

**AGENDA**  
**CITY OF CENTRALIA, MISSOURI**  
**Board of Aldermen**  
**Public Works and Public Utilities Committee**  
Monday, May 4, 2015  
7:00 P. M.  
City Hall Council Chambers

- I. ROLL CALL
- II. PLEDGE OF ALLIGENCE
- III. ADOPTING AGENDA
- IV. READING OF PROCLAMATIONS
- V. COMMENTS FROM CITIZENS
  
- VI. PUBLIC WORKS
  - A. Activity Report
  - B. Streets
    - 1. Purchasing
      - a. Summer 2015 Overlay Contractor
      - b. Selecting the Sidewalk Grant Contractor
      - c. Wheel Loader purchase
  - C. Sanitation
    - 1. 2015 Spring Cleanup Report
    - 2. Special Pickup for Residential Service
  - D. Storm sewer
  - E. Other
  
- VII. ELECTRIC DEPARTMENT
  - A. Activity Report
  - B. Boring Project
  - C. Other
  
- VIII. WATER AND SEWER DEPARTMENT
  - A. Activity Report
  - B. Water
  - C. Sewer
    - 1. Irrigation Agreement Progress
    - 2. Insituform Agreement
  - D. Other
  
- IX. OTHER
- X. AS MAY ARISE
- XI. ADJOURN

**AGENDA**  
**CITY OF CENTRALIA, MISSOURI**  
**Board of Aldermen**  
**Special Meeting**

Monday, May 4, 2015

Approximately 7:45 pm

(Immediately following Meeting of the Public Works and Public Utilities Committee)

City Hall Council Chambers

I. ROLL CALL

II. ADOPTING AGENDA

III. ACTION AGENDA

A. Finance – None Scheduled

B. Permits and Licenses – None Scheduled

C. Legal –

1. Authorizing the Mayor and City Clerk of the City of Centralia, Missouri to enter into two Agreements with the Norfolk Southern Railway Company of Norfolk, Virginia, for permits to bore under the railway for the purpose of installing electrical conduit each for a fee of Four Thousand Seven Hundred Dollars and No Cents (\$4,700.00) for Permits– Ordinance

Bill No. \_\_\_\_\_ Ordinance No. \_\_\_\_\_

2. Authorizing the Mayor of the Centralia, Missouri to enter into two Contracts with the Kansas City Southern Railway Company of Kansas City, Missouri each for Twelve Thousand Five Hundred Dollars and No Cents (\$12,500.00) for Permits to bore under the railway for the purpose of installing electrical conduit. – Ordinance

Bill No. \_\_\_\_\_ Ordinance No. \_\_\_\_\_

D. Purchasing – None Scheduled

IV. CLOSED MEETING\*

A. Authorizing the Mayor of the City of Centralia, Missouri to enter into a Mutual Release and Settlement Agreement with Paul Morgan in the matter of the lawsuit filed by Morgan in the Circuit Court of Boone County, Missouri, Case No. 12BA-CV02154.

Bill No. \_\_\_\_\_ Ordinance No. \_\_\_\_\_

V. AS MAY ARISE

VI. ADJOURN

\*During the meeting, the Board of Aldermen may elect to go into closed session and hold a closed vote, and the purpose of such closed session and closed vote shall be, as provided for under Section 610.021 (1) of the Revised Statutes of Missouri for legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys

*STREET and SANITATION DEPARTMENT*  
*Activity Report for April 2015*

1. Daily trash collection
2. Weekly cardboard recycling and bi-weekly curbside recycling routes
3. Spent several days patching potholes around town
4. Did 102 locates this month
5. Hauled off large tree limb on Collier that was partially blocking the street
6. Assembled and delivered 3 trash carts to city residents
7. Spent several days working on drainage around town after all of the rains
8. Installed new garage door on storage shed to replace the broken fiberglass one at the street barn
9. Hauled off 1 load of recycling to Civic Recycling in Columbia
10. Replaced sign post on speed limit sign on s. Jefferson that was damaged
11. Added rock and bladed lots of shoulders and alleys around town
12. Hauled 15 loads of mulch to the city park
13. Cleaned up the street barn
14. Installed new curb broom on the street sweeper
15. Replaced latches and springs on the both cart tippers on the trash truck
16. Maintenance on both of the trash trucks
17. Hauled and spread 4 loads of rock on landfill road up to the compost area
18. Attended several meetings to review, interview and pick an engineer for the new sidewalk project
19. Repaired inlet at the corner of Railroad/Hickman
20. Filled suck hole and repaired inlet on Lakeview
21. Hauled off debris pile at the street dept. lot to the landfill area
22. Spent several days hauling off brush and leaves from drop off area to the landfill
23. Spent several days removing the salt from the salt shed and then removing all of the rotting boards and then started to rebuild it
24. Got called out once to remove tree limbs off of streets from storm damage
25. Hauled off piles of tree limbs around town from storm damage
26. Had the annual spring cleanup (had 38 tons of trash)
27. Removed old culvert and set 24ft of 12in metal culvert at the alley on Walnut and cleaned the ditches
28. Removed old culvert and set 26ft of 12in plastic culvert and cleaned ditches at 805 e. Sims for homeowner
29. Repaired damaged street sign at Gano/Central
30. Straightened several signs
31. Hauled off 4 loads of plastic to Ryan Ent. in Millersburg
32. Met and talked with several homeowners about replacing culverts and drainage work
33. Met with Earl Bennett about some work he wanted to do at the park
34. Checked on the street construction several times that was going on at Cobblestone Estates
35. Loaded 5 trailers with mulch
36. Dug out and hauled off 4 truckloads of broken asphalt behind the north ball field
37. Replaced post and put up a no parking sign on Bruton st.
38. Removed old chance boom and set 36ft of 10in metal culvert and cleaned the ditches at 640 s. Porter for the homeowner
39. Removed radio, decals, fire extinguisher and got the old loader ready to go to new owner
40. Repaired sign on s. Columbia that was damaged from the wind
41. Put bike lane sign back up on s. Jefferson that had been knocked down
42. Dug up and reset culvert and added 6ft of 10in metal culvert to it at 610 s. Allen for the homeowner
43. Changed truck parking signs on Railroad street to no truck parking

44. Cleaned the ditch in the 300 block of s. Collier
45. Relocated South/Walnut sign to power pole
46. Uncovered culvert and cleaned ditch on South st.
47. Lowered inlet and cut ditch on Fullenwider
48. Cleaned ditch in front 719 s. Rollins
49. Bladed NE and NW lagoon roads, s. Columbia, and landfill roads
50. Smoothed up dirt and seed and strawed area on Bruton where we had done some storm sewer work
51. Removed old chance boom and set 20ft of 10in plastic culvert for driveway and cleaned ditches
52. Reset culvert and cleaned ditches on Brick st.
53. Dug out and set 28ft of 12in plastic culvert across the city park road to help drainage

**From: Matt Harline, City Administrator**  
**To: Public Works and Public Utilities Committee**  
**Date: May 1, 2015**  
**Re: Agenda Item VI. B. 1. a. Summer 2015 Overlay Contractor**



A request for proposals was advertised in the Centralia Fireside Guard on April 15, 2015 for the annual over lay program and mailed out to the following firms:

APAC Missouri, Inc  
P. O. Box 1117  
Columbia, MO 65205-1117

Christensen Construction  
P. O. Box 159  
Kingdom City, MO 65262

N-J Wilson Contracting, Inc.  
23506 Audrain Road 416  
Mexico, MO 65265

Frech Paving  
5517 O'Neal Road  
Columbia, MO 65201

Chester Bross Construction Company  
P.O. Box 430  
Hannibal, MO 63401

We received three bids:

<b>Name of the Firm</b>	<b>Bid amount/ton</b>	<b>Location</b>
APAC	\$77.17	Columbia, MO
Frech Paving Co.	\$83.17	Columbia, MO
Christensen Construction	\$74.78	Kingdom City, MO

Staff recommends awarding the contract to the lowest bidder:

**Christensen Construction.**

**From: Matt Harline, City Administrator**  
**To: Public Works and Public Utilities Committee**  
**Date: May 1, 2015**  
**Re: Agenda Item VI. B. 1. b.**  
**Contracting Engineer**



A request for qualifications and letters of interest was released on March 4, 2015 in the Centralia Fireside Guard as well as on the MODOT web page for LTAP grants. We received eight responses.

A committee of five (Mayor, Tim Grenke, Aldermen Don Bormann and Landon Magley, Street Supervisor, Phil Hoffman and I met on the evening of Tuesday, April 7 to discuss the submittals. We scored the grants and selected four firms for further evaluation by in-person interviews on Thursday, April 16 and Friday April 17: Bartlett & West, Engineering Surveys and Services, Luebbert Engineering and MECO Engineering.

The committee will meet again Monday, May 4 at 6:30pm to finalize our recommendations.

G:\City of Centralia\Council\working folder - 1st Public Works-Utilities\Memo-Item VI-C-1-b Sidewalk Contr Engineer.docx

DAYNE'S WASTE DISPOSAL, INC

P O BOX 248  
 MEXICO, MO 65265  
 Phone#573-492-6195

# Invoice

Date	Invoice #
4/23/2015	300713

<b>Bill To</b>
City of Centralia 114 S. Rollins Centralia, MO 65240

P.O. No.	Due Date
	5/15/2015

Description	Qty	Rate	Amount
Clean-Up Dumpsters			
Delivery Fee - 30yd's	8	80.00	640.00
Dump & Return 30yd - 4/13/15	1	160.00	160.00
Tonnage Rate Per Ton	1.78	39.50	70.31
Dump & Return 30yd - 4/13/15	1	160.00	160.00
Tonnage Rate Per Ton	2.03	39.50	80.19
Dump & Return 30yd - 4/13/15	1	160.00	160.00
Tonnage Rate Per Ton	2	39.50	79.00
Dump & Return 30yd - 4/13/15	1	160.00	160.00
Tonnage Rate Per Ton	1.89	39.50	74.66
Dump & Return 30yd - 4/13/15	1	160.00	160.00
Tonnage Rate Per Ton	2.97	39.50	117.32
Dump & Return 30yd - 4/13/15	1	160.00	160.00
Tonnage Rate Per Ton	2.23	39.50	88.09
Dump & Return 30yd - 4/16/15	1	160.00	160.00
Tonnage Rate Per Ton	1.03	39.50	40.69
Dump & Return 30yd - 4/16/15	1	160.00	160.00

CREDITS WILL NOT BE ISSUED TO ACCOUNTS WHERE STOP SERVICE OCCURRED DUE TO NON-PAYMENT.

Go Green! If you would like to receive a paperless statement each month, please inform us of your e-mail address.

<b>Total</b>
<b>Payments/Credits</b>
<b>Balance Due</b>

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P O BOX 248  
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City of Centralia 114 S. Rollins Centralia, MO 65240

P.O. No.	Due Date
	5/15/2015

Description	Qty	Rate	Amount
Tonnage Rate Per Ton	3.02	39.50	119.29
Dump & Return 30yd - 4/16/15	1	160.00	160.00
Tonnage Rate Per Ton	2.89	39.50	114.16
Dump & Return 30yd - 4/17/15	1	160.00	160.00
Tonnage Rate Per Ton	2.7	39.50	106.65
Dump & Return 30yd - 4/17/15	1	160.00	160.00
Tonnage Rate Per Ton	4.42	39.50	174.59
Dump & Return 30yd - 4/18/15	1	160.00	160.00
Tonnage Rate Per Ton	2.23	39.50	88.09
Dump & Remove 30yd - 4/20/15	1	160.00	160.00
Tonnage Rate Per Ton	0.87	39.50	34.37
Dump & Remove 30yd - 4/20/15	1	160.00	160.00
Tonnage Rate Per Ton	1.88	39.50	74.26
Dump & Remove 30yd - 4/20/15	1	160.00	160.00
Tonnage Rate Per Ton	1.9	39.50	75.05
Dump & Remove 30yd - 4/20/15	1	160.00	160.00
Tonnage Rate Per Ton	1.54	39.50	60.83

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<b>Total</b>
<b>Payments/Credits</b>
<b>Balance Due</b>



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P O BOX 248  
 MEXICO, MO 65265  
 Phone#573-492-6195

# Invoice

Date	Invoice #
4/23/2015	300713

Bill To
City of Centralia 114 S. Rollins Centralia, MO 65240

P.O. No.	Due Date
	5/15/2015

Description	Qty	Rate	Amount
Dump & Remove 30yd - 4/20/15	1	160.00	160.00
Tonnage Rate Per Ton	1.86	39.50	73.47
Dump & Remove 30yd - 4/22/15	1	160.00	160.00
Tonnage Rate Per Ton	0.44	39.50	17.38
Dump & Remove 30yd - 4/22/15	1	160.00	160.00
Tonnage Rate Per Ton	0.09	39.50	3.56
Dump & Remove 30yd - 4/23/15	1	160.00	160.00
Tonnage Rate Per Ton	0.61	39.50	24.10

CREDITS WILL NOT BE ISSUED TO ACCOUNTS WHERE STOP SERVICE OCCURRED DUE TO NON-PAYMENT.

Go Green! If you would like to receive a paperless statement each month, please inform us of your e-mail address.

<b>Total</b>	\$5,356.06
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$5,356.06

## ELECTRIC DEPT.

### APRIL 2015 ACTIVITY REPORT

1. Daily readings – 50
2. Daily locates – 87
3. Re-reads – 23
4. Disconnects – 10
5. Replaced street light pole at Gano Chance/124
6. 920 E Head – trimmed trees for line clearance
7. Assisted Street Department with culvert pipe at Bruton/Denton
8. Adams St – trimmed for line clearance
9. 805 E Sims – installed new 100 watt HPS cobra head light
10. Repaired faulted underground line feeding west pivot at Benoit's Farm
11. Repaired street lights – Lakeview/Columbia, Allen/Sneed, Singleton/Rollins
12. 814 Emerald Drive – connected new service, disconnected temp
13. April 9 - Storm damage @ 4pm – restored all power by 7pm
  - 706 S Allen – tree damage, meter base torn from house, electrician repaired on 4/13
  - 421 N Jenkins – tree damage, meter base torn from house
  - Rollins/Clark – repair triplex knocked down by tree
  - 313 N Allen – disconnected at transformer, building damaged by tree
  - 801 S Allen Lot 7 – disconnected at meter, mobile home destroyed by tree
  - Head – tree damage, straightened pole, spliced service
  - 705 E Hulen – tree damage, repaired triplex knocked down
14. April 13 - Storm damage @ 4am – tree damage @ 806 S Allen, two primary phases knocked down, Asplundh removed limb from lines, spliced primary phases, also repaired cross arm at 812 S Allen
15. 503 N Pratt – repaired loose connections at pole
16. 516 E Early – replaced rotten pole in alley
17. 451 S Jenkins – disconnected service for upgrade, reconnected after upgrade
18. 922 Mystic – pulled wire, connected new service, disconnected temp
19. 471 Adams – pulled wire, connected new service, disconnected temp
20. Attended safety meeting at Consolidated Electric, grounding
21. 917 Kelli Court – connected temp service
22. Sunset Gardens – connected new service to storage garage
23. Chipped brush around town for Spring cleanup
24. Hauled brush and yard waste @ North St site as necessary
25. 627 W Rodney Griffin – disconnected for electrical upgrade, reconnected after upgrade

26. Assisted Water Department with piercing under Hampton Drive for 2 water services
27. 204 E Sneed – connected new service upgraded for building remodel
28. East City Park – cut down four trees
29. Mowed @ WSS and shop as necessary
30. 1226/1228 Remington – pulled wire and connected new service, disconnected temp
31. Removed chips from stump grinding and replaced with dirt – 230, 231 S Hickman, 610 S Allen
32. Trimmed trees around pad mount equipment – 725 W Rodney Griffin, 817 Tidball, 814 Emerald
33. Trimmed for line clearance @ Switzler St main circuit
34. Assisted with removing concrete from dirt @ old landfill site
35. Sprayed weed killer @ Burkhardt Sub
36. 714 Porter – disconnected service for upgrade, pulled wire & connected new service

