Corner of Section 16, Township 25 South, Range 2 East, in Sedgwick County, Kansas,

and will recommend its approval for construction under Section 130, United States Code 23 and amendments thereto, and

WHEREAS, the locations for the warning devices were determined by a diagnostic team consisting of representatives of the Company, the County, and the Secretary, and

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, and subject to the approval of the Federal Highway Administration, it is hereby agreed by the parties hereto:

- 1. The total cost of the project will be funded one-hundred percent (100%) using Federal Section 130 Funds, including preliminary engineering, construction, temporary traffic control, sales tax, users tax and such other items as are properly chargeable to the project under Section 130, United States Code 23 and amendments thereto.
- 2. Reasonable temporary traffic control expenses are allowable project expenses, based on the roadway's functional classification and average daily traffic. For this project, reasonable traffic control expenses will be the one time installation and subsequent removal of two "Start Construction" and two "End Construction" signs, and traffic flagging when signal installation activities infringe on the traveled way of the roadway. All temporary traffic control will be in accordance with the MUTCD.
- 3. The County will install and maintain the advance warning signs.
- 4. The Company will provide the Secretary with a copy of the bill of materials and the detailed estimate of the cost of the project. The estimate to be attached to and become a part of this agreement.
- 5. After being notified by the Secretary that the project has been approved and that work may begin, the Company will notify the Secretary's Metro Engineer at Wichita, Kansas, at least one week in advanced of the date that work on the project is to be started and should withdrawal from the project become necessary for any reason, the Company will each time notify the Secretary's Metro Engineer of the date that work on the project is to be resumed.
- The Company will remove the existing crossbucks and will 6. install the new railway-highway crossing signals, flashing light straight post type with gates and make all connections necessary for their successful operation, and do all incidental and appurtenant work in accordance with the project and the "Manual on Uniform Traffic Devices". The Company will furnish all of the material and do all of the work with its own forces, or the work may be done by a contractor paid under a contract let by the Company in compliance with the provisions of 23 C. F. R., Chapter I, Subchapter B, Part 140, Subpart I. Said Title 23 Code of Federal Regulations (23 C. F. R.) is by reference made a part of this agreement. If this work is to be done by a contractor paid under a contract let by the Company, prior written approval shall be obtained from the Secretary. The estimated schedule by the Company for the completion of the work for this project is one year from the date of this agreement.

- 7. The Company shall comply with respect to the Project with the Buy America provisions set forth in 23 CFR 635.410, in the use of steel and iron produced in the United States, subject to the conditions therein set forth. The Company and Secretary shall work together to clarify with FHWA specific certification requirements, if any, of FHWA.
- 8. The Company will keep detailed and accurate records of all labor, materials, supplies, incidentals and all other necessary costs involved in carrying out the work performed by the Company under the terms of this agreement, and will give access to such records at any time during regular office hours to any authorized representative of the Secretary or of the Federal Highway Administration, for a period of three years from the date final payment has been received by the Company.
- 9. Preparation of preliminary estimates, procurements, performance of work, expenditures, billing and reimbursement shall all be done in accordance with 23 C. F. R., Chapter I, Subchapter B, Part 140, Subpart I.
- 10. To reimburse the Company within thirty (30) calendar days after receipt of the undisputed portion of any invoice for cost incurred for work done by the Company in accordance with the provisions of this Agreement except amounts retained from each billing and payment of the final billing pursuant to paragraph 11.
- 11. The Company will submit to the Secretary's Metro Engineer a final and complete billing of the incurred costs within one year after the completion of the work, and the Secretary will pay an amount equal to ninety-five percent (95%) of the total amount of each billing for this project pending final audit. Upon completion of final audit, the Secretary will reimburse the Company for the total amount of the final billing found eligible for payment by audit by the Secretary and/or Federal Highway Administration. The Company will reimburse the Secretary for one hundred percent (100%) of the amount of all items in the Company's bill which are declared by the Secretary and/or Federal Highway Administration to be ineligible for participation in Federal Funds.
- 12. The Company shall have title to the signals and gates and at its own cost and expense will maintain the signals and gates and will make ample provision each year for such maintenance, provided, however, the Company shall be entitled to receive any contribution toward the cost of such maintenance as may be now, or hereafter made available by reason of any law, ordinance, regulation, order, grant or by other means or sources.
- 13. The parties hereto do hereby agree that the "Special Attachment No. 1" herewith, pertaining to the implementation of

Title VI of the Civil Rights Act of 1964, is hereby made a part of this agreement.

