

CFCA #20.205
Highway Planning and Construction
Federal Highway Administration (FHWA)
Not Research and Development

Webb County
CSJ 0922-33-145
Project STP 2012(399)FRS
Railroad Crossing Consolidation
At Vaquillas Road in Aguilares, Texas
DOT No. 793 618B

KCS Folder No. _____

STATE OF TEXAS §

COUNTY OF TRAVIS §

**TEXAS DEPARTMENT OF TRANSPORTATION
HIGHWAY-RAILROAD GRADE CROSSING CONSOLIDATION AND CLOSURE
AGREEMENT
FOR FEDERAL AID PROJECTS**

THIS AGREEMENT, made and entered into on the dates hereinafter shown as being fully executed, by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," The Texas Mexican Railway Company, a Texas statutory corporation (hereinafter called TexMex), and The Kansas City Southern Railway Company, a Missouri corporation, (hereinafter called KCSR) (TexMex and KCSR hereinafter together called the "Railroad"), each acting by and through its official contracting executives (State and Railroad each being sometimes referred to herein as a "Party" or two or more together as "Parties").

WITNESSETH

WHEREAS, pursuant to the Highway Safety Act of 1973, the State is charged with the responsibility of prioritizing grade crossing safety improvements for public highway-railroad grade crossings in the State of Texas using federal funds, and

WHEREAS, Chapter 471 of the Texas Transportation Code invests the State with certain powers and duties relating to highway-railroad grade crossings and other matters relating to railroads and their operations, and

WHEREAS, in the interest of public safety, the State, the Local Government, and the Railroad propose to consolidate and close existing redundant, non-essential highway-railroad grade crossings, and make other operational or safety improvements to facilitate the elimination of safety hazards at highway-railroad grade crossings at selected locations as identified on the attached Exhibit A, and

WHEREAS, the Local Government has adopted a Railroad Grade Crossing Consolidation Ordinance, which is attached hereto and identified as Exhibit B, mandating the closure of the crossing and removal of crossing surfaces and approaches, and

WHEREAS, the State shall make funding available to the Local Government for closing the aforementioned crossing, provided the Local Government uses the funds to make improvements in a manner defined herein.

WHEREAS, the State and the Railroad shall make funding or in-kind contributions available to the Local Government for closing the aforementioned crossing, provided the Local Government uses the funds to make improvements as identified on the attached State's "Summary of Project" identified as **Exhibit C**, attached hereto and made a part hereof and the Local Government's Cost Estimate identified as **Exhibit D**, attached hereto and made a part hereof, and

NOW, THEREFORE, in consideration of the premises and the mutual undertakings as herein set forth, the parties hereto agree as follows:

A G R E E M E N T

Article 1. Scope of Work.

a. The State, the Local Government, and the Railroad agree to the permanent closure of existing railroad grade crossing(s), and to make other operational or safety improvements to facilitate the closure of said existing railroad grade crossing(s), as shown in **Exhibit A** attached hereto and made a part hereof.

b. The Railroad shall remove the cross bucks and crossing surface and reestablish the ditch line at the crossing DOT No. 793 618B (Vaquillas Road).

Article 2. Performance of Work.

a. The State, the Local Government, and the Railroad agree to perform the roadway work as shown in **Exhibit A**. The Railroad is solely responsible for removal of the existing crossing surface and warning devices on Railroad right of way and making any changes or alterations in the track, wire lines, drainage, or other Railroad owned facilities located in the crossing right of way and as shown in **Exhibit A**.

b. The Local Government shall make the necessary arrangements for the closing of the crossing(s) shown in **Exhibit B**. The State shall make funding available to the Local Government, provided the Local Government uses these funds to make improvements which may include, but not limited to, (1) removing the existing pavement at the crossing(s); (2) constructing a satisfactory terminus of the roadway at the removed crossing(s); (3) installing proper signs acknowledging the closing of the crossing(s); (4) upgrading existing railroad signals; or (5) improving and/or extending existing streets in the vicinity of the closed crossing(s) to handle the diverted traffic.

