

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 09 – SERIES 2024**

**A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO
SIGN AN AGREEMENT BETWEEN UNION PACIFIC RAILROAD AND
THE TOWN OF MINTURN FOR SPECIFIC ENGINEERING
SERVICES**

WHEREAS, The Town of Minturn desires to initiate engineering services as outline and defined in the attached agreement, and

WHEREAS, The defined project will affect Union Pacific Railroad’s track and right of way at or near the defined area, and

WHEREAS, The Union Pacific Railroad agrees to collaborate with the Town on the conceptualization and development of the project as laid forth in the attached agreement.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF
THE TOWN OF MINTURN, COLORADO:**

1. The Minturn Town Council hereby approves the proposed agreement as laid forth in the attached agreement and authorizes the Mayor or his designee to execute said agreement.

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 6th
day of March, 2024.**

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

**REIMBURSEMENT AGREEMENT
PRELIMINARY ENGINEERING SERVICES**

Effective Date:

Estimate: \$15,000.00

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

RECITALS

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

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

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

AGREEMENT

NOW THEREFORE, the parties hereto agree as follows:

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

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

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

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

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

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

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

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

TOWN OF MINTURN, COLORADO

UNION PACIFIC RAILROAD COMPANY,
a Delaware Corporation

Signature

Signature

Printed Name

Kenneth Tom
Printed Name

Title

Manager I, Engineering – Public Projects
Title

Exhibit A

Project Description and Location

Project Description

Town of Minturn, CO proposes to install a sidewalk at the crossing at the location referred to below.

Location

Tennessee Pass Subdivision

DOT	Crossing Type	Milepost	Street Name
253531V	Public	301.62	Taylor Street/Railroad Avenue

Exhibit B

Scope of Project Services

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

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

Exhibit C
Billing Contact Information

Name	Michelle Metteer
Title	Town Manager
Address	PO Box 533, Minturn, CO, 81645
Work Phone	(970) 343-9122
Cell Phone	
Email	manager@minturn.org
Agency Project No.	