**ACTIVITY REPORT  
WATER DEPARTMENT  
APRIL 2015**

- Repaired water service hit 802 S. Allen
- Flushed sewers and culverts for City of Hallsville
- Inspected and watched sewer repairs at 604 Head on tap and service
- Inspected sewer repairs at 802 S. Allen
- Flushed and camera work for Chance's – two days
- Changed 4" compound meter at Chance's
- Made water tap at 1004, 1008, 1021 Hampton Drive
- Made water tap at 471 Adams
- Repaired water leak at 315 S. Hickman on service setter
- Repaired main leak at 914 Westwind
- Cleaned primary and secondary basins at Water Plant
- Made two water taps at 1226 / 1228 Remington Drive
- Collected WET samples at both lagoons and delivered to Columbia for testing
- Pumped to Benoit from NW lagoon
- Checked for leak at 574 Tidball – customer leak
- Berm work at NE lagoon primary cell
- Lowered 7 meter jars and put to grade
- Checked sewer main at Tidball's trailer court – ok
- Shut off water at 803 S. Allen due to tree falling on trailer
- Checked manhole conditions during rainfall
- Met with Ron Beard about sewer to new Cornerstone Church
- Shut off water at 860 Doty to assist in finding leak
- Assisted plumbers locate sewer to avoid conflicts with water and electric at 500 E Lakeview
- Took backhoe and 1 operator to Head Start Program
- Reset manhole at NE flumes hit during clean-up week
- Flushed sewer main at Clayton to open blockage
- Rusty class in Booneville on disinfection and tapping
- Replaced meter lid that was broke at 112 S. Columbia
- Sprayed at overland flow piping at NE lagoon
- Flushed at Head / Walnut after sewer repairs
- Fixed leak at Jaycee Park on meter setter
- Removed lime and spread at overland flow fields
- 8 disconnects for nonpayment
- Replaced old broken meter jar at 108 Adams



April 16, 2015

To: Mike Forsee  
Water/Sewer Foreman  
City of Centralia  
114 S. Rollins  
Centralia, MO 65240

ACES# AAJA-N7SIGZ

**Re: Centralia, MO, 2015 Sanitary Sewer CIPP Project**

Insituform Technologies USA, LLC. (Contractor) will provide services to complete the following Insituform® work on the above referenced project:

Centralia MO  
2015 CIPP

Bid Item per Docs	Description	Unit of	Per Bid		
		Measure	Quantity	Bid Price	Total
1	Mobilization	LF	1	\$ 3,500.00	\$ 3,500.00
2	CIPP 8" LH to C-08-045	LF	570	\$ 26.15	\$ 14,905.50
3	CIPP 8" C-06-190 to C-07-150	LF	224	\$ 34.44	\$ 7,714.56
4	CIPP 8" B-06-130 to B-06-110	LF	606	\$ 25.73	\$ 15,592.38
					\$ 41,712.44

Scope of work:

**INCLUDED:**

- ✓ Certificate of insurance with a standard coverage
- ✓ Standard light cleaning of loose debris and televising
- ✓ Bypass
- ✓ CIPP installation
- ✓ Dry weather work only
- ✓ Post TV
- ✓ All pricing assumes 100% of above scope. If scope changes, pricing will need to be reevaluated

**EXCLUDED:**

- ◆ Site clearing of any kind
- ◆ Traffic control beyond standard cones and early warning signs.
- ◆ Permits
- ◆ Bonds
- ◆ Taxes – Owner/GC to provide tax exempt certificate or will pay tax directly to entity
- ◆ Repairs to the sewer due to collapsed pipe sections, protruding taps, lodged equipment, etc.
- ◆ Special Insurance such as Railroad, OCP, Builders Risk...
- ◆ Weekend/Holiday Work.

**OWNER TO PROVIDE:**

- ◆ Access to manholes including clearing and ground leveling/stabilization if needed for equipment
- ◆ Excavation and restoration of lamp hole on the first line segment.

- ◆ Traffic control plan, permits, devices if needed (other than standard cones)
- ◆ Water for construction – typically fire hydrant
- ◆ Provide dump site, haul permits, and associated items for sewer debris disposal. Any toxic waste handling is to be done by others.
- ◆ Permits as needed

General Conditions:

1. We reserve the right to negotiate our prices, should the CIPP quantities differ more than 10% from those stated in this proposal.
2. Laterals, if encountered, that can be positively identified (with the camera) as plugged, will not be reinstated. All other laterals will be opened unless otherwise directed in writing by the owner.
3. To the extent permitted by law and in accordance with the terms of this contract, Contractor shall indemnify and hold harmless the Owner, Architect/Engineer, and agents and employees of any of them from and against claims, damages, losses, and expenses including but not limited to attorneys' fees, arising out of or resulting from the work performed by Contractor, save and except any economic losses not related to bodily injury, sickness, disease or death, provided that such claim, loss or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property excluding economic loss or use thereof (other than the work itself), but only to the extent caused in whole or in part by negligent acts or omissions of Contractor, anyone directly or indirectly employed by it or anyone for whose acts Contractor may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.
 

In claims against any person or entity indemnified under this paragraph by an employee of Contractor, anyone directly or indirectly employed by it or anyone for whose acts Contractor may be liable, the indemnification obligation under this paragraph shall be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or its subcontractors under workers' compensation acts, disability benefit acts or other employee benefit acts.

The obligations of Contractor under this paragraph shall not extend to the liability of the Owner, Architect/Engineer, Architect/Engineer's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Owner, Architect/Engineer, Architect/Engineer's consultants, and agents and employees of any of them.
4. **LIMITED WARRANTY. IN LIEU OF ALL OTHER EXPRESSED, IMPLIED AND/OR STATUTORY WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, CONTRACTOR AGREES TO CORRECT ANY DEFECTS IN THE MATERIALS OR SERVICES PROVIDED BY CONTRACTOR WHICH ARE BROUGHT TO THE ATTENTION OF CONTRACTOR WITHIN ONE YEAR FOLLOWING COMPLETION OF CONTRACTOR'S WORK, PROVIDED OWNER AFFORDS CONTRACTOR SUITABLE ACCESS AND WORKING CONDITIONS TO ACCOMPLISH SUCH CORRECTION.**
5. **MUTUAL RELEASE OF CONSEQUENTIAL DAMAGES.** Neither party shall be liable to the other for consequential damages relating to or arising out of the Contract.
6. Any restrictions in our normal weekday work hours required by local, state, and/or federal authorities (due to noise restrictions or other reasons not known at the time of this proposal) will be an extra charge.

7. All labor, equipment, material, supervision, and mobilization necessary to complete the Insituform® process per the above conditions, and Insituform® specifications, are included.
8. PAYMENT TERMS: Payment is due in full, without exception or retention, within 35 days of date of invoice.
9. This proposal supersedes and nullifies all previous estimates and proposals under the same number, and is good for 60 days.


Thank you,

**INSITUFORM TECHNOLOGIES USA, LLC.**

Offered By:

Accepted By:

Insituform Technologies USA, LLC.



Greg Patton  
Business Development Manager



580 Goddard Avenue  
Chesterfield, MO 63005  
mobile (314) 409-5069  
fax (636) 898-5094  
[gpatt@insituform.com](mailto:gpatt@insituform.com)

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name/Title \_\_\_\_\_

Organization \_\_\_\_\_

Accepted by: Insituform Technologies USA, LLC.

Date: \_\_\_\_\_

Is this Project Tax Exempt? \_\_\_\_\_ If Yes, please provide Tax Exemption Form and, where applicable, Project Exemption Form.

Does this Project require Certified Payroll? \_\_\_\_\_ Are there wage rates? \_\_\_\_\_. If yes, please provide a copy of the wage rates.

This accepted proposal constitutes a formal agreement. If you initiate a purchase order or other contract document it shall not be acknowledged without this accepted proposal as an attachment.

A BILL TO CREATE AN ORDINANCE ENTITLED:

“AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK OF THE CITY OF CENTRALIA, MISSOURI, TO EXECUTE TWO AGREEMENTS WITH NORFOLK SOUTHERN RAILWAY COMPANY FOR PERMITS FOR THE PURPOSE OF INSTALLING ELECTRICAL CONDUIT UNDER THE RAILWAY’S RIGHT OF WAY EACH FOR A FEE OF FOUR THOUSAND SEVEN HUNDRED DOLLARS AND NO CENTS (\$4,700.00).”

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CENTRALIA, MISSOURI, as follows:

SECTION 1. The Mayor and City Clerk of the City of Centralia, Missouri are hereby authorized and directed to execute two Agreements with the Norfolk Southern Railway Company of Norfolk, Virginia for Permits for the purpose of installing electrical conduit under the Railway Company’s right of way, each for a fee of Four Thousand Seven Hundred Dollars and No Cents (\$4,700.00).

SECTION 2. The terms and conditions of these two Agreements are described fully in Exhibit A and Exhibit B attached hereto.

SECTION 3. This ordinance shall take effect and be in full force and effect from and after the date of its passage and approval.

PASSED this 4th day of May, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

This ordinance approved by the Mayor this 4th day of May, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



## **Exhibit A**

THIS AGREEMENT, dated as of the day of \_\_\_\_\_ is made and entered into by and between

NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, whose mailing address is Three Commercial Place, Norfolk, Virginia 23510 (hereinafter called "Railway"), and

CITY OF CENTRALIA, MO, a Municipality, whose mailing address is 114 S. Rollins Street, Centralia, Missouri 65240 (hereinafter called "Licensee").

### W I T N E S S E T H

WHEREAS, Licensee proposes to install, maintain, operate and remove an underground crossing of two (2) 8-inch steel conduits each with a 6-inch HDPE innerduct containing a 4.16KV electric power circuit (hereinafter called the "Facilities") located under and across, the right-of-way or property and any tracks of Railway at or near:

- Milepost S-124.31, St. Louis-Moberly Line
- Latitude N39.21341, Longitude W92.14091
- Centralia, Boone County, Missouri

the same to be located in accordance with and limited to the installation shown on print of drawings marked Exhibit A, dated February 26, 2015 and Conduit Data Sheet, attached hereto and made a part hereof; and

WHEREAS, Licensee desires a license to use such right-of-way or property of Railway for the installation, construction, maintenance, operation and removal of the Facilities.

NOW, THEREFORE, for and in consideration of the premises, the payment of a non-refundable, non-assignable one-time fee in the amount of FOUR THOUSAND SEVEN HUNDRED 00/100 DOLLARS (\$4,700.00) (hereinafter called the "Fee") to cover the Risk Financing Fee (as hereinafter defined) in the amount of \$1,000.00, and a one-time occupancy fee in the amount of \$3,700.00, and the covenants hereinafter set forth, Railway hereby permits and grants to Licensee, insofar as Railway has the right to do so, without warranty and subject to all encumbrances, covenants and easements to which Railway's title may be subject, the right to use and occupy so much of Railway's right-of-way or property as may be necessary for the installation, construction, maintenance, operation and removal of the Facilities (said right-of-way or property of Railway being hereinafter collectively called the "Premises"), upon the following terms and conditions:

1. Use and Condition of the Premises. The Premises shall be used by Licensee only for the installation, construction, maintenance, operation and removal of the Facilities and for no other purpose without the prior written consent of Railway, which consent may be withheld by Railway in its sole discretion. Licensee accepts the Premises in their current "as is" condition, as suited for the installation and operation of the Facilities, and without the benefit of any improvements to be constructed by Railway.

2. Installation of the Facilities; Railway Support. Licensee shall, at its expense, install, construct, maintain and operate the Facilities on a lien-free basis and in such a manner as will not interfere with the operations of Railway, or endanger persons or property of Railway. Such installation, construction, maintenance and operation of the Facilities shall be in accordance with (a) the plans and specifications (if any) shown on the prints attached hereto and any other specifications prescribed by Railway, (b) applicable laws, regulations, ordinances and other requirements of federal, state and local governmental authorities, and (c) applicable specifications of the National Electric Safety Code, when not in conflict with the applicable plans, specifications, laws, regulations, ordinances or requirements mentioned in (a) and (b), above. Any change to the character, capacity or use of the Facilities shall require execution of a new agreement.

3. Railway Support. Railway shall, at Railway's option, furnish, at the sole expense of Licensee, labor and materials necessary, in Railway's sole judgment, to support its tracks and to protect its traffic (including, without limitation, flagging) during the installation, maintenance, repair, renewal or removal of the Facilities.

4. Electronic Interference. If the Facilities cause degradation of Railway's signal, communications and other electronic systems (hereinafter collectively called the "Electronic Systems") or endanger Railway's personnel or other individuals entitled to be on or about the Premises, through inductive or electrostatic interference or otherwise, Licensee, at its expense, will modify the Facilities to the satisfaction of Railway so as to eliminate such degradation or danger. Such modifications may include, without limiting the generality of the foregoing, transposing circuits or providing additional shielding, reactance or other corrective measures deemed necessary by Railway. The provisions of this paragraph 4 shall apply to the Electronic Systems existing as of the date of this Agreement and to any Electronic Systems that Railway may install in the future.

5. Corrective Measures. If Licensee fails to take any corrective measures requested by Railway in a timely manner, or if an emergency situation is presented which, in Railway's judgment, requires immediate repairs to the Facilities, Railway, at Licensee's expense, may undertake such corrective measures or repairs as it deems necessary or desirable.

6. Railway Changes. If Railway shall make any changes, alterations or additions to the line, grade, tracks, structures, roadbed, installations, right-of-way or works of Railway, or to the character, height or alignment of the Electronic Systems, at or near the Facilities, Licensee shall, upon *thirty* (30) days prior written notice from Railway and at its sole expense, make such changes in the location and character of the Facilities as, in the opinion of the chief engineering officer of Railway, shall be necessary or appropriate to accommodate any construction, improvements, alterations, changes or additions of Railway.

7. Assumption of Risk. Unless caused solely by the negligence of Railway or caused solely by the willful misconduct of Railway, Licensee hereby assumes all risk of damage to the Facilities and Licensee's other property relating to its use and occupation of the Premises or business carried on the Premises and any defects to the Premises; and Licensee hereby

indemnifies Railway, its officers, directors, agents and employees from and against any liability for such damage.

8. **Entrv Upon Premises.** Prior to commencement of any work to be performed on or about the Premises, Licensee shall notify the appropriate Division Engineer for the scheduling of protection and inspection. Within seventy-two (72) hours after the Division Engineer's actual receipt of such notification, the Division Engineer shall review the necessity and availability of flagmen for the proposed work and advise Licensee of such matters and the estimated cost therefor. No work shall be permitted on or about the Premises without the presence of Railway's flagman or the Division Engineer's waiver of the requirement for flag protection. Entry on or about the Premises or any other Railway right-of-way without the Division Engineer's prior approval shall be deemed trespassing. Licensee agrees to pay Railway, within thirty (30) days after delivery of an invoice therefor, for any protection and inspection costs incurred by Railway, in Railway's sole judgment, during any such entry.

9. **Liens; Taxes.** Licensee will not permit any mechanic's liens or other liens to be placed upon the Premises, and nothing in this Agreement shall be construed as constituting the consent or request of Railway, express or implied, to any person for the performance of any labor or the furnishing of any materials to the Premises, nor as giving Licensee any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that could give rise to any mechanic's liens or other liens against the Premises. In addition, Licensee shall be liable for all taxes levied or assessed against the Facilities and any other equipment or other property placed by Licensee within the Premises. In the event that any such lien shall attach to the Premises or Licensee shall fail to pay such taxes, then, in addition to any other right or remedy available to Railway, Railway may, but shall not be obligated to, discharge the same. Any amount paid by Railway for any of the aforesaid purposes, together with related court costs, attorneys' fees, fines and penalties, shall be paid by Licensee to Railway within ten (10) days after Railway's demand therefor.

10. **Indemnification.** Licensee hereby agrees to indemnify and save harmless Railway, its officers, directors, agents and employees, from and against any and all liabilities, claims, losses, damages, expenses (including attorneys' fees) or costs for personal injuries (including death) and property damage to whomsoever or whatsoever occurring (hereinafter collectively called "Losses") that arise in any manner from (a) the installation, construction, maintenance, operation, presence or removal of, or the failure to properly install, construct, maintain, operate or remove, the Facilities, or (b) any act, omission or neglect of Licensee, its agents, servants, employees or contractors in connection therewith, unless caused solely by the negligence of Railway or caused solely by the willful misconduct of Railway.

11. **Insurance.**

(a) Without limiting in any manner the liability and obligations assumed by Licensee under any other provision of this Agreement, and as additional protection to Railway, Licensee shall, at its expense, pay the Risk Financing Fee set forth in subparagraph (i) below and shall procure and maintain with insurance companies satisfactory to Railway, the insurance policies described in subparagraphs (ii) and (iii).

(i) Upon execution of this Agreement, Licensee shall pay Railway a risk financing fee of \$1,000 per installation (herein called the "Risk Financing Fee") to provide Railroad Protective Liability Insurance or such supplemental insurance (which may be self-insurance) as Railway, in its sole discretion, deems to be necessary or appropriate.

(ii) Prior to commencement of installation or maintenance of the Facilities or entry on Railway's property, Licensee, and its contractor if it employs one, shall procure and maintain for the course of said installation and maintenance, a general liability insurance policy naming Railway as an additional insured, and containing products and completed operations and contractual liability coverage, with a combined single limit of not less than \$1,000,000 for each occurrence.