c. The Local Government may perform the improvements with its own forces, with forces from other governmental organizations or utilizing the services of private contractors. In the event the Local Government elects to use private contractors, the Local Government shall comply with the following federal contract procedures:

(1) Title 23 CFR Section 635.112 – Advertising for bids and proposals

The Local Government will be required to comply with the subsections (a) through (h). Generally, the Local Government must advertise for the bids in a local and/or regional newspaper a minimum of three (3) weeks prior to the opening of the bids. The Local Government shall notify the State prior to submitting the advertisement. The design-build provisions identified in the procedures are not authorized for the desired improvements.

(2) Title 23 CFR Section 635.113 – Bid opening and bid tabulations

The Local Government will be required to comply with the subsections (a) and (b). Under this requirement, all bids received shall be publicly opened and announced by either item by item or by total amount. Bid tabulations shall be certified by the Local Government and submitted to the State for approval prior to the award of the contract. The design-build provisions identified in the procedures are not authorized for the desired improvements.

(3) Title 23 CFR Section 635.114 – Award of contract and concurrence of award

The Local Government will be required to comply with the subsections (a) through (j). Under this requirement, the Local Government shall award the contract only on the basis of the lowest responsive bid submitted by qualified bidders. Award shall be within the time frame established by the Local Government and is subject to the prior concurrence of the State. Concurrence by the State is a prerequisite to federal funding participation and is considered as authority to proceed with the construction of the desired improvements. In the event the Local Government determines that the lowest bid is not responsive, it shall notify the State to obtain concurrence before making an award to the next lowest bidder. A copy of the fully executed contract between the Local Government and the contractor shall be furnished to the State as soon as practicable after execution.

d. The Local Government shall notify the State in writing to identify what improvements are planned and who will be performing the improvements as described in Article 2.b. above. Approval by the State must be obtained prior to the Local Government incurring any costs eligible for reimbursement.

e. If the Local Government will perform any work under this contract for which reimbursement will be provided by or through the State, the Local Government must complete training before a letter of authority is issued. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the training course entitled *Local Government Project Procedures Qualification for the Texas Department of Transportation*. The Local Government shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. If the requirement has been met, but the qualified individual subsequently ceases to oversee the project, a "qualified" replacement shall be named by the Local Government. If the individual named is not qualified, the replacement

shall complete the required training as soon as practical. Failure of the Local Government to have a qualified person before the issuance of the Work Order is received subjects the project award to non-concurrence and non-participation in funding by the State.

Article 3. Project Funding.

a. The State's maximum amount payable under this contract shall not exceed the availability of appropriated federal funds for the project for the fiscal year in which work is performed. The State shall advise the Railroad and the Local Government of the availability of funds. The State has prepared the Summary of Project Costs, as attached hereto and made a part hereof as **Exhibit C**.

b. The Local Government shall furnish the State a cost estimate(s) for the eligible improvements identified in Article 2.b. The Local Government's cost estimate shall be reviewed and approved by the State and shall be attached hereto and made a part hereof as **Exhibit D**.

Article 4. Agreement Not a Waiver.

The Railroad's agreement to perform the work included in **Exhibit A** does not constitute a waiver by the Railroad to any rights of ownership currently vested in the Railroad.

Article 5. Plans and Specifications.

a. The State and/or the Local Government shall prepare the **Exhibit A** plan sheet to be approved by the Local Government and/or the State and the Railroad upon execution of this Agreement.

b. All traffic control devices installed herein shall comply with the latest edition of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways. Design standards shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO), "A Policy on Geometric Design of Highways and Streets."

