

**ORDINANCE NO. 24-1068**

**AN ORDINANCE BY THE CITY OF DENTON AUTHORIZING THE CITY MANAGER TO EXECUTE A REIMBURSEMENT AGREEMENT WITH THE UNION PACIFIC RAILROAD COMPANY, A DELAWARE CORPORATION ("UPRR" FOR THE PURPOSE OF PRELIMINARY ENGINEERING SERVICES AT MILE POST 723.03 (CHOCTAW SUBDIVISION) DENTON (DENTON COUNTY), TEXAS FOR THE CITY'S BONNIE BRAE PHASE 2 VINTAGE BLVD PROJECT; PROVIDING FOR THE EXPENDITURE OF FUNDS IN THE NOT-TO-EXCEED AMOUNT OF FORTY THOUSAND DOLLARS (\$40,000.00); AUTHORIZING THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Bonnie Brae phase 2 Vintage Blvd project installed a traffic signal at the intersection of US-377 and Vintage Blvd; and

**WHEREAS**, The UPRR has presented the City with a Reimbursement Agreement for preliminary engineering services related to highway interconnect of traffic signals to active warning devices, a copy of which is attached hereto and made a part hereof Exhibit A (the "Agreement") including the fee associated; and

**WHEREAS**, on November 19, 2019, council authorized the contract with Pavecon Public Works LP, for the construction of the Bonnie Brae Phase 2 Vintage Widening Project which includes the installation of the traffic signal at the intersection of US-377 and Vintage Blvd; and

**WHEREAS**, the UPRR requires an approved Reimbursement Agreement between the City and the UPRR providing preliminary engineering services for the City's traffic signal preemption; 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 findings and recitations contained in the preamble of this ordinance are incorporated herein by reference as true and as if fully set forth in the body of this ordinance.

**SECTION 2.** The City Manager, or designee, is hereby authorized to execute the Reimbursement Agreement for Preliminary Engineering Services with the Union Pacific Railroad, a copy of which is attached hereto as Exhibit "A" and made a part hereof for all purposes.

**SECTION 3.** The City Manager, or designee, is hereby authorized to expend funds in an amount not to FORTY THOUSAND DOLLARS (\$40,000.00).

**SECTION 4.** The City Manager is further authorized to carry out all duties and agreements to be performed by the City under the Agreement.

**SECTION 5.** The City Manager, or designee, is the City's designated, authorized official, with the power to authorize, accept, reject, alter or terminate the Agreement on behalf of the City and act on behalf of the City of Denton in all matters related to the Agreement and any subsequent agreements that may result.

**SECTION 6.** This Ordinance shall become effective immediately upon its passage and approval.

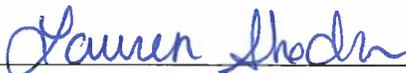
The motion to approve this ordinance was made by Brian Beck and seconded by Vicki Byrd. The ordinance was passed and approved by the following vote [6 - 0]:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Gerard Hudspeth, Mayor:	<u>✓</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
Vicki Byrd, District 1:	<u>✓</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
Brian Beck, District 2:	<u>✓</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
Paul Meltzer, District 3:	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>✓</u>
Joe Holland, District 4:	<u>✓</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
Brandon Chase McGee, At Large Place 5:	<u>✓</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
Jill Jester, At Large Place 6:	<u>✓</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

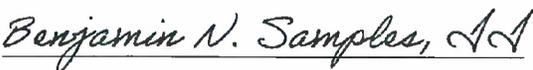
PASSED AND APPROVED this the 4<sup>th</sup> day of June, 2024.

  
GERARD HUDSPETH, MAYOR

ATTEST:  
LAUREN THODEN, CITY SECRETARY

By: 

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

By: 



**EXHIBIT A**  
(UPRR Reimbursement Agreement)

**REIMBURSEMENT AGREEMENT  
PRELIMINARY ENGINEERING SERVICES**

**Effective Date:**

**Estimate: \$40,000.00**

THIS REIMBURSEMENT AGREEMENT (**Agreement**) is made and entered into as of the **Effective Date**, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation (**Railroad**), and CITY OF DENTON, TEXAS (**Agency**).

RECITALS

A. Agency desires to initiate the project more particularly described on Exhibit A attached hereto (**Project**).

B. The Project will affect Railroad's track and right of way at or near the Project area more particularly described on Exhibit A.