(iii) Prior to commencement of any subsequent maintenance of the Facility during the term of this Agreement, unless Railway elects to make available and Licensee pays the then current risk financing fee for each affected installation, Licensee, or its contractor if it employs one, shall furnish Railway with an original Railroad Protective Liability Insurance Policy naming Railway as the named insured and having a limit of not less than a combined single limit of \$2,000,000 each occurrence and \$6,000,000 aggregate. Such policy shall be written using Insurance Services Offices Form Numbers CG 00 35 01 10 01.

(b) All insurance required under preceding subsection (a) shall be underwritten by insurers and be of such form and content as may be acceptable to Railway. Prior to commencement of installation or maintenance of the Facilities or any entry on Railway's property, Licensee, or its contractor if it employs one, shall furnish to Railway's Risk Manager, Three Commercial Place, Norfolk, Virginia 23510-2191 (or such other representative and/or address as subsequently given by Railway to Licensee in writing), for approval, the original policy described in subsection (a)(iii) and a certificate of insurance evidencing the existence of a policy with the coverage described in subsection (a)(ii).

12. Environmental Matters. Licensee assumes all responsibility for any environmental obligations imposed under applicable laws, regulations, ordinances or other requirements of federal, state and local governmental authorities relating to (a) the installation, construction, maintenance, operation or removal of the Facilities, including notification and reporting of any releases, and (b) any contamination of any property, water, air or groundwater arising or resulting, in whole or in part, from Licensee's operation or use of the Premises pursuant to this Agreement. In addition, Licensee shall obtain any necessary permits to install, construct, maintain, operate or remove the Facilities. Licensee agrees to indemnify and hold harmless Railway from and against any and all fines, penalties, demands or other Losses (including attorneys' fees) incurred by Railway or claimed by any person, company or governmental entity relating to (a) any contamination of any property, water, air or groundwater

due to the use or presence of the Facilities on the Premises, (b) Licensee's violation of any laws, regulations or other requirements of federal, state or local governmental authorities in connection with the use or presence of the Facilities on the Premises or (c) any violation of Licensee's obligations imposed under this paragraph. Without limitation, this indemnity provision shall extend to any cleanup and investigative costs relating to any contamination of the Premises arising or resulting from, in whole or in part, Licensee's use of the Facilities or any other activities by or on behalf of Licensee occurring on or about the Premises. Licensee further agrees not to dispose of any trash, debris or wastes, including hazardous waste, on the Premises and will not conduct any activities on the Premises which would require a hazardous waste treatment, storage or disposal permit.

13. Assignments and Other Transfers.

(a) Licensee shall not assign, transfer, sell, mortgage, encumber, sublease or otherwise convey (whether voluntarily, involuntarily or by operation of law) this Agreement or any interest therein, nor license, mortgage, encumber or otherwise grant to any other person or entity (whether voluntarily, involuntarily or by operation of law) any right or privilege in or to the Premises (or any interest therein), in whole or in part, without the prior written consent of Railway, which consent may be withheld by Railway in its sole discretion. Any such assignment or other transfer made without Railway's prior written consent shall be null and void and, at Railway's option, shall constitute an immediate default of this Agreement. Notwithstanding the foregoing, upon prior written notice to Railway, Licensee may assign this Agreement to a parent, a wholly-owned subsidiary of Licensee or a wholly-owned subsidiary of Licensee's parent without Railway's consent; provided, however, that no such assignment shall relieve Licensee of its obligations under this Agreement.

(b) Railway shall have the right to transfer and assign, in whole or in part, all its rights and obligations hereunder and in or to the Premises. From and after the effective date of any such assignment or transfer, Railway shall be released from any further obligations hereunder; and Licensee shall look solely to such successor-in-interest of Railway for the performance of the obligations of "Railway" hereunder.

14. Meaning of "Railway". The word "Railway" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by Railway. Said term also shall include Railway's officers, directors, agents and employees, and any parent company, subsidiary or affiliate of Railway and their respective officers, directors, agents and employees.

15. Default; Remedies.

(a) The following events shall be deemed to be events of default by Licensee under this Agreement:

(i) Licensee shall fail to pay the Fee or any other sum of money due hereunder and such failure shall continue for a period of ten (10) days after the due date thereof;

(ii) Licensee shall fail to comply with any provision of this Agreement not requiring the payment of money, all of which terms, provisions and covenants shall be deemed material, and such failure shall continue for a period of thirty (30) days after written notice of such default is delivered to Licensee;

(iii) Licensee shall become insolvent or unable to pay its debts as they become due, or Licensee notifies Railway that it anticipates either condition;

(iv) Licensee takes any action to, or notifies Railway that Licensee intends to file a petition under any section or chapter of the United States Bankruptcy Code, as amended from time to time, or under any similar law or statute of the United States or any State thereof; or a petition shall be filed against Licensee under any such statute; or

(v) A receiver or trustee shall be appointed for Licensee's license interest hereunder or for all or a substantial part of the assets of Licensee, and such receiver or trustee is not dismissed within sixty (60) days of the appointment.

(b) Upon the occurrence of any event or events of default by Licensee, whether enumerated in this paragraph 15 or not, Railway shall have the option to pursue any remedies available to it at law or in equity without any additional notices to Licensee. Railway's remedies shall include, but not be limited to, the following: (i) termination of this Agreement, in which event Licensee shall immediately surrender the Premises to Railway; (ii) entry into or upon the Premises to do whatever Licensee is obligated to do under the terms of this License, in which event Licensee shall reimburse Railway on demand for any expenses which Railway may incur in effecting compliance with Licensee's obligations under this License, but without rendering Railway liable for any damages resulting to Licensee or the Facilities from such action; and (iii) pursuit of all other remedies available to Railway at law or in equity, including, without limitation, injunctive relief of all varieties.

16. Railway Termination Right. Notwithstanding anything to the contrary in this Agreement, Railway shall have the right to terminate this Agreement and the rights granted hereunder, after delivering to Licensee written notice of such termination no less than sixty (60) days prior to the effective date thereof, upon the occurrence of any one or more of the following events:

(a) If Licensee shall discontinue the use or operations of the Facilities; or

(b) If Railway shall be required by any governmental authority having jurisdiction over the Premises to remove, relocate, reconstruct or discontinue operation of its railroad on or about the Premises; or

(c) If Railway, in the good faith judgment of its Superintendent, shall require a change in the location or elevation of its railroad on or about the location of the Facilities or the Premises that might effectively prohibit the use or operation of the Facilities; or

(d) If Railway, in the good faith judgment of its Superintendent, determines that the maintenance or use of the Facilities unduly interferes with the operation and maintenance of the facilities of Railway, or with the present or future use of such property by Railway, its lessees, affiliates, successors or assigns, for their respective purposes.

17. Condemnation. If the Premises or any portion thereof shall be taken or condemned in whole or in part for public purposes, or sold in lieu of condemnation, then this Agreement and the rights granted to Licensee hereunder shall, at the sole option of Railway, forthwith cease and terminate. All compensation awarded for any taking (or sale proceeds in lieu thereof) shall be the property of Railway, and Licensee shall have no claim thereto, the same being hereby expressly waived by Licensee.

18. Removal of Facilities; Survival. The Facilities are and shall remain the personal property of Licensee. Upon the expiration or termination of this Agreement, Licensee shall remove the Facilities from the Premises within thirty (30) days after the effective date thereof. In performing such removal, unless otherwise directed by Railway, Licensee shall restore the Premises to the same condition as existed prior to the installation or placement of Facilities, reasonable wear and tear excepted. In the event Licensee shall fail to so remove the Facilities or restore the Premises, the Facilities shall be deemed to have been abandoned by Licensee, and the same shall become the property of Railway for Railway to use, remove, destroy or otherwise dispose of at its discretion and without responsibility for accounting to Licensee therefor; provided, however, in the event Railway elects to remove the Facilities, Railway, in addition to any other legal remedy it may have, shall have the right to recover from Licensee all costs incurred in connection with such removal and the restoration of the Premises. Notwithstanding anything to the contrary contained in this Agreement, the expiration or termination of this Agreement, whether by lapse of time or otherwise, shall not relieve Licensee from Licensee's obligations accruing prior to the expiration or termination date, and such obligations shall survive any such expiration or other termination of this Agreement.

19. Entire Agreement. This Agreement contains the entire agreement of Railway and Licensee and supersedes any prior understanding or agreement between Railway and Licensee respecting the subject matter hereof; and no representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement shall be of any force or effect.

20. Attorneys' Fees. If Railway should bring any action under this Agreement, or consult or place the Agreement or any amount payable by Licensee hereunder, with an attorney concerning or for the enforcement of any of Railway's rights hereunder, then Licensee agrees in each and any such case to pay to Railway all costs, including but not limited to court costs and attorneys' fees, incurred in connection therewith.

21. Severability. If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall

not be affected thereby; and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

22. Modifications; Waiver; Successors and Assigns. This Agreement may not be altered, changed or amended, except by instrument in writing signed by both parties hereto. No provision of this Agreement shall be deemed to have been waived by Railway unless such waiver shall be in a writing signed by Railway and addressed to Licensee, nor shall any custom or practice that may evolve between the parties in the administration of the terms hereof be construed to waive or lessen the right of Railway to insist upon the performance by Licensee in strict accordance with the terms hereof. The terms and conditions contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. If there shall be more than one Licensee, the obligations hereunder imposed upon Licensee shall be joint and several.

23. Notice. Any and all other notices, demands or requests by or from Railway to Licensee, or Licensee to Railway, shall be in writing and shall be sent by (a) postage paid, certified mail, return receipt requested, or (b) a reputable national overnight courier service with receipt therefor, or (c) personal delivery, and addressed in each case as follows:

Ifto Railway:  
c/o Norfolk Southern Corporation 1200  
Peachtree Street, NE - 12<sup>th</sup> Floor  
Atlanta, Georgia 30309-3504 Attention:  
Director Real Estate

Ifto Licensee:  
City of Centralia, MO 114  
S. Rollins Street  
Centralia, Missouri 65240 Attention:  
City Administrator

Either party may, by notice in writing, direct that future notices or demands be sent to a different address. All notices hereunder shall be deemed given upon receipt (or, if rejected, upon rejection).

24. Miscellaneous. All exhibits, attachments, riders and addenda referred to in this License are incorporated into this Agreement and made a part hereof for all intents and purposes. Time is of the essence with regard to each provision of this Agreement. This Agreement shall be construed and interpreted in accordance with and governed by the laws of the State in which the Premises are located. Each covenant of Railway and Licensee under this Agreement is independent of each other covenant under this Agreement. No default in performance of any covenant by a party shall excuse the other party from the performance of any other covenant.



The provisions of Paragraphs 7, 9, 10, 12 and 18 shall survive the expiration or earlier termination of this Agreement.

25. Limitations of Grant. Licensee acknowledges that the license granted hereunder is a quitclaim grant, made without covenants, representations or warranties with respect to Railway's (a) right to make the grant, (b) title in the Premises, or (c) right to use or make available to others the Premises for the purposes contemplated herein. Railway is the owner and/or holder of the Premises subject to the terms and limitations under which it is owned or held, including without limitation conditions, covenants, restrictions, easements (including any pre-existing fiber optic easements or licenses), encroachments, leases, licenses, permits, mortgages, indentures, reversionary interests, fee interests, zoning restrictions and other burdens and limitations, of record and not of record, and to rights of tenants and licensees in possession, and Licensee agrees that the rights licensed hereunder are subject and subordinate to each and all of the foregoing. Licensee accepts this grant knowing that others may claim that Railway has no right to make it, and Licensee agrees to release, hold harmless and indemnify (and, at Railway's election, defend, at Licensee's sole expense, with counsel approved by Railway) Railway, its affiliated companies, and its and their respective officers, directors, agents and employees, from and against any detriments to, or liabilities of, any type or nature arising from such claims, including punitive damages and any forfeitures declared or occurring as a result of this grant.

26. Limitations Upon Damages. Notwithstanding any other provision of this Agreement, Railway shall not be liable for breach of this Agreement or under this Agreement for any consequential, incidental, exemplary, punitive, special, business damages or lost profits, as well as any claims for death, personal injury, and property loss and damage which occurs by reason of, or arises out of, or is incidental to the interruption in or usage of the Facilities placed upon or about the Premises by Licensee, including without limitation any damages under such claims that might be considered consequential, incidental, exemplary, punitive, special, business damages or lost profits.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, each part being an original, as of the date first above written.

Witness:

NORFOLK SOUTHERN RAILWAY  
COMPANY

\_\_\_\_\_  
As to Railway:

By: \_\_\_\_\_  
Real Estate Manager

Witness:

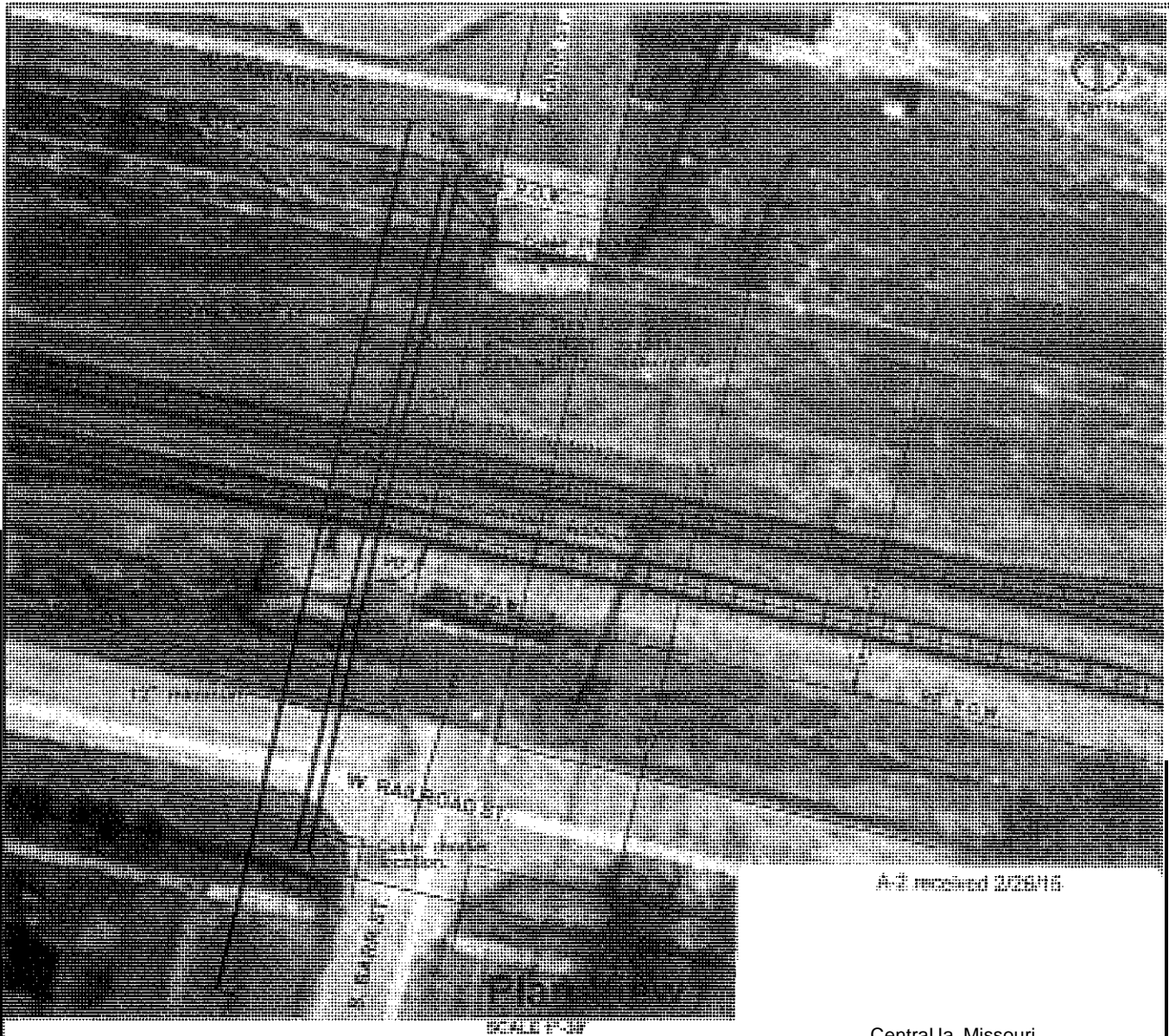
CITY OF CENTRALIA, MO

\_\_\_\_\_  
As to Licensee

By: \_\_\_\_\_

Title: \_\_\_\_\_

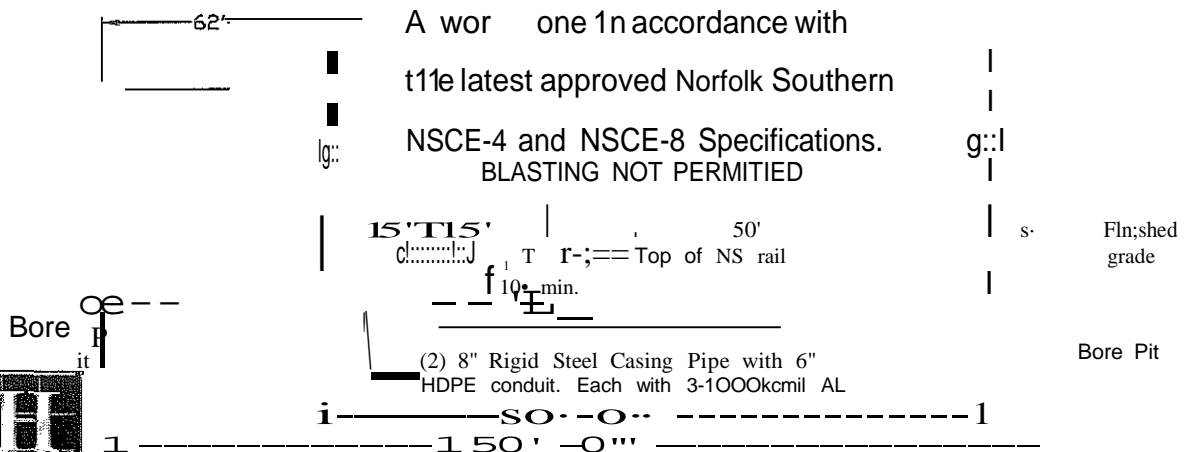
Activity Number: 1202145  
JML: March 3, 2015  
File No. 1273675v1



A-2 received 2/28/15

Centralia, Missouri  
Wabash RR Co.