Article 6. Work Orders.

a. For any work performed by the Local Government and/or the Railroad to be reimbursed by the State, upon the request of the Local Government and/or the Railroad, the State shall issue a work order to authorize the Local Government and/or the Railroad to begin work at each location.

b. The Local Government shall request a written Work Order from the State a minimum of two (2) weeks prior to its scheduled commencement of work and shall give the State's District Office 72-hour minimum notification of actual commencement of work. Once work begins, the Local Government shall proceed diligently to completion of the installation. If an emergency arises and the Local Government is unable to begin work at the originally scheduled start date, the Local Government shall immediately notify the State District Office of the rescheduled date work on the project shall begin. Costs incurred by the Local Government at the project site without a work order are not eligible for reimbursement by the State.

Article 7. Suspension of Work.

If the Local Government finds it necessary to suspend work on the project for any reason, they (it) shall notify the State of the date work was suspended and the date work on the project is to be resumed. The Local Government must notify the State when work is resumed.

Article 8. Materials.

All materials assembled for this project must comply with the specifications included in **Exhibit A and Exhibit D.**

Article 9. Payment.

a. No payment shall be due from the State to the Local Government unless a Work Order for work to begin is issued. This Work Order will normally be issued upon request by the Local Government following execution of this Agreement by the State and in accordance with Article 6.

b. Reimbursement from the State to the Local Government will be made for work performed and materials furnished, including but not limited to, insurance premiums and coverage at the rate and amount set forth in the approved cost estimate attached hereto, in accordance with the provisions of Title 23, Code of Federal Regulations (CFR), Subchapter B, Part 140, Subpart I, issued by the Federal Highway Administration, and amendments thereto except as modified by the provisions herein. Work performed and materials furnished by the Local Government shall be reimbursed by the State based on actual costs incurred by the Local Government.

c. Any payment or donation due the Local Government by the Railroad shall be paid after closure of the roadway(s) identified in **Exhibit A.** The Local Government shall submit to the Railroad a written request for payment.

d. The Local Government and/or Railroad may seek reimbursement of eligible costs using one of the following payment schedules:

(1) Progressive Payments. The Local Government may submit monthly bills of at least \$2,500.00, prepared in satisfactory form, for the costs associated with the improvements described in Article 2.b.

(2) One Time Payment. After completion of the improvements described in Article 2.b., the Local Government shall submit to the State a request for a one time payment. The State shall make the payment within thirty (30) days from receipt of the request.

e. The Local Government shall submit all invoices to the State within 2 years of the date of execution of this Agreement. Any invoices submitted by the Local Government to the State more than 2 years after execution of this Agreement are ineligible for payment unless approved beforehand in writing by the State.

Article 10. Amendments.

No additions, changes, revisions, amendments, or alterations in the terms of this Agreement, including exhibits and attachments hereto, shall be made unless a written amendment is agreed to by the State, the Local Government, and the Railroad.

Article 11. Records and Audits.

a. The State and the Local Government shall maintain books, documents, papers, accounting records, and other evidence pertaining to costs incurred and work performed hereunder and shall make such materials available at their offices during the contract period and for four (4) years from the date of final payment. The records shall be made available to representatives from the State or U. S. Department of Transportation, including the Office of Inspector General, for the purpose of making audits, inspections, transcriptions, or excerpts.

b. The State auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.

c. The Railroad is required to make any information created or exchanged with the State pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

Article 12. Maintenance.

The Local Government shall maintain any barricades or other facilities not located on Railroad right of way as installed, and in accordance with the project design as shown in the **Exhibit A**.

Article 13. Responsible For Its Own Actions.

The parties hereto acknowledge that no party is an agent, servant, or employee of any of the other parties, and each party agrees it is responsible for its own individual acts and deeds as well as the acts and deeds of its contractors, agents, representatives, and employees during performance of contract work.

Article 14. Termination.

