

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON AUTHORIZING THE CITY MANAGER TO EXECUTE A TEMPORARY UTILITY SERVICE CONTRACT BY AND BETWEEN THE CITY OF DENTON AND THE KANSAS CITY SOUTHERN RAILROAD COMPANY D/B/A CPKC ("KCSRR") RELATING TO THE CONSTRUCTION OF HICKORY CREEK ROAD WITHIN THE RAILROAD RIGHT-OF-WAY LOCATED AT KCSRR MILEPOST MM99.54, WITHIN THE COUNTY AND CITY OF DENTON, TEXAS; PROVIDING FOR THE EXPENDITURE OF FUNDS NOT TO EXCEED THE AMOUNT OF \$22,470.86 FOR THE TEMPORARY UTILITY SERVICE LINE INSTALLATION (THE CITY WILL RECEIVE A FINAL INVOICE UPON COMPLETION OF THE WORK); AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the CITY has laid out and proposes to construct a section of that certain public roadway which has been designated as Hickory Creek Road, which as proposed, will pass over the track and across the right of way of the RAILROAD at a point designated as Railroad Mile Post MM99.54 on the RAILROAD's Alliance Subdivision, which point is the intersection of the proposed centerline of Hickory Creek Road with the centerline of the RAILROAD's track, near Denton, Texas, herein referenced to as "PROJECT"; and

WHEREAS, the CITY is currently reconstructing Hickory Creek Road outside the RAILROAD's right of way which requires existing utilities to be removed which will impact the RAILROAD's existing grade crossing warning devices, herein referenced to as "SIGNALS"; and

WHEREAS, the parties hereto deem it necessary to keep the SIGNALS operational during the PROJECT; and

WHEREAS, the parties hereto deem it necessary for the Railroad to temporarily relocate utility services for a portion of the PROJECT that affects the Railroad; and

WHEREAS, the City Council having considered the importance of the Project to the citizens of Denton and finding that it is in the public's health and safety interest, is of the opinion that it should approve the Agreement; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitals contained in the preamble of this ordinance are hereby incorporated into the body of this ordinance are true and correct.

SECTION 2. The City Manager, or their designee, is hereby authorized to execute on behalf of the City the Temporary Utility Service Contract with KCSRR, a copy of which is attached hereto as Exhibit " A " and made a part hereof for all purposes.

SECTION 3. The City Manager, or their designee, is further authorized to carry out all obligations and duties of the City as set forth in the Agreement, including but not limited to the expenditure of funds.

SECTION 4. That this ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. The ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Gerard Hudspeth, Mayor:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Chris Watts, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2024.

GERARD HUDSPETH, MAYOR

ATTEST:
JESUS SALAZAR, CITY SECRETARY

By: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

By: _____

TEMPORARY UTILITY SERVICE CONTRACT

**HICKORY CREEK ROAD REALIGNMENT, RAILROAD GRADE SEPARATION
PROJECT NUMBER _____
DENTON COUNTY, TEXAS**

STATE OF TEXAS

COUNTY OF DENTON

This CONTRACT is made and entered into by and between the CITY OF DENTON, a political subdivision of State of Texas (the "**CITY**"), acting by and through the City Council, and The Kansas City Southern Railway Company d/b/a CPKC, (the "**RAILROAD**"), duly registered to do business in the State of Missouri, whose address for mailing is 427 West 12th Street, Kansas City, MO 64105, sometimes both referred to herein as "Parties", effective as of the date of latest execution below.

WITNESSETH:

WHEREAS, the CITY has laid out and proposes to construct a section of that certain public roadway which has been designated as Hickory Creek Road, which as proposed, will pass over the track and across the right of way of the RAILROAD at a point designated as Railroad Mile Post MM99.54 on the RAILROAD's Alliance Subdivision, which point is the intersection of the proposed centerline of Hickory Creek Road with the centerline of the RAILROAD's track, near Denton, Texas, herein referenced to as "**PROJECT**"; and,

WHEREAS, the CITY is currently reconstructing Hickory Creek Road outside the RAILROAD's right of way which requires existing utilities to be removed which will impact the RAILROAD's existing grade crossing warning devices, herein referenced to as "**SIGNALS**";

WHEREAS, the parties hereto deem it necessary to keep the SIGNALS operational during the PROJECT;

WHEREAS, the parties hereto deem it necessary for the Railroad to temporarily relocate utility services for a portion of the PROJECT that affects the Railroad.