Lat: N39.21341  
Long: W92.14091  
EX-1111



A work done in accordance with  
the latest approved Norfolk Southern  
NSCE-4 and NSCE-8 Specifications.  
BLASTING NOT PERMITTED

Top of NS rail

(2) 8" Rigid Steel Casing Pipe with 6"  
HDPE conduit. Each with 3-1000kcmil AL

Elevation View



BHM ENGINEERS INC.  
ARNOLD, MISSOURI 63010

City of Centralia, MO  
UG Electric Utility Bore #1  
Norfolk Southern Railroad Crossing

SCALE As shown	..... NO.
DATE 1/27/15	1078
DRAWN JS_M	DRAWING NO.
CHECKED	NS-E.2

630 JEFFCO BOULEVARD

CONDUIT DATA SHEET  
(For Telecom and Power Conduits only, 6" in diameter or less)

	CONDUIT ICASING PIPE
NOMINAL SIZE OF PIPE	6"/8"
MALE/FEMALE	HDPE/Steel
OUTSIDE DIAMETER	6.625"/8.625"
INSIDE DIAMETER	6.031"/8.250"
WALL THICKNESS - must be at least 0.188"	0.280"/0.188"
TYPE OF COATING	PVC/Steel

\* STEEL conduits required at least 10' depth below base of rail  
HDPE conduits will be considered at least 15' depth below

base of rail Proposed Method of Installation (Given sections refer to NSCE-8 Specification)

- D Jack & Bore (Section 5.1.3)
- IBJ Directional Boring Method "A" (Section 5.1.6) – *must have at least 10' depth below base of rail*
- D Directional Boring Method "B" (Section 5.1.6) – *only for casings 6 inches or less in diameter*
- D Open Cut (Section 5.1.2) – *All installations directly under any track must be designed as a bored installation Open cut installations will be considered on a case-by-case basis by Norfolk Southern's Division Superintendent at the time of installation*

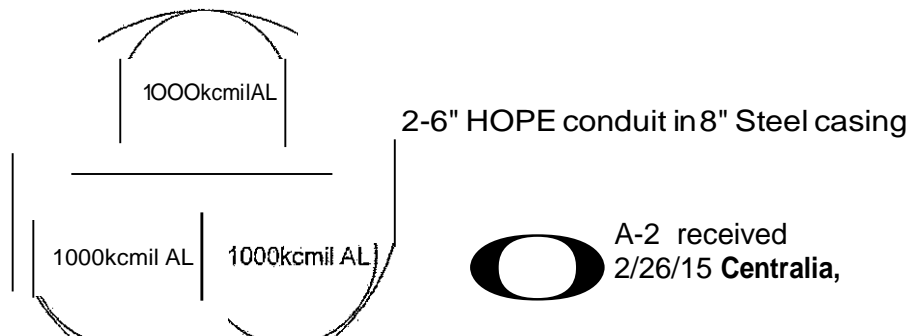
D Other - Please **Specify**: -----

MULTIPLE INNERDUCTS

NUMBER OF INNERDUCTS WITHIN CASING PIPE: 3

Provide a detail or cross section of the casing pipe with innerducts (see below).

Clearly mark the type of facility that will be installed within each innerduct. If innerduct will be left spare or empty, please identify as such.



Missouri Wabash  
RR Co.  
Lat: N39.21341  
Long: W92.  
14091

**A!:**COM



NORFOLK  
SOUTHERN

## **Exhibit B**

THIS AGREEMENT, dated as of the day of \_\_\_\_\_, 20\_\_ is made and entered into by and between.

NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, whose mailing address is Three Commercial Place, Norfolk, Virginia 23510 (hereinafter called "Railway"); and

CITY OF CENTRALIA, MO, a Municipality, whose mailing address is 114 S Rollins Street, Centralia, Missouri 65240 (hereinafter called "Licensee").

### WITNESSETH

WHEREAS, Licensee proposes to maintain, operate and remove an underground crossing of two (2) 8-inch steel conduits each with a 6-inch HDPE innerduct containing a 4.16KV electric power circuit (hereinafter called the "Facilities") located under and across, the right-of-way or property and any tracks of Railway, at or near:

- Milepost S-123.41, St. Louis-Moberly Line
- Latitude N39.21022, Longitude W92.12168
- Centralia, Boone County, Missouri

the same to be located in accordance with and limited to the installation shown on print of drawings marked Exhibit A, dated February 26, 2015 and Conduit Data Sheet attached hereto and made a part hereof; and

WHEREAS, Licensee desires a license to use such right-of-way or property of Railway for the maintenance, operation and removal of the Facilities.

NOW, THEREFORE, for and in consideration of the premises, the payment of a non-refundable, non-assignable one-time fee in the amount of FOUR THOUSAND SEVEN HUNDRED AND 00/100 DOLLARS (\$4,700.00) (hereinafter called the "Fee") to cover the Risk Financing Fee in the amount of \$1,000.00, and a one-time occupancy fee in the amount of \$3,700.00, and the covenants hereinafter set forth, Railway hereby permits and grants to Licensee, insofar as Railway has the right to do so, without warranty and subject to all encumbrances, covenants and easements to which Railway's title may be subject, the right to use and occupy so much of Railway's right-of-way or property as may be necessary for the maintenance, operation and removal of the Facilities (said right-of-way or property of Railway being hereinafter collectively called the "Premises"), upon the following terms and conditions:

1. Use and Condition of the Premises. The Premises shall be used by Licensee only for the maintenance, operation and removal of the Facilities and for no other purpose without the prior written consent of Railway, which consent may be withheld by Railway in its sole discretion. Licensee accepts the Premises in their current "as is" condition, as suited for the operation of the Facilities, and without the benefit of any improvements to be constructed by Railway.

2. **Installation of the Facilities; Railway Support.** Licensee shall, at its expense, install, construct, maintain and operate the Facilities on a lien-free basis and in such a manner as will not interfere with the operations of Railway, or endanger persons or property of Railway. Such installation, construction, maintenance and operation of the Facilities shall be in accordance with (a) the plans and specifications (if any) shown on the prints attached hereto and any other specifications prescribed by Railway, (b) applicable laws, regulations, ordinances and other requirements of federal, state and local governmental authorities, and (c) applicable specifications of the National Electric Safety Code, when not in conflict with the applicable plans, specifications, laws, regulations, ordinances or requirements mentioned in (a) and (b), above. Any change to the character, capacity or use of the Facilities shall require execution of a new agreement.

3. **Railway Support.** Railway shall, at Railway's option, furnish, at the sole expense of Licensee, labor and materials necessary, in Railway's sole judgment, to support its tracks and to protect its traffic (including, without limitation, flagging) during the maintenance, repair, renewal or removal of the Facilities.

4. **Electronic Interference.** If the Facilities cause degradation of Railway's signal, communications and other electronic systems (hereinafter collectively called the "Electronic Systems") or endanger Railway's personnel or other individuals entitled to be on or about the Premises, through inductive or electrostatic interference or otherwise, Licensee, at its expense, will modify the Facilities to the satisfaction of Railway so as to eliminate such degradation or danger. Such modifications may include, without limiting the generality of the foregoing, transposing circuits or providing additional shielding, reactance or other corrective measures deemed necessary by Railway. The provisions of this paragraph 4 shall apply to the Electronic Systems existing as of the date of this Agreement and to any Electronic Systems that Railway may install in the future.

5. **Corrective Measures.** If Licensee fails to take any corrective measures requested by Railway in a timely manner, or if an emergency situation is presented which, in Railway's judgment, requires immediate repairs to the Facilities, Railway, at Licensee's expense, may undertake such corrective measures or repairs as it deems necessary or desirable.

6. **Railway Changes.** If Railway shall make any changes, alterations or additions to the line, grade, tracks, structures, roadbed, installations, right-of-way or works of Railway, or to the character, height or alignment of the Electronic Systems, at or near the Facilities, Licensee shall, upon thirty (30) days prior written notice from Railway and at its sole expense, make such changes in the location and character of the Facilities as, in the opinion of the chief engineering officer of Railway, shall be necessary or appropriate to accommodate any construction, improvements, alterations, changes or additions of Railway.

7. **Assumption of Risk.** Unless caused solely by the negligence of Railway or caused solely by the willful misconduct of Railway, Licensee hereby assumes all risk of damage to the Facilities and Licensee's other property relating to its use and occupation of the Premises or business carried on the Premises and any defects to the Premises; and Licensee hereby indemnifies Railway, its officers, directors, agents and employees from and



against any liability for such damage.

8. Entry Upon Premises. Prior to commencement of any work to be performed on or about the Premises, Licensee shall notify the appropriate Division Engineer for the scheduling of protection and inspection. Within seventy-two (72) hours after the Division Engineer's actual receipt of such notification, the Division Engineer shall review the necessity and availability of flagmen for the proposed work and advise Licensee of such matters and the estimated cost therefor. No work shall be permitted on or about the Premises without the presence of Railway's flagman or the Division Engineer's waiver of the requirement for flag protection. Entry on or about the Premises or any other Railway right-of-way without the Division Engineer's prior approval shall be deemed trespassing. Licensee agrees to pay Railway, within thirty (30) days after delivery of an invoice therefor, for any protection and inspection costs incurred by Railway, in Railway's sole judgment, during any such entry.

9. Liens; Taxes. Licensee will not permit any mechanic's liens or other liens to be placed upon the Premises, and nothing in this Agreement shall be construed as constituting the consent or request of Railway, express or implied, to any person for the performance of any labor or the furnishing of any materials to the Premises, nor as giving Licensee any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that could give rise to any mechanic's liens or other liens against the Premises. In addition, Licensee shall be liable for all taxes levied or assessed against the Facilities and any other equipment or other property placed by Licensee within the Premises. In the event that any such lien shall attach to the Premises or Licensee shall fail to pay such taxes, then, in addition to any other right or remedy available to Railway, Railway may, but shall not be obligated to, discharge the same. Any amount paid by Railway for any of the aforesaid purposes, together with related court costs, attorneys' fees, fines and penalties, shall be paid by Licensee to Railway within ten (10) days after Railway's demand therefor.

10. Indemnification. Licensee hereby agrees to indemnify and save harmless Railway, its officers, directors, agents and employees, from and against any and all liabilities, claims, losses, damages, expenses (including attorneys' fees) or costs for personal injuries (including death) and property damage to whomsoever or whatsoever occurring (hereinafter collectively called "Losses") that arise in any manner from (a) the installation, construction, maintenance, operation, presence or removal of, or the failure to properly install, construct, maintain, operate or remove, the Facilities, or (b) any act, omission or neglect of Licensee, its agents, servants, employees or contractors in connection therewith, unless caused solely by the negligence of Railway or caused solely by the willful misconduct of Railway.

11. Insurance.

(a) Without limiting in any manner the liability and obligations assumed by Licensee under any other provision of this Agreement, and as additional protection to Railway, Licensee shall, at its expense, procure and maintain with insurance companies satisfactory to Railway, the insurance policies described in subparagraphs (i) and (ii).

- (i) Prior to commencement of installation or maintenance of the Facilities or entry on Railway's property, Licensee, and its contractor if it employs one, shall procure and maintain for the course of said installation and maintenance, a general liability insurance policy naming Railway as an additional insured, and containing products and completed operations and contractual liability coverage, with a combined single limit of not less than \$1,000,000 for each occurrence.
- (ii) Prior to commencement of any subsequent maintenance of the Facility during the term of this Agreement, unless Railway elects to make available and Licensee pays the then current risk financing fee for each affected installation Licensee, or its contractor if it employs one, shall furnish Railway with an original Railroad Protective Liability Insurance Policy naming Railway as the named insured and having a limit of not less than a combined single limit of \$2,000,000 each occurrence and \$6,000,000 aggregate. Such policy shall be written using Insurance Services Offices Form Numbers CG 00 35 01 10 01.

(b) All insurance required under preceding subsection (a) shall be underwritten by insurers and be of such form and content as may be acceptable to Railway. Prior to commencement of installation or maintenance of the Facilities or any entry on Railway's property, Licensee, or its contractor if it employs one, shall furnish to Railway's Risk Manager, Three Commercial Place, Norfolk, Virginia 23510-2191 (or such other representative and/or address as subsequently given by Railway to Licensee in writing), for approval, the original policy described in subsection (a)(ii) and a certificate of insurance evidencing the existence of a policy with the coverage described in subsection (a)(i).

12. Environmental Matters. Licensee assumes all responsibility for any environmental obligations imposed under applicable laws, regulations, ordinances or other requirements of federal, state and local governmental authorities relating to (a) the installation, construction, maintenance, operation or removal of the Facilities, including notification and reporting of any releases, and (b) any contamination of any property, water, air or groundwater arising or resulting, in whole or in part, from Licensee's operation or use of the Premises pursuant to this Agreement. In addition, Licensee shall obtain any necessary permits to install, construct, maintain, operate or remove the Facilities. Licensee agrees to indemnify and hold harmless Railway from and against any and all fines, penalties, demands or other Losses (including attorneys' fees) incurred by Railway or claimed by any person, company or governmental entity relating to (a) any contamination of any property, water, air or groundwater due to the use or presence of the Facilities on the Premises, (b) Licensee's violation of any laws, regulations or other requirements of federal, state or local governmental authorities in connection with the use or presence of the Facilities on the Premises or (c) any violation of Licensee's obligations imposed under this paragraph. Without limitation, this indemnity provision shall extend to any cleanup and investigative costs relating to any contamination of the Premises arising or resulting from, in whole or in part, Licensee's use of the Facilities or any other activities by or on behalf of Licensee occurring on or about the Premises. Licensee further agrees not to dispose of any trash, debris or wastes, including hazardous waste, on the Premises

and will not conduct any activities on the Premises which would require a hazardous waste treatment, storage or disposal permit.

13. Assignments and Other Transfers.

(a) Licensee shall not assign, transfer, sell, mortgage, encumber, sublease or otherwise convey (whether voluntarily, involuntarily or by operation of law) this Agreement or any interest therein, nor license, mortgage, encumber or otherwise grant to any other person or entity (whether voluntarily, involuntarily or by operation of law) any right or privilege in or to the Premises (or any interest therein), in whole or in part, without the prior written consent of Railway, which consent may be withheld by Railway in its sole discretion. Any such assignment or other transfer made without Railway's prior written consent shall be null and void and, at Railway's option, shall constitute an immediate default of this Agreement. Notwithstanding the foregoing, upon prior written notice to Railway, Licensee may assign this Agreement to a parent, a wholly-owned subsidiary of Licensee or a wholly-owned subsidiary of Licensee's parent without Railway's consent; provided, however, that no such assignment shall relieve Licensee of its obligations under this Agreement.