This Agreement is effective as of the last date of execution by the Railroad, the Local Government, and the State and shall continue in effect thereafter until terminated as provided for in this article. This Agreement may be terminated in whole or in part by the State, the Local Government, or the Railroad as follows:

a. By mutual consent and agreement of the parties hereto;

b. By the State for reasons of its own and not subject to the mutual consent of the Local Government and the Railroad, upon not less than thirty (30) days written notice to the Local Government and the Railroad;

c. By the State if federal funds are no longer available to fund the warning devices at the grade crossings;

d. By the Railroad if the grade crossings identified in Exhibit B cease to belong to it or cease to operate trains across the intersection;

e. By the State giving notice in writing to the Local Government and/or the Railroad as a consequence of failure by the Local Government and/or the Railroad to perform the work authorized herein in accordance with the terms, conditions, or required items of work, with proper allowances being made for circumstances beyond the control of the Local Government and/or the Railroad and after providing at least thirty (30) days notice for the Local Government and/or the Railroad to remedy the noncompliance;

Article 15. Compliance with Laws.

a. The parties shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement. When required, the Railroad and/or the City shall furnish the State with satisfactory proof of this compliance. Nothing herein is meant to be or will be interpreted to be a waiver of principles of legal preemption or preclusion that may apply to the Railroad because of its status as a common carrier regulated by the Federal government.

b. The Local Government shall enact and pass the necessary ordinance, order, resolution, or administrative instrument necessary to permit the permanent closure of the highway-railroad grade crossing(s) as listed, and shall attach the ordinance hereto upon execution by the Local Government and mark it Exhibit B. Said ordinance, order, resolution, or administrative instrument shall state the crossing(s) shall be permanently closed and the roadway grade or embankment shall be removed from Railroad property. If in the future the Local Government deems it essential from a safety and/or operational necessity to re-open the highway-railroad grade crossing(s) closed as a part and condition of this Agreement, the Local Government agrees to reimburse the Railroad for all costs incurred by the Railroad to facilitate said closure with the scope of the project. The Local Government further agrees to assume all costs associated with re-opening said highway-railroad grade crossing(s), including but not limited to, roadway approaches, crossing surface, railroad warning devices, to include flashing light signals with bells and gates, and appropriate circuit control equipment, or warning devices of such design as recommended by a diagnostic inspection team.

Article 16. Office of Management and Budget (OMB) Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in OMB Circular A-87 that specify that all reimbursed costs are allowable, reasonable, and allocable to the project.

Article 17. Civil Rights Compliance

If and to the extent required by the authorization for any Federal-aid highway funds applied to this agreement, the Railroad shall comply with the regulations of the United States Department of Transportation as they relate to non-discrimination (49 CFR Part 21 and 23 CFR Part 200), and Executive Order 11246 titled "Equal Employment Opportunity," as amended by Executive Order 11375 and supplemented in the Department of Labor Regulations (41 CFR Part 60).

Article 18. Disadvantaged Business Enterprise (DBE) Program Requirements

If and to the extent required by the authorization for any Federal-aid highway funds applied to this agreement, the Railroad agrees:

a. The parties shall comply with the DBE Program requirements for this agreement established in 49 CFR Part 26. The Railroad shall adopt, in its totality, the State's federally approved DBE program. The State and the Railroad shall set an appropriate DBE goal for this agreement consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The State and the Railroad shall have final decision-making authority regarding the DBE goal for this agreement and shall be responsible for documenting their actions. The State and the Railroad shall follow all other parts of the State's DBE Program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity and attachments found at web address http://txdot.gov/business/business_outreach/mou.htm. The State and the Railroad agree that the appropriate DBE goal for this agreement is 0%.

b. The Railroad shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26 related to this agreement. The Railroad shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts related to this agreement. The State's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program related to this agreement is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Railroad of its failure to carry out its approved program related to this agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC §1001 and the Program Fraud Civil Remedies Act of 1986 (31 USC §3801 et seq.); provided, however, that in the event the State provides the Railroad with such notice, the parties agree to meet within ten (10) days of receiving a written request from the Railroad of a desire to meet to resolve any disagreement. The parties will make good faith efforts to resolve any disagreement about the Railroad's carrying out its approved program under this agreement as efficiently as is reasonably possible in consultation with FHWA.

c. Each contract the Railroad signs with a contractor under this agreement (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: The contractor, sub-recipient, or sub-contractor 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 DOT-

assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.