NOW, THEREFORE, in consideration of the premises and of the covenants and agreements of the parties hereto contained, to be kept and performed by the parties hereto, it is hereby agreed as follows:

A. The CITY has requested that the RAILROAD proceed with certain necessary temporary utility relocation services for the PROJECT to facilitate the parties' considerations of the PROJECT and shall be undertaken by the parties hereto upon and in accordance with the following terms, conditions and provisions.

1. The work to be done by the RAILROAD under this Contract shall consist of:

- i. Review and approval of preliminary and final engineering and design plans, specifications, drawings, contracts and other documents pertaining to the temporary utility relocation,
 - ii. Preparation of cost estimates for the RAILROAD's work in connection with the temporary utility relocation,
2. Nothing contained in this Contract shall be deemed to constitute the RAILROAD's approval of or consent to the construction of the PROJECT, which approval or consent may be withheld for any reason directly or indirectly related to safety of the RAILROAD's operations, property, or facilities. The PROJECT, if constructed, is to be constructed, under a separate Crossing Contract to be executed by the Parties at a future date.
4. The estimated cost of work to be performed by the RAILROAD for engineering services for the account of the CITY is **\$22,470.86**, as shown on the attached estimate attached hereto as **Exhibit A** and made a part hereof. It is clearly understood by the parties hereto that this is an estimate only; the CITY agrees to pay for all reimbursable charges necessitated by its work in the vicinity of the track and the RAILROAD agrees to furnish the services required. Approval of charges will require supporting documents verifying hours charged from the RAILROAD. The supporting documents must be in the form of approved time sheets or time reports. Documentation for expense charges will include signed copies of the expense accounts showing the days worked, charges for meals, accommodations and miles traveled.
5. For all items of work and expense authorized by this Contract, the RAILROAD shall invoice the CITY in care of:

Trevor Crain Project Manager
Capital Projects Dept.
City of Denton
901-A Texas St.
Denton, TX 76209
Via email: Trevor.Crain@CityofDenton.com

B. It is understood that the PROJECT herein contemplated is to be financed from funds appropriated by the CITY; that all plans, estimates of cost, specifications, awards of contracts, acceptance of work and procedure in general are subject at all times to all laws, rules, regulations, orders and approvals applying to it; and that the CITY shall reimburse the RAILROAD for only such items of work and expense as are properly authorized, and in such amounts and forms as are proper and eligible for payment.

C. This Contract may be revoked by either party upon written notice to the other until such time as the PROJECT is advertised for bids by the CITY.

D. The parties hereto represent each to the other that they have the legal authority to enter into this Contract as evidenced by the appropriate CITY order, ordinance, corporate resolution and/or power of attorney, as identified below, certified copies of which will be provided upon request.

Witness this my signature in execution hereof, this the _____ day of _____, 2024.

CITY OF DENTON, TEXAS

Sara Hensley, City Manager

Witness this my signature in execution hereof, this the _____ day of _____, 2024

THE KANSAS CITY SOUTHERN RAILWAY COMPANY d/b/a CPKC

BY: _____
Bentley Tomlin, Public, Utility, and Industrial Project Manager

DATE: _____

RAILROAD FORCE ACCOUNT

PROJECT NUMBER _____
DENTON COUNTY, TEXAS

EXHIBIT A

Railroad Cost:

	Amount
Project	
Administration	\$2,000

Oncor Relocation

	Amount
Relocation of meter service for	
Hickory Creek Road	\$20,470.86

RAILROAD FORCE ACCOUNT - TOTAL	\$22,470.86
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