C. Railroad agrees to collaborate with Agency on the conceptualization and development of the Project in accordance with the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, the parties hereto agree as follows:

1. Railroad, and/or its representatives, at Agency's sole cost and expense, agrees to perform (or shall cause a third-party consultant to perform on Railroad's behalf) the preliminary engineering services work described on Exhibit B attached hereto (**PE Work**). Agency acknowledges and agrees that: (a) Railroad's review of any Project designs, plans and/or specifications, as part of the PE Work, is limited exclusively to potential impacts on existing and future Railroad facilities and operations; (b) Railroad makes no representations or warranties as to the validity, accuracy, legal compliance, or completeness of the PE Work; and (c) Agency's reliance on the PE Work is at Agency's own risk.

2. Notwithstanding the Estimate (**Estimate**), Agency agrees to reimburse Railroad and/or Railroad's third-party consultant, as applicable, for one hundred percent (100%) of all actual costs and expenses incurred for the PE Work. During the performance of the PE Work, Railroad will provide (and/or will cause its third-party consultant to provide) progressive billing to Agency based on actual costs in connection with the PE Work. Within sixty (60) days after completion of the PE Work, Railroad will submit (and/or will cause its third-party consultant to submit) a final billing to Agency for any balance owed for the PE Work. Agency shall pay Railroad (and/or its third-party consultant, as applicable) within thirty (30) days after Agency's receipt of any progressive and final bills submitted for the PE Work. Bills will be submitted to the Agency using the contact information provided on Exhibit C. Agency's obligation hereunder to reimburse Railroad (and/or its third-party consultant, as applicable) for the PE Work shall apply regardless whether Agency declines to proceed with the Project or Railroad elects not to approve the Project.

3. Agency acknowledges and agrees that Railroad may withhold its approval for the Project for any reason in its sole discretion, including without limitation, impacts to Railroad's safety, facilities, or operations. If Railroad approves the Project, Railroad will continue to work with Agency to develop final plans and specifications, and prepare material and force cost estimates for any Project related work performed by Railroad.

4. If the Project is approved by Railroad, Railroad shall prepare and forward to Agency a Construction and Maintenance Agreement (**C&M Agreement**) which shall provide the terms and conditions for the construction and ongoing maintenance of the Project. Unless otherwise expressly set forth in the C&M Agreement, the construction and maintenance of the Project shall be at no cost to Railroad. No construction work on the Project affecting Railroad's property or operations shall commence until the C&M Agreement is finalized and executed by Agency and Railroad.

5. Neither party shall assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned, or delayed.

6. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties.

7. This Agreement sets forth the entire agreement between the parties regarding the Project and PE Work. To the extent that any terms or provisions of this Agreement regarding the PE Work are inconsistent with the terms or provisions set forth in any existing agreement related to the Project, such terms and provisions shall be deemed superseded by this Agreement to the extent of such inconsistency.

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

**CITY OF DENTON, TEXAS**

**UNION PACIFIC RAILROAD COMPANY,**  
a Delaware Corporation

DocuSigned by:  
  
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Signature

\_\_\_\_\_  
Signature

Frank Dixon  
\_\_\_\_\_  
Printed Name

Erik Lewis  
\_\_\_\_\_  
Printed Name

Assistant City Manager  
\_\_\_\_\_  
Title

Manager I, Engineering – Public Projects  
\_\_\_\_\_  
Title

## Exhibit A Project Description and Location

### Project Description

City of Denton, TX proposes to interconnect highway traffic signals at Fort Worth Drive with the active warning devices at the crossing at the location referred to below.

### Location

Choctaw Subdivision

<b>DOT</b>	<b>Crossing Type</b>	<b>Milepost</b>	<b>Street Name</b>
795327T	Public	723.03	Vintage Boulevard

## **Exhibit B**

### **Scope of Project Services**

Scope of work includes, but is not limited to the following

- Field diagnostic(s) and inspections
- Plan, specification, and construction review
- Project design
- Preparation of Project estimate for force account or other work performed by the Railroad
- Meetings and travel

## Exhibit C Billing Contact Information

<b>Name</b>	Seth Garcia
<b>Title</b>	
<b>Address</b>	401 N Elm Street, Denton, TX, 76201
<b>Work Phone</b>	(940) 349-8938
<b>Cell Phone</b>	
<b>Email</b>	seth.garcia@cityofdenton.com
<b>Agency Project No.</b>	