Article 19. Debarment Certification

If and to the extent required by the authorization for any Federal-aid highway funds applied to this agreement, the parties agree not to make any award at any tier to any party that they know, or have reason to believe, is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the Railroad certifies to the best of its knowledge and belief that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and that it will not do business with any party that is known to the Railroad to be currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this agreement shall require any party to a subcontract or purchase order awarded under this agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

Article 20. Lobbying Certification

If and to the extent required by the authorization for any Federal-aid highway funds applied to this agreement, the parties agree that, in executing this agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

a. No federal appropriated funds have been paid or will be paid by or on behalf of the parties of this agreement 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.

b. 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Railroad shall complete and submit the Federal Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

c. The parties shall require that the language of this certification shall be included in all lower tier subcontracts, which exceed \$100,000, and all such sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 USC §1352. 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 failure.

Article 21. Federal Funding Accountability and Transparency Act Requirements

If and to the extent required by the authorization for any Federal-aid highway funds applied to this agreement, the Railroad agrees:

a. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

b. The Railroad agrees that it shall:

i. Obtain and provide to the State a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR website whose address is: <https://www.bpn.gov/ccr/default.aspx>;

ii. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet on-line registration website <http://fedgov.dnb.com/webform>; and

iii. Report the total compensation and names of its top five (5) executives to the State if:

1. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25,000,000 annually; and
2. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

c. The State acknowledges that the FFATA provisions of this Article may have no operative effect on the Railroad based on the Railroad's representation that it does not receive 80 percent or more of its annual gross revenues from federal procurement contracts and subcontracts.

Article 22. Single Audit Report

a. The Local Government shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular A-133.

b. If threshold expenditures of \$750,000 or more are met during the Local Government's

fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Audit Office, 125 E. 11th Street, Austin, TX 78701 or contact TxDOT's Audit Office at <http://www.txdot.gov/contact-us/form.html>.

c. If expenditures are less than \$750,000 during the Local Government's fiscal year, the Local Government or the Railroad must submit a statement to TxDOT's Audit Office as follows: "We did not meet the \$750,000 expenditure threshold and therefore, are not required to have a single audit performed for FY _____."

d. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of this agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

Article 23. Legal Construction.

If one or more of the provisions contained in this Agreement shall for any reason be held inapplicable, invalid, illegal, or unenforceable in any respect, that inapplicability, invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the inapplicable, invalid, illegal, or unenforceable provision.

Article 24. Signatory Warranty.

Each signatory to this Agreement certifies that they have the authority to enter into this Agreement on behalf of its organization.

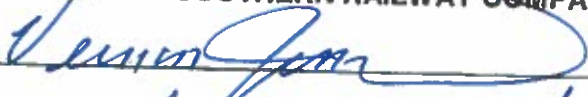
IN WITNESS WHEREOF, the State, the Railroad, and the Local Government have executed triplicate counterparts of this Agreement on the dates indicated below.

THE STATE OF TEXAS


Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By  Date 9/22/16
Robert Travis, P. E., Rail-Highway Branch Manager, Traffic Operations Division


THE KANSAS CITY SOUTHERN RAILWAY COMPANY

By  Date 7/25/16
Name and Title Vernon Jones / VP Chief Engr.

THE TEXAS MEXICAN RAILWAY COMPANY

By  Date 7/25/16
Name and Title Vernon Jones / VP Chief Engr.

WEBB COUNTY

By  Date 8/11/16
Name and Title Karo E. Tijerina - County Judge

Notices:

For the purposes of this Agreement, all notices, correspondence, billings, and other documentation shall be mailed to the following addresses:

For the State of Texas

Rail-Highway Branch Manager
Texas Department of Transportation
Rail Division
125 E. 11th Street
Austin, TX 78701-2483

For Kansas City Southern
Railway Co.

