

# HIGHWAY-RAIL GRADE CROSSING CLOSURE AGREEMENT

BNSF File No.: BF2022441  
Mile Post 477.129  
Line Segment 134  
U.S. DOT Number 378221Y  
Bayard Subdivision

This Agreement ("**Agreement**"), is executed to be effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**BNSF**"), and the City of Council Bluffs, a political subdivision of the State of Iowa ("**Agency**").

## **RECITALS:**

WHEREAS, BNSF owns and operates a line of railroad in and through Pottawattamie County, State of Iowa;

WHEREAS, elimination of a grade separated crossing by closing the road includes the complete abandonment and permanent vacating of roadway right-of-way across the railroad right-of-way, and

WHEREAS, BNSF in cooperation with Agency will permanently remove the Yellow Pole Road grade separated crossing DOT No. 378221Y, and

WHEREAS, AGENCY is obligated to reimburse BNSF for a portion of the costs incurred by BNSF for the removal of the grade separated crossing, and

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**SECTION 1.** The Agency after having executed this agreement, shall permanently close and vacate the Yellow Pole Road Public Crossing DOT No. 378221Y and easement across the BNSF's property

**SECTION 2.** The BNSF further agrees to remove the grade separated crossing that currently exist on its right-of-way as shown in Exhibit A

**SECTION 3.** The Agency hereby agrees to reimburse BNSF for fifty percent (50%) of the ACTUAL costs of all work performed by BNSF and its contractors under this

Agreement (including taxes, such as applicable sales and use taxes, business and occupation taxes, and similar taxes), upon the removal of the grade separated overpass. The estimated costs are shown in Exhibit B attached hereto and made a part hereof. The Agency shall have the right to review and must approve any costs exceeding the estimated costs in Exhibit B plus ten percent.

**SECTION 5.** The Agency agrees, by the above consideration received that this crossing will remain closed and will not be re-opened by the Agency.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials thereunto duly authorized as the dates below indicated.

EXECUTED by the BNSF this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

**BNSF RAILWAY COMPANY**

By: \_\_\_\_\_  
Richard Scott

Title: Assistant Director Public Projects

EXECUTED by the Agency this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

City of Council Bluffs

By: \_\_\_\_\_  
Matthew J. Walsh, Mayor

WITNESS: \_\_\_\_\_  
\_\_\_\_\_

EXHIBIT "A"

SCALE: 1 IN = 100 FT  
HEARTLAND DIV.  
BAYARD SUBDIV. L.S. 0134  
DATE: 7/20/2022

SECTION: 21  
TOWNSHIP & RANGE:  
75N 43W  
MERIDIAN: 5PM



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

LEGEND:

- PREMISES
- RIGHT OF WAY LINE
- TRACK

DESCRIPTION:

AN EXISTING 22' WIDE PRIVATE CROSSING SHOWN HATCHED.  
DOT # 378221Y

COUNCIL BLUFFS  
COUNTY OF POTTAWATTAMIE

STATE OF IA

JNC

# EXHIBIT "B"

## AUTHORITY FOR EXPENDITURE

LOCATION : COUNCIL BLUFFS	LINE SEGMENT : 134	AFE NUMBER :
PLANITEM NUMBER : 238047000	MILEPOST : 477.129	RFA NUMBER : 5956122
PROPERTY OF : BNSF RAILWAY COMPANY	DIVISION : HL	CPAR NUMBER : CR080120
OPERATED BY : BNSF RAILWAY COMPANY	SUBDIVISION : BAYARD	BUDGET YEAR : 2023
JOINT FACILITY : COUNCIL BLUFFS	TRACK TYPE : S	BUDGET CLASS : 6
% BILLABLE (+/-) : 50.0	TAX STATE : IA	REPORTING OFFICE : 120
	SPONSOR : VP ENGINEERING	CENTER/ROLLUP : 13632

### PURPOSE, JUSTIFICATION AND DESCRIPTION

PIP - HLN DIV BAYARD SUB LS 134 MP 477.129 - DOT# 378221Y - BILLABLE 50% COUNCIL BLUFFS REMOVE THE EXISTING WAGON BRIDGE ON OLD YELLOW POLE ROAD. BNSF IS RESPONSIBLE FOR ALL WORK RELATED TO THE REMOVAL. BF2022441

PLAN ITEM	LINE SEG	BEG MP	END MP	TRK NBR	BEGIN STATION	END STATION	PROJECT TYPE	BUD YEAR
238047000	134	477.129	477.129	S	COUNCIL	COUNCIL BLUFFS	PUBLIC IMPROVEMENT PROJECT	2023

	CASH CAPITAL	NONCASH CAPITAL	OPERATING EXP	REMOVAL COSTS	BILLABLE	TOTALS
LABOR COSTS	0	0	0	0	0	0
MATERIAL COSTS	0	0	0	0	0	0
OTHER COSTS	125,493	0	0	0	125,492	250,985
TOTALS	125,493	0	0	0	125,492	250,985

SYSTEM MAINTENANCE AND PLANNING

ESTIMATE REF. NUMBER: 5956122

COSTING DATE: 01/01/2023

PRINTED ON: 09/13/2022

ESTIMATED BY: STANAT

PRINTED BY: STANAT

\*\*\*\*\* MAINTAIN PROPRIETARY CONFIDENTIALITY \*\*\*\*\*

BNSF RAILWAY COMPANY  
FHPM ESTIMATE FOR  
COUNCIL BLUFFS

LOCATION COUNCIL BLUFFS

DETAILS OF ESTIMATE

PLAN ITEM : 238047000

VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

PIP - HLN DIV BAYARD SUB LS 134 MP 477.129 - DOT# 378221Y - BILLABLE 50% COUNCIL BLUFFS REMOVE THE EXISTING WAGON BRIDGE ON OLD YELLOW POLE ROAD. BNSF IS RESPONSIBLE FOR ALL WORK RELATED TO THE REMOVAL. BF2022441

REQUESTED BY JACOB RZEWNICKI 9/6/22

DESCRIPTION	QUANTITY U/M	COST	TOTAL \$
***** LABOR *****			
TOTAL LABOR COST		0	0
***** MATERIAL *****			
TOTAL MATERIAL COST		0	0
***** OTHER *****			
MOBILIZATION	1.0 LS	248,500	
TOTAL OTHER ITEMS COST		248,500	248,500
PROJECT SUBTOTAL			248,500
CONTINGENCIES			0
BILL PREPARATION FEE			2,485
GROSS PROJECT COST			250,985
LESS COST PAID BY BNSF			125,493
TOTAL BILLABLE COST			125,492