(b) Railway shall have the right to transfer and assign, in whole or in part, all its rights and obligations hereunder and in or to the Premises. From and after the effective date of any such assignment or transfer, Railway shall be released from any further obligations hereunder; and Licensee shall look solely to such successor-in-interest of Railway for the performance of the obligations of "Railway" hereunder.

14. Meaning of "Railway". The word "Railway" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by Railway. Said term also shall include Railway's officers, directors, agents and employees, and any parent company, subsidiary or affiliate of Railway and their respective officers, directors, agents and employees.

15. Default; Remedies.

(a) The following events shall be deemed to be events of default by Licensee under this Agreement:

(i) Licensee shall fail to pay the Fee or any other sum of money due hereunder and such failure shall continue for a period of ten (10) days after the due date thereof;

(ii) Licensee shall fail to comply with any provision of this Agreement not requiring the payment of money, all of which terms, provisions and covenants shall be deemed material, and such failure shall continue for a period of thirty (30) days after written notice of such default is delivered to Licensee;

(iii) Licensee shall become insolvent or unable to pay its debts as they become due, or Licensee notifies Railway that it anticipates either condition;

(iv) Licensee takes any action to, or notifies Railway that Licensee intends to file a petition under any section or chapter of the United States Bankruptcy Code, as amended from time to time, or under any similar law or statute of the United States or any State thereof; or a petition shall be filed against Licensee under any such statute; or

(v) A receiver or trustee shall be appointed for Licensee's license interest hereunder or for all or a substantial part of the assets of Licensee, and such receiver or trustee is not dismissed within sixty (60) days of the appointment.

(b) Upon the occurrence of any event or events of default by Licensee, whether enumerated in this paragraph 15 or not, Railway shall have the option to pursue any remedies available to it at law or in equity without any additional notices to Licensee. Railway's remedies shall include, but not be limited to, the following: (i) termination of this Agreement, in which event Licensee shall immediately surrender the Premises to Railway; (ii) entry into or upon the Premises to do whatever Licensee is obligated to do under the terms of this License, in which event Licensee shall reimburse Railway on demand for any expenses which Railway may incur in effecting compliance with Licensee's obligations under this License, but without rendering Railway liable for any damages resulting to Licensee or the Facilities from such action; and (iii) pursuit of all other remedies available to Railway at law or in equity, including, without limitation, injunctive relief of all varieties.

16. Railway Termination Right. Notwithstanding anything to the contrary in this Agreement, Railway shall have the right to terminate this Agreement and the rights granted hereunder, after delivering to Licensee written notice of such termination no less than sixty (60) days prior to the effective date thereof, upon the occurrence of any one or more of the following events:

(a) If Licensee shall discontinue the use or operations of the Facilities; or

(b) If Railway shall be required by any governmental authority having jurisdiction over the Premises to remove, relocate, reconstruct or discontinue operation of its railroad on or about the Premises; or

(c) If Railway, in the good faith judgment of its Superintendent, shall require a change in the location or elevation of its railroad on or about the location of the Facilities or the Premises that might effectively prohibit the use or operation of the Facilities; or

(d) If Railway, in the good faith judgment of its Superintendent, determines that the maintenance or use of the Facilities unduly interferes with the operation and maintenance of the facilities of Railway, or with the present or future use of such property by Railway, its lessees, affiliates, successors or assigns, for their respective purposes.

17. **Condemnation.** If the Premises or any portion thereof shall be taken or condemned in whole or in part for public purposes, or sold in lieu of condemnation, then this Agreement and the rights granted to Licensee hereunder shall, at the sole option of Railway, forthwith cease and terminate. All compensation awarded for any taking (or sale proceeds in lieu thereof) shall be the property of Railway, and Licensee shall have no claim thereto, the same being hereby expressly waived by Licensee.

18. **Removal of Facilities; Survival.** The Facilities are and shall remain the personal property of Licensee. Upon the expiration or termination of this Agreement, Licensee shall remove the Facilities from the Premises within thirty (30) days after the effective date thereof. In performing such removal, unless otherwise directed by Railway, Licensee shall restore the Premises to the same condition as existed prior to the installation or placement of Facilities, reasonable wear and tear excepted. In the event Licensee shall fail to so remove the Facilities or restore the Premises, the Facilities shall be deemed to have been abandoned by Licensee, and the same shall become the property of Railway for Railway to use, remove, destroy or otherwise dispose of at its discretion and without responsibility for accounting to Licensee therefor; provided, however, in the event Railway elects to remove the Facilities, Railway, in addition to any other legal remedy it may have, shall have the right to recover from Licensee all costs incurred in connection with such removal and the restoration of the Premises. Notwithstanding anything to the contrary contained in this Agreement, the expiration or termination of this Agreement, whether by lapse of time or otherwise, shall not relieve Licensee from Licensee's obligations accruing prior to the expiration or termination date, and such obligations shall survive any such expiration or other termination of this Agreement.

19. **Entire Agreement.** This Agreement contains the entire agreement of Railway and Licensee and supersedes any prior understanding or agreement between Railway and Licensee respecting the subject matter hereof; and no representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement shall be of any force or effect.

20. **Attorneys' Fees.** If Railway should bring any action under this Agreement, or consult or place the Agreement or any amount payable by Licensee hereunder, with an attorney concerning or for the enforcement of any of Railway's rights hereunder, then Licensee agrees in each and any such case to pay to Railway all costs, including but not limited to court costs and attorneys' fees, incurred in connection therewith.

21. **Severability.** If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby; and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

22. **Modifications; Waiver; Successors and Assigns.** This Agreement may not be altered, changed or amended, except by instrument in writing signed by both parties hereto. No

provision of this Agreement shall be deemed to have been waived by Railway unless such waiver shall be in a writing signed by Railway and addressed to Licensee, nor shall any custom or practice that may evolve between the parties in the administration of the terms hereof be construed to waive or lessen the right of Railway to insist upon the performance by Licensee in strict accordance with the terms hereof. The terms and conditions contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. If there shall be more than one Licensee, the obligations hereunder imposed upon Licensee shall be joint and several.

23. Notice. Any and all other notices, demands or requests by or from Railway to Licensee, or Licensee to Railway, shall be in writing and shall be sent by (a) postage paid, certified mail, return receipt requested, or (b) a reputable national overnight courier service with receipt therefor, or (c) personal delivery, and addressed in each case as follows:

If to Railway:  
c/o Norfolk Southern Corporation  
1200 Peachtree Street, NE – 12th Floor  
Atlanta, Georgia 30309-3504  
Attention: Director Contract Services

If to Licensee:  
City of Centralia, MO  
114 S Rollins Street  
Centralia, Missouri 65240  
Attention: City Administrator

Either party may, by notice in writing, direct that future notices or demands be sent to a different address. All notices hereunder shall be deemed given upon receipt (or, if rejected, upon rejection).

24. Miscellaneous. All exhibits, attachments, riders and addenda referred to in this License are incorporated into this Agreement and made a part hereof for all intents and purposes. Time is of the essence with regard to each provision of this Agreement. This Agreement shall be construed and interpreted in accordance with and governed by the laws of the State in which the Premises are located. Each covenant of Railway and Licensee under this Agreement is independent of each other covenant under this Agreement. No default in performance of any covenant by a party shall excuse the other party from the performance of any other covenant. The provisions of Paragraphs 7, 9, 10, 12 and 18 shall survive the expiration or earlier termination of this Agreement.

25. Limitations of Grant. Licensee acknowledges that the license granted hereunder is a quitclaim grant, made without covenants, representations or warranties with respect to Railway's (a) right to make the grant, (b) title in the Premises, or (c) right to use or make available to others the Premises for the purposes contemplated herein. Railway is the owner

and/or holder of the Premises subject to the terms and limitations under which it is owned or held, including without limitation conditions, covenants, restrictions, easements (including any pre-existing fiber optic easements or licenses), encroachments, leases, licenses, permits, mortgages, indentures, reversionary interests, fee interests, zoning restrictions and other burdens and limitations, of record and not of record, and to rights of tenants and licensees in possession, and Licensee agrees that the rights licensed hereunder are subject and subordinate to each and all of the foregoing. Licensee accepts this grant knowing that others may claim that Railway has no right to make it, and Licensee agrees to release, hold harmless and indemnify (and, at Railway's election, defend, at Licensee's sole expense, with counsel approved by Railway) Railway, its affiliated companies, and its and their respective officers, directors, agents and employees, from and against any detriments to, or liabilities of, any type or nature arising from such claims, including punitive damages and any forfeitures declared or occurring as a result of this grant.

26. Limitations Upon Damages. Notwithstanding any other provision of this Agreement, Railway shall not be liable for breach of this Agreement or under this Agreement for any consequential, incidental, exemplary, punitive, special, business damages or lost profits, as well as any claims for death, personal injury, and property loss and damage which occurs by reason of, or arises out of, or is incidental to the interruption in or usage of the Facilities placed upon or about the Premises by Licensee, including without limitation any damages under such claims that might be considered consequential, incidental, exemplary, punitive, special, business damages or loss profits.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, each part being an original, as of the date first above written.

Witness:  
COMPANY

NORFOLK SOUTHERN RAILWAY

\_\_\_\_\_  
As to Railway

By :  
Real Estate Manager

Witness:

CITY OF CENTRALIA, MO


\_\_\_\_\_  
As to Licensee

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Activity Number 1202146  
JML: March 9, 2015  
File No. 1275269v1



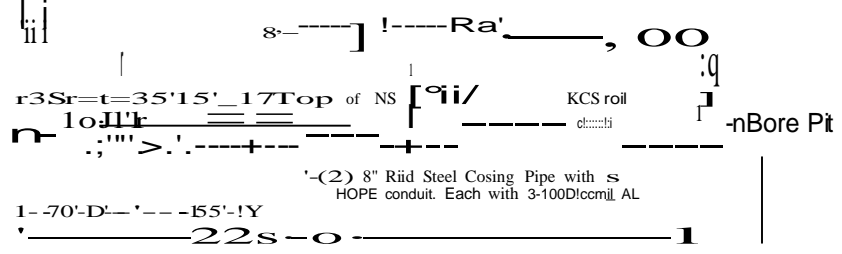



 Bore Pit located 200' W of  
 Centralia, Missouri  
 Wabash RR Co.  
 Lat: N39.21022  
 Long: W92.12168

SCALE 1"=40'

All work done in accordance with  
 the test approved Nortolk Southern  
 NS-4 and NSCE-8 Specifications.

BLASTING NOT PERMITTED



**Elevation View**

**EXHIBIT**

SCALE 1"=50'

1202176



BHMG ENGINEERS INC.  
 630 JEFFCO BOULEVARD  
 ARNOLD, MISSOURI 63010

TELE: (636) 295-8600

FAX: (636) 29&-Ba11

City of Centralia, MO  
 UG Electric Utllty Bore #2

Norfolk Southern RR Crossing  
 (South of N. Switzler St. & Hwy Z2)

SCALE <u>As shown</u>	JOB NO.
DAIE <u>1/27/15</u>	1078
DRAWN <u>Jrud</u>	NS-E.3
CHECKED <u>E41</u>	
REVISION <u>0</u>	

1202146

Revised: 10/15/14

CONDUIT DATA SHEET  
(For Telecom and Power Conduits only, 6" in diameter or less)

	CONDUIT/CASING PIPE
NOMINAL SIZE OF PIPE	6"/8H
MATERIAL	HOBELS Steel
OUTSIDE DIAMETER	6.625"/8.625"
INSIDE DIAMETER	6.031"/8.250"
WALL THICKNESS - must be at least 0.188"	0-280"/0.188"
TYPE OF COATING	PVC/Steel

\* STEEL conduits required at least 10' depth below base of rail  
HDPE conduits will be considered at least 15' depth below base of rail

Proposed Method of Installation (Given sections refer to NSCE-8 Specification)

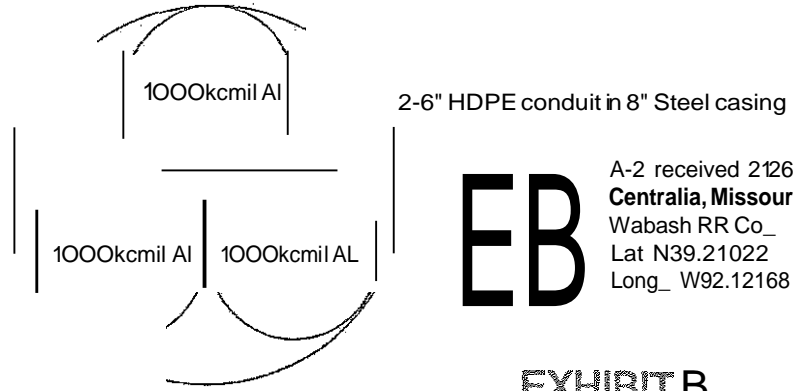
- D Jack & Bore (Section 5.1-3)
- [8J] Directional Boring Method "A" (Section 5.1.6) - must have at least 10' depth below base of rail
- D Directional Boring Method "B" (Section 5.1.6) - only for casings 6 inches or less in diameter
- D Open Cut (Section 5.1.2) - All installations directly under any track must be designed as a bored installation. Open cut installations will be considered on a case-by-case basis by Norfolk Southern's Division Superintendent at the time of installation
- D Other - Please Specify: \_\_\_\_\_

MULTIPLE INNERDUCTS

NUMBER OF INNERDUCTS WITHIN CASING PIPE: 3

Provide a detail or cross section of the casing pipe with innerducts (see below).

Clearly mark the type of facility that will be installed within each innerduct. If innerduct will be left spare or empty, please identify as such.



A-2 received 2/26/15  
Centralia, Missouri  
Wabash RR Co\_  
Lat N39.21022  
Long W92.12168

EXHIBIT B

COM



NORFOLK  
SOUTHERN

A BILL TO CREATE AN ORDINANCE ENTITLED:

“AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK OF THE CITY OF CENTRALIA, MISSOURI, TO EXECUTE TWO CONTRACTS WITH THE KANSAS CITY SOUTHERN RAILWAY COMPANY OF KANSAS CITY, MISSOURI FOR PERMITS FOR THE PURPOSE OF INSTALLING ELECTRICAL CONDUIT UNDER THE RAILWAY’S RIGHT OF WAY, EACH FOR A FEE OF TWELVE THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$12,500.00).”

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CENTRALIA, MISSOURI, as follows:

SECTION 1. The Mayor and City Clerk of the City of Centralia, Missouri are hereby authorized and directed to execute two Contracts with the Kansas City Southern railway company of Kansas City, Missouri for Permits for the purpose of installing electrical conduit under the railway’s right of way each for the a of Twelve Thousand Five Hundred Dollars and No Cents (\$12,500.00).

SECTION 2. The terms and conditions of these two Agreements are essentially described in Exhibit A and Exhibit B attached hereto.

SECTION 3. This ordinance shall take effect and be in full force and effect from and after the date of its passage and approval.

PASSED this 4th day of May, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

This ordinance approved by the Mayor this 4th day of May, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

# Exhibit A

JLL Reference No. 15-2534

## WIRE CROSSING CONTRACT (KCS Contract No. \_\_\_\_\_)

THIS AGREEMENT, made and entered into this 23<sup>rd</sup> day of April, 2015, by and between **THE KANSAS CITY SOUTHERN RAILWAY COMPANY**, a Missouri corporation, hereinafter referred to as "Railway Company", and **CITY OF CENTRALIA, MO**, to be addressed at 114 S. Rollins St., Centralia, MO 65240, hereinafter referred to as "Licensee".

WITNESSETH:

WHEREAS, Licensee desires to construct and maintain wires, hereinafter described, across the right-of-way and tracks of Railway Company and across the telephone, telegraph, signal and other wires of Railway Company and The Western Union Telegraph Company, the latter wires being hereinafter referred to as "Company wires";

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **PERMIT FOR CROSSING:** For the sole convenience and accommodation of Licensee, at its sole risk and expense, and in consideration of the covenants of Licensee hereinafter set forth, Railway Company, without any warranty or guarantee of suitability of the premises for Licensee's or any other purpose, hereby permits Licensee to construct, maintain and operate a crossing (herein referred to as wire crossing), the course of the wire crossing being described as follows:

One (1) electric wire line crossing Railway Company right-of-way and tracks at Mile Post AD-340.14 (Mexico Subdivision), Centralia (Boone County), MO, as indicated on print of drawing no. 15-2534 dated 03-03-2015 and approved 04-01-2015, marked Exhibit "A", attached hereto and incorporated herein by reference.

The rights granted under this License are subject to all outstanding superior rights whether or not of record (including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railway Company to renew and extend the same, and is made without covenant of title, or for quiet enjoyment. Railway Company does not warrant title and Licensee accepts the rights granted herein and shall make no claim against Railway Company for deficiency of title. Licensee acknowledges that the Railway Company's interest in the right-of-way varies from segment to segment and may include lesser interests than fee title. Licensee shall, at Licensee's sole cost and expense, obtain any and all necessary rights and consents from parties other than Railway Company which may have or claim any right, title or interest in the property upon which the Railway Company's right-of-way is located.