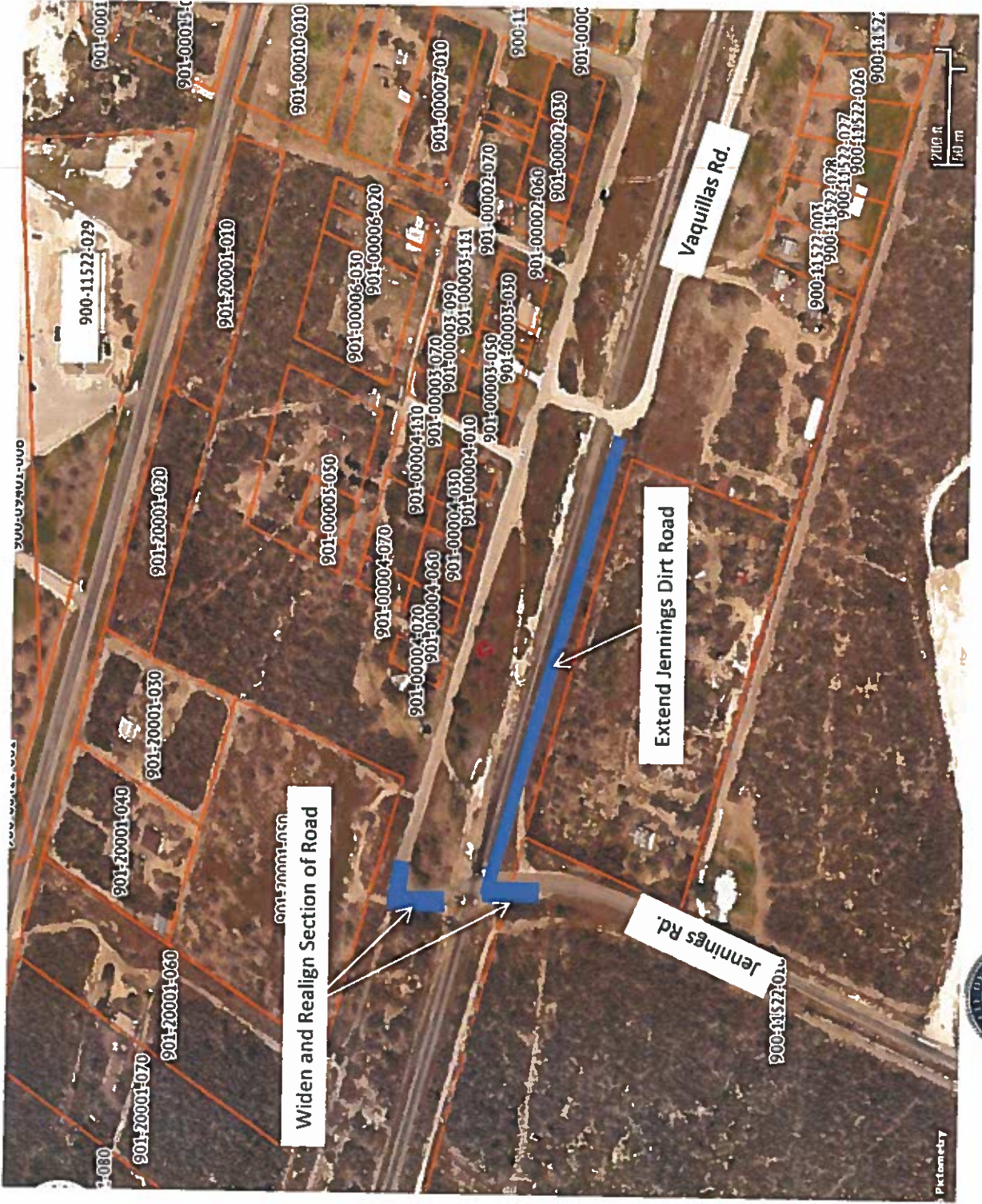
Signal Project Engineer
The KCS Railway Company
4601 Shreveport-Blanchard
Highway
Shreveport, LA 71107-5797