- 14. The Company does agree that the "Special Attachment No. 2" herewith, pertaining to lobbying, is hereby made a part of this agreement.
- 15. It is further understood that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the Company, the County and the Secretary and their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in triplicate by their proper officers on the day and year first herein written.

> RICHARD CARLSON INTERIM SECRETARY OF TRANSPORTATION

	BY:								
		SCOTT W. KING, P.E., CHIEF							
		BUREAU OF ROAD DESIGN							
		UNION PACIFIC							
		RAILROAD COMPANY							
	BY:	K.P. Med							
	TITLE:	Kevin D. Hicks -AVP Engineering							
ATTEST:		SEDGWICK COUNTY							
	BY:								
COUNTY CLERK									
	Title:								

Approved As To Form

Turn The Waggioner,

Assistant Country Counselor

KANSAS DEPARTMENT OF TRANSPORTATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto, REHABILITATION ACT OF 1973, and any amendments thereto, AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto, AGE DISCRIMINATION ACT OF 1975, and any amendments thereto, EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW INCOME POPULATIONS (1994), and any amendments thereto, 49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 3555) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the Regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such ACT, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively insure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following seven "Nondiscrimination Clauses".

CLARIFICATION

Where the term "consultant" appears in the following seven "Nondiscrimination Clauses", the term "consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the consultant, or the consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

(1) Compliance with Regulations: The consultant will comply with the Regulations of the U. S. Department of Transportation relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Parts 21, 23 and 27,

- hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The consultant, with regard to the work performed by the consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the consultant of the consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.
- (4) Information and Reports: The consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information, the consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.
- (5) Employment: The consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.
- (6) Sanctions for Noncompliance: In the event of the consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,
 - (a) withholding of payments to the consultant under the contract until the contractor complies, and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
- (7) Disadvantaged Business Obligation

- (a) Disadvantaged Businesses as defined in the Regulations, shall have a level playing field to compete fairly for contracts financed in whole or in part with Federal funds under this contract.
- (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.
- (c) The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of Federally-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

(8) Executive Order 12898

- (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the state of Kansas and use such information in complying with this Order.
- (9) Incorporation of Provisions: The consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the consultant may request the State to enter into such litigation to protect the interests of the State.

CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

DATE: 2016-07-08

ESTIMATE OF MATERIAL AND FORCE ACCOUNT WORK BY THE

UNION PACIFIC RAILROAD

THIS ESTIMATE GOOD FOR 6 MONTHS EXPIRATION DATE IS :2017-01-06

DESCRIPTION OF WORK: INSTALL AUTOMATIC FLASHING LIGHT CROSSING SIGNALS WITH GATES AT KECHI, KS. 3RD STREET M.P. 229.54 ON THE LOST SPRINGS SUB. DOT #595009E WORK TO BE PERFORMED BY RAILROAD WITH EXPENSE AS BELOW: SIGNAL - KDOT - 100% ESTIMATED USING FEDERAL LABOR ADDITIVES - 116.95%

