

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT FOR HIGHWAY OVERPASS BY AND BETWEEN THE CITY OF DENTON ("CITY") 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 \$10.00 AND OTHER GOOD AND VALUABLE CONSIDERATION FOR THE LICENSE AGREEMENT FOR HIGHWAY OVERPASS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on _____, 2024, the City entered into a Highway Overpass Widening Agreement (City Project No. 19351) (the "HOWA") with LICENSOR; and

WHEREAS, City has requested a license for the construction, operation, maintenance, and removal of a highway overpass that is to be established pursuant to the HOWA (the "Project"); and

WHEREAS, KCSRR is the owner of the railroad right of way described in the legal description and exhibit attached hereto and incorporated below by reference, which right of way is to be crossed by the overpass to be constructed pursuant to the HOWA; 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 designee, is hereby authorized to execute on behalf of the City the License Agreement For Highway Overpass 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 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.

[Signatures to appear on the following page.]

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

LAUREN THODEN, CITY SECRETARY

By: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

By: _____

Exhibit A

LICENSE AGREEMENT FOR HIGHWAY OVERPASS

This License, made on the _____ day of _____, 2024, by and between **THE KANSAS CITY SOUTHERN RAILWAY COMPANY**, a Missouri corporation, (“LICENSOR”), and **THE CITY OF DENTON, TEXAS** (“LICENSEE” or “City”).

WITNESSETH:

WHEREAS, on _____, 2024, the City entered into a Highway Overpass Widening Agreement (City Project No. 19351) (the “HOWA”) with LICENSOR; and

WHEREAS, LICENSEE has requested a license for the construction, operation, maintenance, and removal of a highway overpass that is to be established pursuant to the HOWA; and

WHEREAS, LICENSOR is the owner of the railroad right of way described in the Legal Description and Exhibit attached hereto and incorporated below by reference, which right of way is to be crossed by the overpass to be constructed pursuant to the HOWA; and

NOW, THEREFORE, in consideration of the foregoing premises, LICENSOR and LICENSEE enter this LICENSE AGREEMENT FOR HIGHWAY OVERPASS.

AGREEMENT

LICENSOR, in consideration of the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION to it paid by the LICENSEE, the receipt of which is hereby acknowledged, does by these presents license for the construction, operation, maintenance and removal of a highway overpass that is to be established pursuant to the HOWA the following described tract or parcel of land, lying, and being situated in Denton County, Texas, to wit:

SEE LEGAL DESCRIPTION AND EXHIBIT ATTACHED HERETO AND INCORPORATED
HEREIN BY THIS REFERENCE

This License shall commence on _____, 2024 and shall remain in effect thereafter for so long as the above-described premises shall be used for the purposes of constructing, operating, maintaining or removing a roadway overpass of Hickory Creek Road across LICENSOR’s railroad right-of-way; provided, however, if the LICENSEE shall abandon the use of the described premises, or any part thereof, for roadway overpass purposes, this License and permission and the rights and privileges granted hereby as to the portion or portions so abandoned shall expire and terminate at the time each such portion shall be so abandoned.

LICENSEE, its successors and assigns may, pursuant to the terms of the HOWA, construct, operate, maintain or remove a roadway overpass to LICENSEE’s satisfaction at LICENSEE’s expense; provided, however, that no material alteration in the course of said roadway overpass shall be made without the LICENSOR’s written consent, which shall not be unreasonably withheld. This License shall not prevent the

LICENSOR, its affiliates, successors or assigns, from operating trains or multiplying or changing track across the land over which this License is given or under the highway overpass contemplated hereby. No legal right which the LICENSOR, its affiliates, successors or assigns now have, to reconstruct, maintain, and operate existing track and appurtenances or to construct, maintain, and operate additional track and appurtenances upon and across said property shall in any way be affected by this License.

LICENSEE or its contractor(s) assumes the entire responsibility for the construction, maintenance, and use of said highway overpass upon LICENSOR's property pursuant to this License, to the extent required by law.

LICENSOR **DOES NOT COVENANT** that it is lawfully seized of an indefeasible estate in fee of the licensed premises or that it has good right to convey this License. LICENSOR will not warrant or defend the title to said premises unto said LICENSEE or to its successors and assigns against the lawful claims and demands of any person(s). This License is subject to existing liens, right-of-way easements, licenses, or other encumbrances of record, and is granted without any warranty of suitability of the premises for LICENSEE's intended use.

[The remainder of this page is intentionally left blank;

Signatures appear on the following pages]

IN WITNESS WHEREOF, the LICENSOR has executed this License Agreement for Highway Overpass as of the date first above written.

LICENSOR: The Kansas City Southern Railway Company

By: _____
Shawn Mindrup
Director – Real Estate

ACKNOWLEDGEMENT

State of Missouri)
) SS.
County of Jackson)

On this _____ day of _____, 2024, before me a Notary Public, appeared Shawn Mindrup to me personally known, or proved to me on the basis of satisfactory evidence, to be the person described in and who executed the foregoing instrument, and acknowledged that he is the Director – Real Estate of **The Kansas City Southern Railway Company** that he executed the same on behalf of said **The Kansas City Southern Railway Company** and by authority thereof and acknowledged said instrument to be the free act and deed of said **The Kansas City Southern Railway Company** for the purposes therein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

My Commission Expires: _____ Notary Public _____

THE CITY OF DENTON

By: _____ Date: _____

Name: _____

State of Texas)
) SS.
County of _____)

My Commission Expires: _____ Notary Public _____

EXHIBIT TO LICENSE AGREEMENT FOR HIGHWAY OVERPASS
LEGAL DESCRIPTION AND EXHIBIT