For Webb County

County Commissioner
Webb County
1000 Houston St, 2nd Floor
Laredo, TX 78040

EXHIBIT A

CSJ: 0922-33-145



Webb County Engineering Department

State of Texas §

County of Webb §

**RESOLUTION AND ORDER
WEBB COUNTY COMMISSIONERS COURT**

A RESOLUTION OF THE WEBB COUNTY COMMISSIONERS COURT APPROVING TO PERMANENTLY CLOSE THE HIGHWAY-RAILROAD CROSSING OF VAQUILLAS ROAD AT KANSAS CITY SOUTHERN RAILWAY COMPANY (KCS) PURSUANT TO THE FEDERAL RAILROAD SIGNAL PROGRAM AND TO PERFORM SAFETY OR OPERATIONAL IMPROVEMENTS.

WHEREAS, Webb County has received notification of its eligibility to participate in the Railroad Crossing Consolidation & Safety Improvement Program and;

WHEREAS, the Texas Department of Transportation (TxDOT) can provide funding to Webb County for use in making safety or operational improvements for electing to forego the installation of signals and gates, and instead permanently close this crossing and;

WHEREAS, Webb County would be improving adjacent streets, eliminating high-profile (hump) crossings, drainage work, signage, in addition to any other safety or operational improvements the County chooses to make and;

WHEREAS, The KCS will remove the crossing surface and roadway approaches within their right of way at their expense and;

WHEREAS, Webb County will provide TxDOT a scope of work, cost estimate and layout sheet;

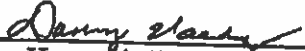
The Governing Body of the Local Government has declared its intent to participate in and agrees to perform the safety or operational improvements within Webb County at Vaquillas/KCS railroad crossing pursuant to the Railroad Crossing Consolidation & Safety Improvement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COMMISSIONERS' COURT OF WEBB COUNTY, TEXAS:


Approves to permanently close the highway-railroad grade crossing of Vaquillas Road at the KCS Company


EXHIBIT B

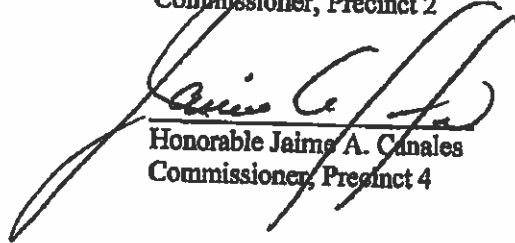
PASSED and APPROVED this 12 day of December 2012.


The Honorable Danny Valdez
Webb County Judge

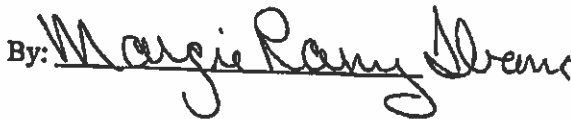

Honorable Frank Sciaraffa
Commissioner, Precinct 1


Honorable Rosaura "Wawi" Tijerina
Commissioner, Precinct 2


Honorable Jerry Garza
Commissioner, Precinct 3

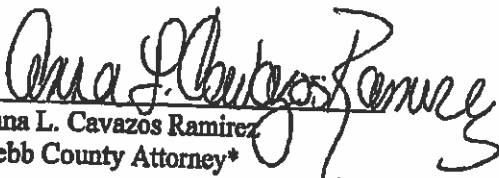

Honorable Jaime A. Canales
Commissioner, Precinct 4

ATTEST:
Margarie Ramirez Ibarra, Webb County Clerk

By: 



APPROVED AS TO FORM:


Anna L. Cavazos Ramirez
Webb County Attorney*

*By law, the County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

EXHIBIT B

TEXAS DEPARTMENT OF TRANSPORTATION
SUMMARY OF ESTIMATED COST
2012 FEDERAL RAILROAD SIGNAL PROGRAM
May 18, 2016

Webb County - DOT No. 793 618B
CSJ 0922-33-145
Project STP 2012(399)FRS
Vaquillas Road in Aguilares

1. **Participation and Cost Estimate by Webb County**
a. The County will extend Vaquillas Road to connect to Jennings Road, as shown on layout.
b. The County will widen and realign portions of Jennings Road, as shown on layout.