PID: 95713 AWO: 34287 MP, SUBDIV: 229.54, LOSTSPRNGS SERVICE UNIT: 07 CITY: FURLEY STATE: KS QTY UNIT LABOR MATERIAL RECOLL UPRR DESCRIPTION TOTAL -----ENGINEERING WORK ENGINEERING 4617 4617 4617 LABOR ADDITIVE 116.95% 10948 10948 4821 10948 SIG-HWY XNG 4821 -----TOTAL ENGINEERING 20386 20386 20386 SIGNAL WORK BILL PREP 900 900 900 6502 6502 CONTRACT 6502 52690 LABOR ADDITIVE 116.95% 52690 52690 37 7500 20250 5631 5000 18000 52690 MATL STORE EXPENSE 37 37 METER SERVICE 7500 7500 PERSONAL EXPENSES 20250 20250 RCLW CONTRACT 5631 REMOVAL - CONTRACTOR 5000 5000 ROCK/GRAVEL/FILL 18000 18000 SALES TAX 2607 2607 SIGNAL 44153 65193 109346 109346 TRANSP/IB/OB/RCLW 4727 4727 10 10 4727 ENVIRONMENTAL PERMITS 10 TOTAL SIGNAL 97743 135457 233200 RECOLLECTIBLE/UPRR EXPENSE ESTIMATED PROJECT COST 253586

THE ABOVE FIGURES ARE ESTIMATES ONLY AND SUBJECT TO FLUCTUATION. IN THE EVENT OF AN INCREASE OR DECREASE IN THE COST OR QUANTITY OF MATERIAL OR LABOR REQUIRED, UPRR WILL BILL FOR ACTUAL CONSTRUCTION COSTS AT THE CURRENT EFFECTIVE RATE.

PAGE 04 MORE

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WORK ORDER AUTHORIZATION-DETAIL OF	
ORDER	
WORK	

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RAILROAD: UPRR CO. LOCATION: KECHI, KS-3RD ST-LOST SPRINGS SUB DEPARTMENT: ENGINEERING SERVICES

PROJ NO: 95713 A.W.O. NO: 34287 W.O. NO: B.I. NO: 16EN10 STATE: KS VAL SEC: 1408M

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5 SIGN, "EMERGENCY NUMBER SIGN BRACK
50 SIGN, "EMERGENCY PHONE NUMBER
50 SIGN, "HIGHWAY CROSSING, STANDARD
50 SIGN MOUNTING KIT 5"
50 SIGN MOUNTING KIT 5"
50 SIGN POST, STEEL 9 FT GALVANIZED
50 SIGN POST, STEEL FROIL
50 WIRE DUCT, 2X3
50 WIRE DUCT, 2X3
51 WIRE DUCT COVER 3 "X6"
52 WIRE DUCT COVER 3 "X6"
53 WIRE DUCT COVER 3 "X6"
54 WIRE DUCT COVER 3 "X6"
55 WIRE DUCT COVER 3 "X6"
6 ENCLOSURE, SHUNT, POLE MOUNTED. 24X2
6 FOUNDATION, 4", STEEL, FOR FISHR/GAT
6 CLIP BOARD - FOR SIGNAL PRING TYPE
6 CLIP BOARD - FOR SIGNAL PRING TYPE
6 CLIP BOARD - FOR SIGNAL 12 POST BAK
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GUARD FENCE, 12 FEET 6 INCHES
CROSSING GATE ALIGNMENT ARROWS
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FORM 30-1		*		185.00	2712.08	1535.20	2.72	13.32	11.25	292.70	H
FORM 30-1 WORK ORDER AUTHORIZATION-DETAIL OF BETTMATHED EVERNMITHTEES		RAILROAD: UPRR CO. LOCATION: KECHI,KS-3RD ST-LOST SPRINGS SUB DEPARTMENT: ENGINEERING SERVICES		52264040 SURGE PANEL - TAB 618	52267200 TRANSCEIVER MODULE. FOR GCP 4000	52276150 SS XING CONTROLLER MODULE FOR GCP	53648010 INSULATING CAP & SHIELD ASSY.	53783630 UN451552-0101 ARRESTER, LOW VOLTA	53792820 UN451552-0201 LIGHTNING ARRESTER	53903460 EPD 120/240TDFL SURGE PROTECTOR	TOTAL

