

CLOSURE AND REMOVAL AGREEMENT PUBLIC ROAD CROSSING

THIS CLOSURE AND REMOVAL AGREEMENT (this "Agreement") is made and entered into as of October 11, 2021 (the "Effective Date"), by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Railroad") and CITY OF HASTINGS, a municipal corporation or political subdivision of the State of Nebraska ("Agency").

RECITALS

In accordance with the terms and conditions of this Agreement, Agency desires to permanently close the existing, grade-separated road crossing ("Project") more particularly described on Exhibit A attached hereto and made a part hereof (collectively, the "Road Crossing").

AGREEMENT

NOW THEREFORE, the parties hereto agree as follows:

1. Agency shall take all actions necessary to vacate all rights that Agency may have in and to Railroad's property in connection with the Road Crossing and to permanently close the Road Crossing. Such Agency actions may include adoption of an ordinance or resolution by Agency's governing body and/or obtaining any required approvals from a public utilities commission or any other applicable governmental entity authorizing and directing the vacation and permanent closure of the Road Crossing.
2. If Agency will be performing any Project work, such work is described on Exhibit B ("Agency Work"). Agency shall perform the Agency Work, if any, at its sole cost, and Railroad consents to Agency (or any contractor or other agent hired by Agency) performing the Agency Work at the Road Crossing, subject to complying with the terms and conditions of this Agreement.
3. If Agency hires a contractor or other agent to perform the Agency Work, Agency shall require such contractor or agent to execute Railroad's then current form of Contractor's Right of Entry Agreement (the "CROE Agreement") and to comply with the requirements set forth therein. If Agency performs the Agency Work, Agency shall comply with the safety standards set forth in the CROE Agreement.
4. Following completion of the Agency Work, Railroad agrees to perform the Project work described on Exhibit B attached hereto the ("Railroad Work"). Railroad's estimated cost for the Railroad Work is included on Exhibit C and Exhibit C-1 attached hereto ("Estimate") and may include without limitation costs of engineering review, construction, inspection, flagging, procurement and delivery of materials, equipment rental, manpower and all direct and indirect overhead labor/construction costs, including Railroad's standard additive rates. Such standard additive rates may be subject to upward or downward adjustment based on industry standards and practices, and the parties acknowledge and agree that any such adjustment to standard additive rates may be made

retroactively.

5. Agency has appropriated sufficient funds to complete the Project and shall reimburse Railroad for costs incurred by Railroad in connection with the Railroad Work in accordance with Exhibit D attached hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation

By: _____
Title: _____

CITY OF HASTINGS, a municipal
corporation or political subdivision of the
State of Nebraska

By:  _____
Title: Mayor

Exhibit A

Osborne Drive East Grade-Separated Public Road Crossing
(DOT No. 814729E)

Mile Post 262.26 – Marysville Subdivision

City of Hastings, County of Adams, State of Nebraska

Exhibit B

Railroad Work:

1. Project management.
2. Engineering review
3. Flagging
4. Final inspection

Agency Work:

1. Demolition of overpass structure and plan preparation for such.
2. Install, maintain, repair and renew permanent barricades on both sides of the Road Crossing with such barricades to be located off of Railroad's property and to be in compliance with the plans marked Exhibit B-1, and also all applicable standards and guidelines contained in the current Manual on Uniform Traffic Control Devices ("MUTCD").
3. Provide and install new advance street signs and pavement markings to indicate that the Road Crossing is closed, with such signage to be in compliance with applicable current MUTCD standards and guidelines.
4. Remove all bridge approaches on and leading up to the Railroad's right of way.
5. Restore drainage

Exhibit C

Estimate Cover Page

(See attached)

EXHIBIT C-1

ESTIMATE OF FORCE ACCOUNT WORK
BY THE
UNION PACIFIC RAILROAD COMPANY

DESCRIPTION OF WORK: Engineering and other related services for work to be performed within railroad right of way. This includes railroad flagging services, project and construction management during construction activities in railroad right of way. All necessary railroad services will be billed at actual cost.

DATE:
9/22/2021

LOCATION: Hastings DOT: 814729E	SUBDIVISION Marysville	STATE: NE
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DESCRIPTION	LABOR	MATERIAL	UP %0	Agency % 100	TOTAL
ENGINEERING					
Project Management	\$ 25,000	\$ -	\$ -	\$ 25,000	\$ 25,000
Construction Submittals	\$ 5,000	\$ -	\$ -	\$ 5,000	\$ 5,000
Construction Management	\$ 47,500	\$ -	\$ -	\$ 47,500	\$ 47,500
Final Inspection	\$ 2,500	\$ -	\$ -	\$ 2,500	\$ 2,500
FLAGGING / INSPECTION SERVICES					
RATE (per day)	\$ 1,400				
Estimated # Days of Flagging	20	\$ 28,000	\$ -	\$ 28,000	\$28,000
TOTAL PROJECT:	\$ 108,000	\$ -	\$ -	\$ 108,000	\$108,000

TOTAL ESTIMATED COST: **\$108,000**

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, THE RAILROAD WILL BILL FOR ACTUAL
COSTS AT THE CURRENT RATES EFFECTIVE THEREOF.

Flagging may be performed by a third-party contractor. Any flagging performed by a third-party contractor will be billed at said third-party contractor rate not included in the above estimate. Alternatively, the Agency may enter into a separate agreement with third-party contractor and will be responsible for all actual costs incurred.

Exhibit D

Reimbursement Method

Agency agrees to reimburse Railroad for One Hundred Percent (100%) of actual costs incurred by Railroad in connection with the Railroad Work. During the performance of the Railroad Work, Railroad will provide progressive billing to Agency based on Railroad's actual costs. Within one hundred twenty (120) days after completion of the Project, Railroad will submit a final billing to Agency for any balance owed Railroad in connection with the Railroad Work. Agency shall pay Railroad within thirty (30) days after Agency's receipt of any progressive and final bills submitted by Railroad.