Total cost of County force account work: \$148,663.00

2. **Participation and Cost Estimate by Kansas City Southern Railway Company**

- a. Railroad shall remove the existing crossing warning devices and crossing surface and adjacent roadway pavement approaches within the Railroad Right-Of-Way (ROW), at Vaquillas Road, at their expense.
b. In exchange for the closure of Vaquillas Road, the Railroad will give the County the ROW necessary to extend Vaquillas Road to Jennings Road, as shown on the layout.
c. The Railroad agrees to pay to Webb County (in two payments) an amount totaling to one half of the cost for surveying, engineering services, and road construction for the extension of Vaquillas Road to Jennings Road, as shown on the layout.

Total cost participation by the Railroad: TBD

3. **Participation and Cost Estimate by Texas Department of Transportation**

State shall reimburse the County for the above mentioned work. The amount to be reimbursed by the State shall not exceed \$150,000. All costs over and above \$150,000 will be assumed by the Railroad cost participation amount (listed above) and/or the County.

Total cost participation by the State: \$150,000

SUMMARY:

County Cost Participation	\$	None
UP Railroad Cost Participation	\$	TBD
State's Estimated Cost Participation (100% Federal Funds)	\$	<u>150,000</u>

TOTAL ESTIMATED PROJECT COST \$ 150,000

Approved: 

Robert Travis, P.E., Branch Manager
Rail-Highway Safety, Rail Safety Section
Traffic Operations Division

Exhibit C



COUNTY OF WEBB

PRELIMINARY ENGINEER'S CONSTRUCTION ESTIMATE

CSJ: 0922-33-145

From: Vaquillas Road

To: Jennings Road

DESCRIPTION: Rail Road Crossing Closure

CALCULATED BY: Guillermo B. Cuellar, P.E. on 03/22/16

REVIEWED BY: Luis Perez Garcia, P.E.; C.F.M. on 3/22/16

ITEM NO	ITEM DESCRIPTION	UNITS	QUANTITY	\$/UNIT	TOTALS
112 6002	SUBGRADE WIDENING (DENS CONT)	STA	5	\$ 621.00	\$ 3,105.00
150 6002	BLADING	HR	80	\$ 101.00	\$ 8,080.00
247 6044	FL BS (CMP IN PLC)(TY A GR 4) (FINAL POS)	CY	475	\$ 54.00	\$ 25,650.00
340 6240	D-GR HMA(SQ) TY-D SAC-B PG70-22	TON	330	\$ 107.00	\$ 35,310.00
500 6001	MOBILIZATION	LS	1	\$ 7,079.19	\$ 7,079.19
502 6001	BARRICADES, SIGNS AND TRAFFIC HANDLING	MO	3	\$ 5,000.00	\$ 15,000.00
636 6001	ALUMINUM SIGNS (TY A)	SF	27	\$ 24.50	\$ 661.50
6666047001	REFL PAV MRK TY I (W)24"(SLD)(090MIL)	LF	24	\$ 7.50	\$ 180.00
					\$ -
	CONTINGENCIES 20%		1	\$23,597.30	\$ 23,597.30
	PROFESSIONAL ENGINEERING SERVICES	LS	1	\$30,000.00	\$ 30,000.00
	TOTAL				\$ 148,662.99

Description For the construction of a 30 ft wide, 6" thick dirt road (Vaquillas Rd.) with rail road crossing closure; and for the widening and realignment of Jennings Road rail road crossing.

EXHIBIT D