2. **SPECIFICATIONS:** Licensee's 6.625" x 50' HDPE wire carrier crossing having a minimum wall thickness of 0.280" and shall be encased in a 8.625" x 50' steel casing pipe having a minimum wall thickness of 0.188" and shall be placed at a depth of not less than 10' below the base of the rail in the tracks of the Railway Company, nor less than a minimum of 6' below the ditch and all other points upon the right of way. The Licensee shall safeguard its wire at the points where the same enter and leave said casing so as not to obstruct the right of way or endanger persons or trains or the passage of persons over said right of way. The Licensee shall protect its wire at the points where the same enters and leaves said casing, so as to afford no obstruction or risk to trains or the passage of persons over said right-of-way. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 60-250.5, 60-741.5, and 29 C.F. R. part 470, relating to equal employment opportunity, if applicable. Locations of the wire crossing shall be marked and markers maintained and plainly visible at the right-of-way lines. Installation shall be by directional bore method and no boring or excavation shall occur within Railway Company's right of way, nor shall any boring occur in the track embankment. The angle of the wire crossing beneath Railway Company's property and tracks shall be no less than 90°.

3. **MATERIAL AND WORKMANSHIP:** Material and workmanship shall be satisfactory to Railway Company's authorized representative or the railroad then operating over the track regarding both as to renewal and repair. Licensee shall not enter nor commence construction on or under Railway Company's property or right-of-way unless accompanied by a qualified construction observer and flagger to oversee Licensee's work on Railway Company's property or right-of-way. Licensee will be responsible for all construction observer, flagging and mobilization costs, herein referred to as

“Services”, and arranging for these necessary Services associated with the installation. To enable arrangements to oversee for these Services that are to be performed under this Agreement, Licensee must submit a written scheduling request to Railway Company’s Scheduling Agent, hereinafter referred to as “Scheduling Agent”, which request is received by the Scheduling Agent for approved Railway Company qualified construction observer and flagging contractor a minimum of thirty (30) Business Days in advance before Licensee proposes to commence work on or under Railway Company’s property or right-of-way. (A “Business Day” is any day Monday through Friday which is neither a federal holiday nor a state holiday at the address of Railway Company’s scheduling agent stated below.) The request must contain Licensee’s name, the date of this Agreement, the location of the work to be performed, and how many consecutive Business Days will be required for Licensee to complete the work. Licensee’s request must be delivered to Scheduling Agent by contacting Bartlett & West at 785-228-3101 to leave a message and/or by sending an email to [kcscrossings@bartwest.com](mailto:kcscrossings@bartwest.com).

Licensee will, upon receipt of an invoice from Scheduling Agent specifying in reasonable detail Scheduling Agent’s costs and expenses of providing these Services, reimburse Scheduling Agent for all of their costs and expenses of providing an inspection, flagging and mobilization prior to installation.

Railway Company’s designation of a company or individual as a “qualified” flagger or flagger provider, or Scheduling Agent, shall be construed solely as Railway Company’s willingness to allow said individual or entity to provide Services on Railway Company’s property or right-of-way without further proof of qualification, and shall not be construed as an endorsement or other verification of the abilities or qualifications of said Scheduling Agent by Railway Company. All flaggers or Scheduling Agents provided herein shall be treated solely as independent contractors of Licensee, with no relationship to Railway Company, for all purposes herein. Licensee and its agents, employees and contractors will clear the tracks when directed to do so by the flagger. The presence of the flagger will not relieve Licensee of its duty to keep all of its agents, employees and contractors clear of the tracks when trains are in dangerous proximity to the licensed area. The actions or inactions of the flagger shall be construed for all purposes herein as the actions or inactions of the Licensee, and shall be governed by Licensee’s duties of indemnification, and saving harmless under Section 9 of this Agreement.

If Licensee’s scheduling request fails to reach Scheduling Agent at least thirty (30) Business Days before Licensee’s proposed commencement of work, Railway Company may refuse to allow commencement of the work on the Licensee’s proposed commencement date. If Railway Company will not allow the work to proceed on Licensee’s proposed commencement date because the scheduling request did not reach Scheduling Agent in time, Railway Company will inform Licensee of this fact as promptly as possible and work with Licensee to arrange an alternative commencement date for the work.

The construction observer and flagger will remain at the site on a reasonably continuous basis to oversee the work, and charges will accrue for each day spent awaiting the completion of the work and the installation of appropriate signs marking where Licensee’s facilities enter and leave Railway Company’s property and right-of-way. If installation takes longer than contracted for with Scheduling Agent, Licensee will, upon receipt of an invoice from Scheduling Agent specifying in reasonable detail Scheduling Agent’s costs and expenses of providing the inspection, flagging and mobilization, reimburse Scheduling Agent for all of Scheduling Agent’s costs and expenses of providing an inspector, flagger and mobilization.

Once Licensee has submitted its scheduling request to Scheduling Agent, should Licensee require a change to the scheduled date, Licensee shall provide Scheduling Agent at least two (2) Business Days’ notice prior to the requested start date of the work. If Licensee fails to provide two (2) Business Days’ notice of the change, Licensee shall be charged, and agrees to pay, the daily rate, and any travel costs actually incurred, for the construction observer, flagging and mobilization for one (1) day.

4. **POLES:** Licensee shall not erect or cause to be erected any poles, anchors or guy wires upon the right-of-way of Railway Company except as indicated upon the attached Exhibit A, and which poles, anchors and guy wires shall not be placed nearer than twelve (12) feet from the nearest rail of any main track or nearer than nine (9) feet from the nearest rail of any side track.

5. **ADOPT MODERN METHODS:** Licensee shall, at all times, at its own expense, adopt and maintain the most effective system and use the best known and most effective methods approved by Railway Company to protect the property of Railway Company, including Company wires, from interference and physical hazard.

6. **MAINTENANCE:** Licensee shall maintain the wire crossing to conform to the requirements of Section 2 hereof, and shall make frequent inspections of the crossing for that purpose. If it shall come to the attention of Railway Company that the same is not being so maintained, Licensee will, on written request of Railway Company, at any time, promptly make such renewals or repairs in wire crossing as shall be designated by Railway Company, and if Licensee fails within ten (10) days to comply with such request, Railway Company may make such renewals and repairs, the cost of which Licensee agrees to pay, or Railway Company may, at its option, wholly remove the crossing wires, and the supporting structures, conduits and appurtenances from the right-of-way.

7. **ADDITIONAL WIRES OF LICENSEE** In the event Licensee desires to install additional wires at the crossing in the locations hereinbefore described on the same poles, or towers, or in the same conduits, hereinbefore provided for, Licensee shall first obtain Railway Company's written consent for the construction or installation of such additional wires.

8. **CHANGES HEREAFTER MADE BY RAILWAY COMPANY:** If at any time during the term of this Agreement, it shall become necessary or desirable for Railway Company to build additional track or tracks, depots, yards, or any other structure that may be necessary or desirable in connection with the operation and maintenance of Railway Company, or to change the grade or location of its track or tracks, or if changes in or additions to Company wires or poles used in connection therewith shall become necessary, or if it shall become necessary to do any work to comply with the requirements of Railway Company, or with the demands which may hereafter by law be prescribed with reference to the crossing, Licensee shall, at its own cost and expense, within thirty (30) days after receipt of written notice from Railway Company so to do, relocate, rearrange, reconstruct or revise the wire crossing in such manner as to conform to the requirements of Railway Company.

9. **CONSIDERATION, INDEMNITY: IN CONSIDERATION OF THE LICENSE AND PERMISSION HEREIN GRANTED, LICENSEE ASSUMES AND AGREES TO INDEMNIFY, SAVE AND HOLD HARMLESS RAILWAY COMPANY, ITS OFFICERS, EMPLOYEES, SERVANTS, AGENTS, REPRESENTATIVES, AND OTHER COMPANIES OPERATING TRAINS OVER ITS TRACKS FROM ANY CLAIMS OR DEMANDS (WHETHER ARISING IN OR BASED UPON TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) (INCLUDING LEGAL FEES AND COURT COSTS) MADE BY ANY AND ALL PERSONS FOR ACCIDENTS, INJURIES OR LOSSES ARISING FROM OR GROWING OUT OF THE PRESENCE, USE OR OPERATION OF LICENSEE'S POLES, TOWERS, WIRES AND APPURTENANCES ON RAILWAY COMPANY'S RIGHT-OF-WAY, OR FROM THE ESCAPE OF CURRENT THEREFROM, OR FROM THE BREACH OF ANY OF THE TERMS OR CONDITIONS OF THIS AGREEMENT BY LICENSEE, AND FROM ANY PAYMENTS WHICH RAILWAY COMPANY AND OTHER COMPANIES, OR ANY OF THEM, MAY MAKE TO ITS OR THEIR EMPLOYEES AND THEIR BENEFICIARIES, OR ANY OF THEM UNDER THE PROVISIONS OF ANY COMPENSATION LAW OR OTHER SIMILAR LAW OR UNDER THE PROVISIONS OF ANY PLAN FOR EMPLOYEES' BENEFITS ADOPTED BY RAILWAY COMPANY AND OTHER COMPANIES, OR ANY OF THEM, IN SETTLEMENT FOR ACCIDENTS OR INJURIES ARISING FROM OR GROWING OUT OF THE FAILURE OF LICENSEE TO CONSTRUCT AND MAINTAIN THE WIRE CROSSING AS HEREIN PROVIDED. LICENSEE SHALL INDEMNIFY, SAVE AND HOLD HARMLESS THE AFOREMENTIONED COMPANIES AS PROVIDED IN THIS SECTION UNLESS SUCH LOSS ARISES OUT OF THE SOLE NEGLIGENCE OF THOSE COMPANIES.**

**LICENSEE RECOGNIZES THE DANGER INCIDENT TO THE OPERATION OF TRAINS OVER THE TRACKS OF RAILWAY COMPANY IN THE VICINITY OF THE WIRE CROSSING, AND AGREES TO ADOPT AND ENFORCE UPON ITS EMPLOYEES ENGAGED IN CONSTRUCTING, RECONSTRUCTING OR**

**MAINTAINING THE WIRE CROSSING PROPER RULES AND REGULATIONS FOR THEIR SAFETY WHILE ON OR NEAR SUCH TRACKS, AND LICENSEE ASSUMES ALL LIABILITY FOR INJURIES TO ALL PERSONS ENGAGED IN SUCH WORK AND AGREES TO INDEMNIFY, SAVE AND HOLD HARMLESS RAILWAY COMPANY, ITS OFFICERS, EMPLOYEES, SERVANTS, AGENTS, REPRESENTATIVES AND OTHER COMPANIES OPERATING TRAINS OVER ITS TRACKS FROM ANY LIABILITY FOR SUCH INJURIES EXCEPT WHEN THE SAME IS CAUSED BY THE SOLE NEGLIGENCE OF RAILWAY COMPANY OR SUCH OTHER COMPANIES, ITS OR THEIR EMPLOYEES.**

**LICENSEE AGREES TO REIMBURSE AND PAY RAILWAY COMPANY, OR SUCH OTHER COMPANIES, ANY JUDGMENTS, COSTS, AND EXPENSES OR AMOUNTS PAID OUT IN SETTLEMENT, WHICH THEY OR ANY OF THEM MAY BE PUT TO OR MAY BE COMPELLED TO PAY ON ACCOUNT OF ANY CLAIMS ARISING UNDER LICENSEE'S DUTIES OF INDEMNIFICATION, SAVING AND HOLDING HARMLESS. THIS AGREEMENT IS MADE IN PART FOR THE BENEFIT OF OTHER COMPANIES OPERATING OVER RAILWAY COMPANY'S TRACKS AND ANY OF THE COMPANIES MAY SUE TO ENFORCE THE PROVISIONS HEREOF, EITHER JOINTLY OR SEVERALLY, AS THEIR INTERESTS MAY BE JOINT OR SEVERAL. NONE OF THE COMPANIES SHALL BE LIABLE FOR ANY DAMAGE (EXCEPT THAT WILLFULLY DONE) TO THE WIRE CROSSING, HOWEVER CAUSED.**

It shall be the exclusive duty and responsibility of Licensee to inspect the property subject to this Agreement to make sure that it is safe for the entry of its employees, agents and contractors. Licensee shall advise all of its employees, agents and contractors entering the property of any safety hazards on the property, including, without limitation, the presence of moving vehicles, buried cables, tripping hazards and overhead wires. Licensee shall instruct all of its employees, agents and contractors entering the property that all persons, equipment and supplies must maintain a distance of at least twenty-five (25) feet from the centerline of the track unless authorized by the on-site railroad flagman to be closer than twenty-five (25) feet. Licensee shall ensure that no personnel, equipment or supplies under its control are within the clearance point of the track when moving railroad equipment may be seen from or heard at the property subject to this Agreement.

10. **OTHERS NOT TO USE:** Licensee shall have no right to permit others to install wires in the crossing, but if done, then the obligations, duties and liabilities herein imposed upon Licensee shall be the same as to such wires, as though they were the wires of Licensee, and Railway Company shall retain all remedies against Licensee for breach of this Agreement.

11. **FEES:** Licensee agrees to pay to Railway Company for the use of Railway Company's right-of-way and the privilege hereby granted, such use and privilege being expressly limited to the facilities described in Section 1 above, the one-time sum of TWELVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$12,500.00) upon execution of this Agreement. Licensee shall pay Railway Company an additional license fee, set in accordance with Railway Company's then current fee schedule, for any additional pipelines, wires or facilities permitted by Railway Company and associated with the crossing.

12. **TAXES:** Licensee shall promptly pay all taxes, assessments and other governmental or municipal charges upon its property located upon the right-of-way of Railway Company and comply with all governmental or municipal rules and regulations covering the operation of electrical transmission lines of the character constructed, erected or operated hereunder.

13. **TERM:** The term of this Agreement shall be for a period of ten (10) years, beginning on the date first written above, and will automatically renew at the end of the initial ten (10) year term for additional one (1) year periods until cancelled by either party upon thirty (30) days advance notice. Notwithstanding the above, either party may terminate this Agreement at any time upon thirty (30) days written notice.

This Agreement shall continue so long as the wire crossing does not interfere with the property or the development, enlargement or improvement of the property of Railway Company, or in the opinion of the Chief Engineer of Railway Company, the wire crossing does not constitute a hazard to Railway Company's property or employees. If and when Railway

Company shall require the removal of the wire crossing and another mutually satisfactory location can be found upon Railway Company's right-of-way, then the wire crossing shall be moved by Licensee promptly and at its own expense to such new location. However, if another location mutually satisfactory cannot be found for the wire crossing, then the same shall, within thirty (30) days after notice thereof to Licensee, be removed from Railway Company's right-of-way by Licensee at its own expense. If at any time Licensee shall fail to maintain its wire crossing as herein required, or such wire crossing shall, in the opinion of Railway Company's Chief Engineer, become a hazard to its property or to its employees, then the wire crossing shall be relocated, as hereinbefore provided, or shall be removed from Railway Company's premises within thirty (30) days after notice from Railway Company to remove the wire crossing.

Neither the service of the notice herein provided for, nor the termination of this Agreement shall operate in any manner whatsoever to relieve or release Licensee from any obligations or liability to Railway Company theretofore accruing under the terms hereof.

Upon the termination of this Agreement in any manner Licensee shall immediately remove its property from the right-of-way, and in the event of its failure so to do, Railway Company may remove the same at the cost of Licensee.

Rights herein granted are personal and may not be assigned without Railway Company's written consent. However, the provisions of this Agreement shall be binding upon the successors and assigns of both of the parties.

14. **INTERFERENCE:** If the operation or maintenance of the wire crossing shall at any time cause interference, including, but not limited to, physical interference from electromagnetic induction, electrostatic induction, or from stray or other currents with the facilities of Railway Company or of any lessee or licensee of Railway Company, or in any manner interferes with the operation, maintenance or use by Railway Company of its right-of-way, tracks, structures, pole lines, signal and communication lines, radio or other equipment, devices, other property or appurtenances thereto, Licensee agrees immediately to make such changes in its own lines and furnish such protective devices to Railway Company and its lessees or licensees as shall be necessary in the judgment of Railway Company's representative to eliminate such interference. The cost of such protective equipment and its installation shall be borne solely by Licensee.

In the event that the methods above set forth fail to eliminate such interference, and it is deemed necessary by the proper officer of Railway Company having jurisdiction therein that any or all facilities of Railway Company or of any lessee or licensee thereof shall be relocated, reconstructed or otherwise changed, the entire cost of such changes shall be borne by Licensee.

The current due to electrostatic effects shall not exceed 5.0 milliamperes, rms, to ground. In the event it is determined that such current, at any time, exceeds 5.0 milliamperes, rms, Railway Company shall have the right to require such installation or modification as may be necessary to reduce the current to 5.0 milliamperes, rms, or less, and the entire cost of the installation or modification shall be borne by Licensee.

15. **ENVIRONMENTAL CLAUSE:** Licensee shall not permit hazardous waste, hazardous substances or hazardous materials on or in the area covered by this Agreement without the written consent of Railway Company.

Licensee shall at all times keep the area covered by this Agreement in a safe, clean and sanitary condition, and shall not mutilate, damage, misuse, alter or permit waste therein. Should any discharge, leakage, spillage or emission of any hazardous waste, hazardous substance or hazardous material or pollution of any kind occur upon, in, into, under or from the area covered by this Agreement during Licensee's use and occupancy thereof, Licensee, at its sole cost and expense, shall clean all property affected thereby, to the satisfaction of Railway Company and any governmental body having jurisdiction thereover.

Licensee shall comply with all applicable ordinances, rules, regulations, requirements and laws whatsoever including (by way of illustration only and not by way of limitation) any governmental authority or court controlling environmental standards and conditions on the premises and shall furnish satisfactory evidence of such compliance upon



request by Railway Company. **IF, AS A RESULT OF LICENSEE'S OPERATION HEREUNDER, ANY SUCH ORDINANCE, RULE, REGULATION, REQUIREMENT, DECREE, CONSENT DECREE, JUDGMENT, PERMIT OR LAW IS VIOLATED, OR IF, AS A RESULT OF ANY ACTION BY LICENSEE, ANY HAZARDOUS OR TOXIC WASTE, MATERIALS OR SUBSTANCES SHOULD ENTER OR OTHERWISE AFFECT ANY PART OF THE AREA COVERED BY THIS AGREEMENT (INCLUDING SURFACE, SUBSURFACE, AIRBORNE AND/OR GROUND CONTAMINATION), LICENSEE SHALL INDEMNIFY, SAVE AND HOLD HARMLESS RAILWAY COMPANY, ITS OFFICERS, EMPLOYEES, SERVANTS AGENTS, AND REPRESENTATIVES FROM AND AGAINST ANY PENALTIES, FINES, COSTS, RESPONSE, REMEDIAL, REMOVAL AND CLEAN-UP COSTS, CORRECTIVE ACTION, NATURAL RESOURCE DAMAGE AND DAMAGES AND EXPENSES OF ANY OTHER NATURE WHATSOEVER, INCLUDING LEGAL FEES AND COURT COSTS, IMPOSED UPON OR INCURRED BY RAILWAY COMPANY, CAUSED BY, RESULTING FROM OR IN CONNECTION WITH SUCH VIOLATION OR VIOLATIONS.**

**FOR THE PURPOSES OF THIS ENVIRONMENTAL SECTION, LICENSEE AGREES TO INDEMNIFY, SAVE AND HOLD HARMLESS RAILWAY COMPANY, ITS OFFICERS, EMPLOYEES, SERVANTS AGENTS AND REPRESENTATIVES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, ACTIONS, LIABILITY, RESPONSIBILITY AND CAUSES OF ACTION (WHETHER ARISING IN OR OUT OF TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) ASSERTED AGAINST THEM FOR DEATH, INJURY, LOSS OR DAMAGE RESULTING TO RAILWAY COMPANY'S EMPLOYEES OR PROPERTY, OR TO LICENSEE OR LICENSEE'S EMPLOYEES OR PROPERTY, OR TO ANY OTHER PERSONS OR THEIR PROPERTY, AND FOR ALL PENALTIES, FINES, COSTS, RESPONSE, REMOVAL, REMEDIAL AND CLEAN UP COSTS, CORRECTIVE ACTION, NATURAL RESOURCE DAMAGE AND DAMAGES AND EXPENSES OF ANY OTHER NATURE WHATSOEVER, INCLUDING LEGAL FEES AND COURT COSTS, ARISING FROM, RELATED TO OR HAPPENING IN CONNECTION WITH THE BREACH OF THE DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF LICENSEE AND ITS AGENTS, REPRESENTATIVES, SERVANTS, EMPLOYEES, CONTRACTORS AND REPRESENTATIVES UNDER SECTION 15 OF THIS AGREEMENT.**

**FOR THE PURPOSES OF THIS ENVIRONMENTAL SECTION, LICENSEE FURTHER AGREES THAT ITS OBLIGATIONS OF INDEMNITY, SAVING AND HOLDING HARMLESS HEREUNDER PURSUANT TO THIS SECTION SHALL BE STRICT AND ABSOLUTE, AND SHALL REMAIN IN FULL FORCE AND EFFECT IRRESPECTIVE OF ANY NEGLIGENCE ON THE PART OF RAILWAY COMPANY.**

**16. REQUIRED INSURANCE:** So long as this Agreement is in effect Licensee agrees to maintain comprehensive general liability, and contractual liability insurance with minimum limits of two million dollars (\$2,000,000.00) per occurrence, four million dollars (\$4,000,000.00) aggregate. Licensee shall provide automobile liability coverage in the amount of one million dollars (\$1,000,000.00) combined single limit. In addition, Licensee shall provide or require minimum statutory worker's compensation coverage for all covered employees who are on Railway Company's property. Licensee must also provide Railroad Protective Liability Insurance naming the Railway Company as the Insured with coverage of at least two million dollars (\$2,000,000.00) per occurrence and six million dollars (\$6,000,000.00) aggregate. Each policy must be issued by financially reputable insurers licensed to do business in all jurisdictions where work is performed during the term of the Agreement. A certificate of insurance will be provided to Railway Company by Licensee, reasonably satisfactory in form and content, evidencing that all required coverage is in force and have been endorsed to provide that no policy will be canceled or materially altered without first giving the Railway Company thirty (30) day's prior written notice. Commercial general liability policy will name Railway Company as an additional insured and, to the fullest extent allowed under law, will contain a waiver of subrogation in favor of Railway Company. All policies will be primary to any insurance or self-insurance the Railway Company may maintain for acts or omissions of Licensee or anyone for whom Licensee is responsible. Licensee will include copies of relevant endorsements or policy provisions with the required certificate of insurance. Nothing contained in this Section limits Licensee's liability to the Railway Company to the limits of insurance certified or carried by Licensee. If Licensee utilizes subcontractors in performance of this Agreement, the subcontractors must meet the same insurance requirements as the Licensee. If a subcontractor does not meet the coverage requirements of this Section, subcontractor must either

supplement the deficient areas of coverage or Licensee must certify that Licensee has acquired sufficient coverage to supplement the deficiency of subcontractor.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in duplicate by their authorized representatives as of the date first above written.

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

By: \_\_\_\_\_  
Srikanth Honnur, P.E.

Title: Track and Bridge Construction Director

Date: \_\_\_\_\_

**CITY OF CENTRALIA, MO**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# Exhibit B

JLL Reference No. 15-2535

## WIRE CROSSING CONTRACT (KCS Contract No. \_\_\_\_\_)

THIS AGREEMENT, made and entered into this 23<sup>rd</sup> day of April, 2015, by and between **THE KANSAS CITY SOUTHERN RAILWAY COMPANY**, a Missouri corporation, hereinafter referred to as "Railway Company", and **CITY OF CENTRALIA, MO**, to be addressed at 114 S. Rollins St., Centralia, MO 65240, hereinafter referred to as "Licensee".

WITNESSETH:

WHEREAS, Licensee desires to construct and maintain wires, hereinafter described, across the right-of-way and tracks of Railway Company and across the telephone, telegraph, signal and other wires of Railway Company and The Western Union Telegraph Company, the latter wires being hereinafter referred to as "Company wires";

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. **PERMIT FOR CROSSING:** For the sole convenience and accommodation of Licensee, at its sole risk and expense, and in consideration of the covenants of Licensee hereinafter set forth, Railway Company, without any warranty or guarantee of suitability of the premises for Licensee's or any other purpose, hereby permits Licensee to construct, maintain and operate a crossing (herein referred to as wire crossing), the course of the wire crossing being described as follows:

One (1) electric wire line crossing Railway Company right-of-way and tracks at Mile Post AD-339.16 (Mexico Subdivision), Centralia (Boone County), MO, as indicated on print of drawing no. 15-2535 dated 03-03-2015 and approved 04-01-2015, marked Exhibit "A", attached hereto and incorporated herein by reference.

The rights granted under this License are subject to all outstanding superior rights whether or not of record (including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railway Company to renew and extend the same, and is made without covenant of title, or for quiet enjoyment. Railway Company does not warrant title and Licensee accepts the rights granted herein and shall make no claim against Railway Company for deficiency of title. Licensee acknowledges that the Railway Company's interest in the right-of-way varies from segment to segment and may include lesser interests than fee title. Licensee shall, at Licensee's sole cost and expense, obtain any and all necessary rights and consents from parties other than Railway Company which may have or claim any right, title or interest in the property upon which the Railway Company's right-of-way is located.

2. **SPECIFICATIONS:** Licensee's 6.625" x 102' HDPE wire carrier crossing having a minimum wall thickness of 0.280" and shall be encased in a 8.625" x 102' steel casing pipe having a minimum wall thickness of 0.188" and shall be placed at a depth of not less than 10' below the base of the rail in the tracks of the Railway Company, nor less than a minimum of 6' below the ditch and all other points upon the right of way. The Licensee shall safeguard its wire at the points where the same enter and leave said casing so as not to obstruct the right of way or endanger persons or trains or the passage of persons over said right of way. The Licensee shall protect its wire at the points where the same enters and leaves said casing, so as to afford no obstruction or risk to trains or the passage of persons over said right-of-way. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 60-250.5, 60-741.5, and 29 C.F. R. part 470, relating to equal employment opportunity, if applicable. Locations of the wire crossing shall be marked and markers maintained and plainly visible at the right-of-way lines. Installation shall be by directional bore method and no boring or excavation shall occur within Railway Company's right of way, nor shall any boring occur in the track embankment. The angle of the wire crossing beneath Railway Company's property and tracks shall be no less than 79°.

3. **MATERIAL AND WORKMANSHIP:** Material and workmanship shall be satisfactory to Railway Company's authorized representative or the railroad then operating over the track regarding both as to renewal and repair. Licensee shall not enter nor commence construction on or under Railway Company's property or right-of-way unless accompanied by a qualified construction observer and flagger to oversee Licensee's work on Railway Company's property or right-of-way. Licensee will be responsible for all construction observer, flagging and mobilization costs, herein referred to as

“Services”, and arranging for these necessary Services associated with the installation. To enable arrangements to oversee for these Services that are to be performed under this Agreement, Licensee must submit a written scheduling request to Railway Company’s Scheduling Agent, hereinafter referred to as “Scheduling Agent”, which request is received by the Scheduling Agent for approved Railway Company qualified construction observer and flagging contractor a minimum of thirty (30) Business Days in advance before Licensee proposes to commence work on or under Railway Company’s property or right-of-way. (A “Business Day” is any day Monday through Friday which is neither a federal holiday nor a state holiday at the address of Railway Company’s scheduling agent stated below.) The request must contain Licensee’s name, the date of this Agreement, the location of the work to be performed, and how many consecutive Business Days will be required for Licensee to complete the work. Licensee’s request must be delivered to Scheduling Agent by contacting Bartlett & West at 785-228-3101 to leave a message and/or by sending an email to [kcscrossings@bartwest.com](mailto:kcscrossings@bartwest.com).

Licensee will, upon receipt of an invoice from Scheduling Agent specifying in reasonable detail Scheduling Agent’s costs and expenses of providing these Services, reimburse Scheduling Agent for all of their costs and expenses of providing an inspection, flagging and mobilization prior to installation.

Railway Company’s designation of a company or individual as a “qualified” flagger or flagger provider, or Scheduling Agent, shall be construed solely as Railway Company’s willingness to allow said individual or entity to provide Services on Railway Company’s property or right-of-way without further proof of qualification, and shall not be construed as an endorsement or other verification of the abilities or qualifications of said Scheduling Agent by Railway Company. All flaggers or Scheduling Agents provided herein shall be treated solely as independent contractors of Licensee, with no relationship to Railway Company, for all purposes herein. Licensee and its agents, employees and contractors will clear the tracks when directed to do so by the flagger. The presence of the flagger will not relieve Licensee of its duty to keep all of its agents, employees and contractors clear of the tracks when trains are in dangerous proximity to the licensed area. The actions or inactions of the flagger shall be construed for all purposes herein as the actions or inactions of the Licensee, and shall be governed by Licensee’s duties of indemnification, and saving harmless under Section 9 of this Agreement.

If Licensee’s scheduling request fails to reach Scheduling Agent at least thirty (30) Business Days before Licensee’s proposed commencement of work, Railway Company may refuse to allow commencement of the work on the Licensee’s proposed commencement date. If Railway Company will not allow the work to proceed on Licensee’s proposed commencement date because the scheduling request did not reach Scheduling Agent in time, Railway Company will inform Licensee of this fact as promptly as possible and work with Licensee to arrange an alternative commencement date for the work.

The construction observer and flagger will remain at the site on a reasonably continuous basis to oversee the work, and charges will accrue for each day spent awaiting the completion of the work and the installation of appropriate signs marking where Licensee’s facilities enter and leave Railway Company’s property and right-of-way. If installation takes longer than contracted for with Scheduling Agent, Licensee will, upon receipt of an invoice from Scheduling Agent specifying in reasonable detail Scheduling Agent’s costs and expenses of providing the inspection, flagging and mobilization, reimburse Scheduling Agent for all of Scheduling Agent’s costs and expenses of providing an inspector, flagger and mobilization.

Once Licensee has submitted its scheduling request to Scheduling Agent, should Licensee require a change to the scheduled date, Licensee shall provide Scheduling Agent at least two (2) Business Days’ notice prior to the requested start date of the work. If Licensee fails to provide two (2) Business Days’ notice of the change, Licensee shall be charged, and agrees to pay, the daily rate, and any travel costs actually incurred, for the construction observer, flagging and mobilization for one (1) day.

4. **POLES:** Licensee shall not erect or cause to be erected any poles, anchors or guy wires upon the right-of-way of Railway Company except as indicated upon the attached Exhibit A, and which poles, anchors and guy wires shall not be placed nearer than twelve (12) feet from the nearest rail of any main track or nearer than nine (9) feet from the nearest rail of any side track.

5. **ADOPT MODERN METHODS:** Licensee shall, at all times, at its own expense, adopt and maintain the most effective system and use the best known and most effective methods approved by Railway Company to protect the property of Railway Company, including Company wires, from interference and physical hazard.

6. **MAINTENANCE:** Licensee shall maintain the wire crossing to conform to the requirements of Section 2 hereof, and shall make frequent inspections of the crossing for that purpose. If it shall come to the attention of Railway Company that the same is not being so maintained, Licensee will, on written request of Railway Company, at any time, promptly make such renewals or repairs in wire crossing as shall be designated by Railway Company, and if Licensee fails within ten (10) days to comply with such request, Railway Company may make such renewals and repairs, the cost of which Licensee agrees to pay, or Railway Company may, at its option, wholly remove the crossing wires, and the supporting structures, conduits and appurtenances from the right-of-way.

7. **ADDITIONAL WIRES OF LICENSEE** In the event Licensee desires to install additional wires at the crossing in the locations hereinbefore described on the same poles, or towers, or in the same conduits, hereinbefore provided for, Licensee shall first obtain Railway Company's written consent for the construction or installation of such additional wires.

8. **CHANGES HEREAFTER MADE BY RAILWAY COMPANY:** If at any time during the term of this Agreement, it shall become necessary or desirable for Railway Company to build additional track or tracks, depots, yards, or any other structure that may be necessary or desirable in connection with the operation and maintenance of Railway Company, or to change the grade or location of its track or tracks, or if changes in or additions to Company wires or poles used in connection therewith shall become necessary, or if it shall become necessary to do any work to comply with the requirements of Railway Company, or with the demands which may hereafter by law be prescribed with reference to the crossing, Licensee shall, at its own cost and expense, within thirty (30) days after receipt of written notice from Railway Company so to do, relocate, rearrange, reconstruct or revise the wire crossing in such manner as to conform to the requirements of Railway Company.

9. **CONSIDERATION, INDEMNITY: IN CONSIDERATION OF THE LICENSE AND PERMISSION HEREIN GRANTED, LICENSEE ASSUMES AND AGREES TO INDEMNIFY, SAVE AND HOLD HARMLESS RAILWAY COMPANY, ITS OFFICERS, EMPLOYEES, SERVANTS, AGENTS, REPRESENTATIVES, AND OTHER COMPANIES OPERATING TRAINS OVER ITS TRACKS FROM ANY CLAIMS OR DEMANDS (WHETHER ARISING IN OR BASED UPON TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) (INCLUDING LEGAL FEES AND COURT COSTS) MADE BY ANY AND ALL PERSONS FOR ACCIDENTS, INJURIES OR LOSSES ARISING FROM OR GROWING OUT OF THE PRESENCE, USE OR OPERATION OF LICENSEE'S POLES, TOWERS, WIRES AND APPURTENANCES ON RAILWAY COMPANY'S RIGHT-OF-WAY, OR FROM THE ESCAPE OF CURRENT THEREFROM, OR FROM THE BREACH OF ANY OF THE TERMS OR CONDITIONS OF THIS AGREEMENT BY LICENSEE, AND FROM ANY PAYMENTS WHICH RAILWAY COMPANY AND OTHER COMPANIES, OR ANY OF THEM, MAY MAKE TO ITS OR THEIR EMPLOYEES AND THEIR BENEFICIARIES, OR ANY OF THEM UNDER THE PROVISIONS OF ANY COMPENSATION LAW OR OTHER SIMILAR LAW OR UNDER THE PROVISIONS OF ANY PLAN FOR EMPLOYEES' BENEFITS ADOPTED BY RAILWAY COMPANY AND OTHER COMPANIES, OR ANY OF THEM, IN SETTLEMENT FOR ACCIDENTS OR INJURIES ARISING FROM OR GROWING OUT OF THE FAILURE OF LICENSEE TO CONSTRUCT AND MAINTAIN THE WIRE CROSSING AS HEREIN PROVIDED. LICENSEE SHALL INDEMNIFY, SAVE AND HOLD HARMLESS THE AFOREMENTIONED COMPANIES AS PROVIDED IN THIS SECTION UNLESS SUCH LOSS ARISES OUT OF THE SOLE NEGLIGENCE OF THOSE COMPANIES.**

**LICENSEE RECOGNIZES THE DANGER INCIDENT TO THE OPERATION OF TRAINS OVER THE TRACKS OF RAILWAY COMPANY IN THE VICINITY OF THE WIRE CROSSING, AND AGREES TO ADOPT AND ENFORCE UPON ITS EMPLOYEES ENGAGED IN CONSTRUCTING, RECONSTRUCTING OR**

**MAINTAINING THE WIRE CROSSING PROPER RULES AND REGULATIONS FOR THEIR SAFETY WHILE ON OR NEAR SUCH TRACKS, AND LICENSEE ASSUMES ALL LIABILITY FOR INJURIES TO ALL PERSONS ENGAGED IN SUCH WORK AND AGREES TO INDEMNIFY, SAVE AND HOLD HARMLESS RAILWAY COMPANY, ITS OFFICERS, EMPLOYEES, SERVANTS, AGENTS, REPRESENTATIVES AND OTHER COMPANIES OPERATING TRAINS OVER ITS TRACKS FROM ANY LIABILITY FOR SUCH INJURIES EXCEPT WHEN THE SAME IS CAUSED BY THE SOLE NEGLIGENCE OF RAILWAY COMPANY OR SUCH OTHER COMPANIES, ITS OR THEIR EMPLOYEES.**

**LICENSEE AGREES TO REIMBURSE AND PAY RAILWAY COMPANY, OR SUCH OTHER COMPANIES, ANY JUDGMENTS, COSTS, AND EXPENSES OR AMOUNTS PAID OUT IN SETTLEMENT, WHICH THEY OR ANY OF THEM MAY BE PUT TO OR MAY BE COMPELLED TO PAY ON ACCOUNT OF ANY CLAIMS ARISING UNDER LICENSEE'S DUTIES OF INDEMNIFICATION, SAVING AND HOLDING HARMLESS. THIS AGREEMENT IS MADE IN PART FOR THE BENEFIT OF OTHER COMPANIES OPERATING OVER RAILWAY COMPANY'S TRACKS AND ANY OF THE COMPANIES MAY SUE TO ENFORCE THE PROVISIONS HEREOF, EITHER JOINTLY OR SEVERALLY, AS THEIR INTERESTS MAY BE JOINT OR SEVERAL. NONE OF THE COMPANIES SHALL BE LIABLE FOR ANY DAMAGE (EXCEPT THAT WILLFULLY DONE) TO THE WIRE CROSSING, HOWEVER CAUSED.**

It shall be the exclusive duty and responsibility of Licensee to inspect the property subject to this Agreement to make sure that it is safe for the entry of its employees, agents and contractors. Licensee shall advise all of its employees, agents and contractors entering the property of any safety hazards on the property, including, without limitation, the presence of moving vehicles, buried cables, tripping hazards and overhead wires. Licensee shall instruct all of its employees, agents and contractors entering the property that all persons, equipment and supplies must maintain a distance of at least twenty-five (25) feet from the centerline of the track unless authorized by the on-site railroad flagman to be closer than twenty-five (25) feet. Licensee shall ensure that no personnel, equipment or supplies under its control are within the clearance point of the track when moving railroad equipment may be seen from or heard at the property subject to this Agreement.

10. **OTHERS NOT TO USE:** Licensee shall have no right to permit others to install wires in the crossing, but if done, then the obligations, duties and liabilities herein imposed upon Licensee shall be the same as to such wires, as though they were the wires of Licensee, and Railway Company shall retain all remedies against Licensee for breach of this Agreement.

11. **FEES:** Licensee agrees to pay to Railway Company for the use of Railway Company's right-of-way and the privilege hereby granted, such use and privilege being expressly limited to the facilities described in Section 1 above, the one-time sum of TWELVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$12,500.00) upon execution of this Agreement. Licensee shall pay Railway Company an additional license fee, set in accordance with Railway Company's then current fee schedule, for any additional pipelines, wires or facilities permitted by Railway Company and associated with the crossing.

12. **TAXES:** Licensee shall promptly pay all taxes, assessments and other governmental or municipal charges upon its property located upon the right-of-way of Railway Company and comply with all governmental or municipal rules and regulations covering the operation of electrical transmission lines of the character constructed, erected or operated hereunder.

13. **TERM:** The term of this Agreement shall be for a period of ten (10) years, beginning on the date first written above, and will automatically renew at the end of the initial ten (10) year term for additional one (1) year periods until cancelled by either party upon thirty (30) days advance notice. Notwithstanding the above, either party may terminate this Agreement at any time upon thirty (30) days written notice.

This Agreement shall continue so long as the wire crossing does not interfere with the property or the development, enlargement or improvement of the property of Railway Company, or in the opinion of the Chief Engineer of Railway Company, the wire crossing does not constitute a hazard to Railway Company's property or employees. If and when Railway

Company shall require the removal of the wire crossing and another mutually satisfactory location can be found upon Railway Company's right-of-way, then the wire crossing shall be moved by Licensee promptly and at its own expense to such new location. However, if another location mutually satisfactory cannot be found for the wire crossing, then the same shall, within thirty (30) days after notice thereof to Licensee, be removed from Railway Company's right-of-way by Licensee at its own expense. If at any time Licensee shall fail to maintain its wire crossing as herein required, or such wire crossing shall, in the opinion of Railway Company's Chief Engineer, become a hazard to its property or to its employees, then the wire crossing shall be relocated, as hereinbefore provided, or shall be removed from Railway Company's premises within thirty (30) days after notice from Railway Company to remove the wire crossing.

Neither the service of the notice herein provided for, nor the termination of this Agreement shall operate in any manner whatsoever to relieve or release Licensee from any obligations or liability to Railway Company theretofore accruing under the terms hereof.

Upon the termination of this Agreement in any manner Licensee shall immediately remove its property from the right-of-way, and in the event of its failure so to do, Railway Company may remove the same at the cost of Licensee.

Rights herein granted are personal and may not be assigned without Railway Company's written consent. However, the provisions of this Agreement shall be binding upon the successors and assigns of both of the parties.

14. **INTERFERENCE:** If the operation or maintenance of the wire crossing shall at any time cause interference, including, but not limited to, physical interference from electromagnetic induction, electrostatic induction, or from stray or other currents with the facilities of Railway Company or of any lessee or licensee of Railway Company, or in any manner interferes with the operation, maintenance or use by Railway Company of its right-of-way, tracks, structures, pole lines, signal and communication lines, radio or other equipment, devices, other property or appurtenances thereto, Licensee agrees immediately to make such changes in its own lines and furnish such protective devices to Railway Company and its lessees or licensees as shall be necessary in the judgment of Railway Company's representative to eliminate such interference. The cost of such protective equipment and its installation shall be borne solely by Licensee.

In the event that the methods above set forth fail to eliminate such interference, and it is deemed necessary by the proper officer of Railway Company having jurisdiction therein that any or all facilities of Railway Company or of any lessee or licensee thereof shall be relocated, reconstructed or otherwise changed, the entire cost of such changes shall be borne by Licensee.

The current due to electrostatic effects shall not exceed 5.0 milliamperes, rms, to ground. In the event it is determined that such current, at any time, exceeds 5.0 milliamperes, rms, Railway Company shall have the right to require such installation or modification as may be necessary to reduce the current to 5.0 milliamperes, rms, or less, and the entire cost of the installation or modification shall be borne by Licensee.

15. **ENVIRONMENTAL CLAUSE:** Licensee shall not permit hazardous waste, hazardous substances or hazardous materials on or in the area covered by this Agreement without the written consent of Railway Company.

Licensee shall at all times keep the area covered by this Agreement in a safe, clean and sanitary condition, and shall not mutilate, damage, misuse, alter or permit waste therein. Should any discharge, leakage, spillage or emission of any hazardous waste, hazardous substance or hazardous material or pollution of any kind occur upon, in, into, under or from the area covered by this Agreement during Licensee's use and occupancy thereof, Licensee, at its sole cost and expense, shall clean all property affected thereby, to the satisfaction of Railway Company and any governmental body having jurisdiction thereover.

Licensee shall comply with all applicable ordinances, rules, regulations, requirements and laws whatsoever including (by way of illustration only and not by way of limitation) any governmental authority or court controlling environmental standards and conditions on the premises and shall furnish satisfactory evidence of such compliance upon

request by Railway Company. **IF, AS A RESULT OF LICENSEE'S OPERATION HEREUNDER, ANY SUCH ORDINANCE, RULE, REGULATION, REQUIREMENT, DECREE, CONSENT DECREE, JUDGMENT, PERMIT OR LAW IS VIOLATED, OR IF, AS A RESULT OF ANY ACTION BY LICENSEE, ANY HAZARDOUS OR TOXIC WASTE, MATERIALS OR SUBSTANCES SHOULD ENTER OR OTHERWISE AFFECT ANY PART OF THE AREA COVERED BY THIS AGREEMENT (INCLUDING SURFACE, SUBSURFACE, AIRBORNE AND/OR GROUND CONTAMINATION), LICENSEE SHALL INDEMNIFY, SAVE AND HOLD HARMLESS RAILWAY COMPANY, ITS OFFICERS, EMPLOYEES, SERVANTS AGENTS, AND REPRESENTATIVES FROM AND AGAINST ANY PENALTIES, FINES, COSTS, RESPONSE, REMEDIAL, REMOVAL AND CLEAN-UP COSTS, CORRECTIVE ACTION, NATURAL RESOURCE DAMAGE AND DAMAGES AND EXPENSES OF ANY OTHER NATURE WHATSOEVER, INCLUDING LEGAL FEES AND COURT COSTS, IMPOSED UPON OR INCURRED BY RAILWAY COMPANY, CAUSED BY, RESULTING FROM OR IN CONNECTION WITH SUCH VIOLATION OR VIOLATIONS.**

**FOR THE PURPOSES OF THIS ENVIRONMENTAL SECTION, LICENSEE AGREES TO INDEMNIFY, SAVE AND HOLD HARMLESS RAILWAY COMPANY, ITS OFFICERS, EMPLOYEES, SERVANTS AGENTS AND REPRESENTATIVES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, ACTIONS, LIABILITY, RESPONSIBILITY AND CAUSES OF ACTION (WHETHER ARISING IN OR OUT OF TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) ASSERTED AGAINST THEM FOR DEATH, INJURY, LOSS OR DAMAGE RESULTING TO RAILWAY COMPANY'S EMPLOYEES OR PROPERTY, OR TO LICENSEE OR LICENSEE'S EMPLOYEES OR PROPERTY, OR TO ANY OTHER PERSONS OR THEIR PROPERTY, AND FOR ALL PENALTIES, FINES, COSTS, RESPONSE, REMOVAL, REMEDIAL AND CLEAN UP COSTS, CORRECTIVE ACTION, NATURAL RESOURCE DAMAGE AND DAMAGES AND EXPENSES OF ANY OTHER NATURE WHATSOEVER, INCLUDING LEGAL FEES AND COURT COSTS, ARISING FROM, RELATED TO OR HAPPENING IN CONNECTION WITH THE BREACH OF THE DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF LICENSEE AND ITS AGENTS, REPRESENTATIVES, SERVANTS, EMPLOYEES, CONTRACTORS AND REPRESENTATIVES UNDER SECTION 15 OF THIS AGREEMENT.**

**FOR THE PURPOSES OF THIS ENVIRONMENTAL SECTION, LICENSEE FURTHER AGREES THAT ITS OBLIGATIONS OF INDEMNITY, SAVING AND HOLDING HARMLESS HEREUNDER PURSUANT TO THIS SECTION SHALL BE STRICT AND ABSOLUTE, AND SHALL REMAIN IN FULL FORCE AND EFFECT IRRESPECTIVE OF ANY NEGLIGENCE ON THE PART OF RAILWAY COMPANY.**

**16. REQUIRED INSURANCE:** So long as this Agreement is in effect Licensee agrees to maintain comprehensive general liability, and contractual liability insurance with minimum limits of two million dollars (\$2,000,000.00) per occurrence, four million dollars (\$4,000,000.00) aggregate. Licensee shall provide automobile liability coverage in the amount of one million dollars (\$1,000,000.00) combined single limit. In addition, Licensee shall provide or require minimum statutory worker's compensation coverage for all covered employees who are on Railway Company's property. Licensee must also provide Railroad Protective Liability Insurance naming the Railway Company as the Insured with coverage of at least two million dollars (\$2,000,000.00) per occurrence and six million dollars (\$6,000,000.00) aggregate. Each policy must be issued by financially reputable insurers licensed to do business in all jurisdictions where work is performed during the term of the Agreement. A certificate of insurance will be provided to Railway Company by Licensee, reasonably satisfactory in form and content, evidencing that all required coverage is in force and have been endorsed to provide that no policy will be canceled or materially altered without first giving the Railway Company thirty (30) day's prior written notice. Commercial general liability policy will name Railway Company as an additional insured and, to the fullest extent allowed under law, will contain a waiver of subrogation in favor of Railway Company. All policies will be primary to any insurance or self-insurance the Railway Company may maintain for acts or omissions of Licensee or anyone for whom Licensee is responsible. Licensee will include copies of relevant endorsements or policy provisions with the required certificate of insurance. Nothing contained in this Section limits Licensee's liability to the Railway Company to the limits of insurance certified or carried by Licensee. If Licensee utilizes subcontractors in performance of this Agreement, the subcontractors must meet the same insurance requirements as the Licensee. If a subcontractor does not meet the coverage requirements of this Section, subcontractor must either



supplement the deficient areas of coverage or Licensee must certify that Licensee has acquired sufficient coverage to supplement the deficiency of subcontractor.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in duplicate by their authorized representatives as of the date first above written.

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

By: \_\_\_\_\_  
Srikanth Honnur, P.E.

Title: Track and Bridge Construction Director

Date: \_\_\_\_\_

**CITY OF CENTRALIA, MO**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

A BILL TO CREATE AN ORDINANCE ENTITLED:

“AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF CENTRALIA, MISSOURI, TO EXECUTE A MUTUAL RELEASE AND SETTLEMENT AGREEMENT WITH PAUL MORGAN IN THE MATTER OF THE LAWSUIT FILED BY MORGAN IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI, CASE NO. 12BA-CV02154.”

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CENTRALIA, MISSOURI, as follows:

SECTION 1. The Mayor of the City of Centralia, Missouri is hereby authorized and directed to execute a Mutual Release and Settlement Agreement with Paul Morgan in the matter of the lawsuit filed by Morgan in the Circuit Court of Boone County, Missouri, Case No. 12BA-CV02154.

SECTION 2. This ordinance shall take effect and be in full force and effect from and after the date of its passage and approval.

PASSED this 4th day of May, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

This ordinance approved by the Mayor this 4th day of May, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk