



Contract Number: **BF-20545378**

## **SIGNAL INTERFACE AGREEMENT**

**BNSF File No.: BF-20545378**  
**Mile Post 401.690**  
**Line Segment 7400**  
**U.S. DOT Number 012203N**  
**Red Rock Subdivision**

THIS SIGNAL INTERFACE AGREEMENT ("**Agreement**"), is executed to be effective as of as of the day and year last written below ("**Effective Date**"), by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("**BNSF**"), and **CITY OF NORMAN**, a political subdivision of the State of Oklahoma (the "**Agency**"), collectively referred to as "**Parties**".

### **RECITALS:**

WHEREAS, BNSF owns and operates a line of railroad in and through the City of Norman, Cleveland County, State of Oklahoma;

WHEREAS, BNSF has grade crossing warning devices located at the intersection of E. Main Street and James Garner Avenue, DOT # 012203N, Line Segment 7400, Mile Post 401.690, as indicated on Exhibit A attached hereto and made a part hereof;

WHEREAS, Agency desires to preempt the highway traffic control signals with the grade crossing warning devices shown on Exhibit A;

WHEREAS, the Agency is paying for the purchase and installation of interface box and all necessary cable and conduit; and

WHEREAS, BNSF agrees to purchase and install, at Agency's sole expense, the interface box described in the scope of work herein, and upon the terms and conditions set forth below.

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



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## **ARTICLE I – SCOPE OF WORK**

- 1) The term “**Project**” as used in this agreement includes any and all work related to the installation and maintenance of the preemption of the highway traffic signals with the grade crossing warning devices at the grade crossing, E. Main Street, more particularly described on Exhibit A, which is attached hereto and incorporated herein.

## **ARTICLE II – BNSF’S OBLIGATIONS**

In consideration of the covenants of Agency set forth herein and the faithful performance thereof, BNSF agrees as follows:

- 1) BNSF will, using its own labor forces under applicable labor agreements, install the interface box with contact terminals on the side of the railroad instrument cabinet. The work will be performed at Agency’s expense and in accordance with the MUTCD and the plans and specifications approved by Agency and the Federal Highway Administration. The plans and specifications are attached to this Agreement as Exhibit A and incorporated herein.
- 2) A detailed estimate of BNSF’s construction engineering, installation labor (including the costs, if any, of electrical service from a public utility) and material costs required for the Project are attached hereto as Exhibit B and incorporated herein. BNSF will do all railroad work on an actual cost basis, when BNSF, in its sole discretion, determines it is required by its labor agreements to perform such work with its own employees working under applicable collective bargaining agreements. In the event the Project has not commenced within six (6) months following the effective date of this Agreement, BNSF may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit B, subject to the approval of necessary regulatory bodies. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit B not specifically mentioned therein may be included as a part of this Agreement upon written approval of Agency, which approval will not be unreasonably withheld.
- 3) BNSF will provide flagging services, at Agency’s sole expense, as set forth in more detail on Exhibit C attached to and made a part of this Agreement.
- 4) BNSF will, at Agency’s expense, furnish all labor, materials, tools and equipment for the railroad portion of the work required for the Project.



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- 5) BNSF will, at Agency's expense, dispose of all scrap from the railroad work hereunder.
- 6) BNSF will operate and maintain, at its expense, the necessary relays, and the other equipment within the railroad instrument cabin, up to and including the contact terminals in the interface box, required to preempt the highway traffic control signals by the grade crossing warning devices.

### **ARTICLE III – AGENCY'S OBLIGATIONS**

In consideration of the covenants of BNSF set forth herein and the faithful performance thereof, Agency agrees as follows:

- 1) The Agency must place all necessary cable and conduit on BNSF's property, as approved by BNSF and in compliance with the BNSF Utility Accommodation Policy <https://www.bnsf.com/bnsf-resources/pdf/about-bnsf/utility.pdf>, at the locations shown on Exhibit A.
- 2) The Agency must connect and install the highway traffic control signals up to and including connection to the contact terminals in the interface box including all necessary cable and conduit.
- 3) The Agency must be responsible for installing any new highway traffic control signals or other equipment related to this installation.
- 4) The Agency must provide BNSF in writing, using the BNSF Preemption Worksheet attached hereto and made part of this Agreement as Exhibit D, with the total preempt cycle time required from the start of the preempt cycle of highway traffic control signals until the arrival of the train at the highway-rail crossing.
- 5) The Agency will approve the location of the interface box prior to installation by BNSF.
- 6) The Agency's work must be performed by Agency or Agency's contractor in a manner that will not endanger or interfere with the safe and timely operations of BNSF and its facilities.
- 7) Actual costs for engineering, materials, and labor (including third party charges for the installation of electrical service) associated with the installation of the equipment by BNSF must be paid by the Agency (including taxes, such as applicable sales and use taxes, business and occupation taxes, and similar).



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- 8) In the event the services of a consultant are needed after execution of this Agreement due to any exigency of the BNSF and the Project, the Agency and the BNSF will mutually agree, in writing, as to the selection of a consultant and the applicable scope of work to be performed by such consultant. All work performed hereunder by any consultant and any resulting costs must be paid by Agency as a part of the costs for the Project.
- 9) During the installation, BNSF will send Agency progressive invoices detailing the costs of the work performed by BNSF under this Agreement. Agency must reimburse BNSF for completed force-account work within thirty (30) days of the date of the invoice for such work. Upon completion of the Project, BNSF will send Agency a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit B. Pursuant to this section, Agency must pay the final invoice within ninety (90) days of the date of the final invoice. BNSF will assess a finance charge of .033% per day (12% per annum) on any unpaid sums or other charges due under this Agreement which are past its credit terms. The finance charge continues to accrue daily until the date payment is received by BNSF, not the date payment is made or the date postmarked on the payment. Finance charges will be assessed on delinquent sums and other charges as of the end of the month and will be reduced by amounts in dispute and any un-posted payments received by the month's end. Finance charges will be noted on invoices sent to Agency under this section.
- 10) The Agency must give BNSF's Manager of Public Projects written Notice to Proceed with the railroad portion of the work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written notice to proceed is received from Agency.
- 11) All work performed by Agency, including future inspections and maintenance, either routine or otherwise, of the systems installed under this Agreement, performed on BNSF property shall be performed only by Agency's own personnel or a qualified contractor. Agency shall require its contractors to comply with the provisions of the attached Exhibit C and execute the agreement attached hereto as Exhibit C-1. Prior to performing any future maintenance with its own personnel, Agency shall: comply with all of BNSF's applicable safety rules and regulations; require any Agency employee performing maintenance to complete the safety training program at the BNSF's Internet Website "www.BNSFcontractor.com"; notify BNSF when, pursuant to the requirements of Exhibit C, a flagger is required to be present; procure, and have approved by BNSF's Risk Management Department, Railroad Protective Liability insurance. Additionally, Agency must notify BNSF's Manager of Public Projects thirty (30) calendar days prior to commencing work on BNSF property or near BNSF tracks.



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12) Agency must include the following provisions in any contract with its contractor(s) performing work on said Project, any future inspections, and/or maintenance:

- A. The contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or right-of-way. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The contractor will be responsible for contacting BNSF and the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The contractor must also use all reasonable methods when working in the BNSF right-of-way or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.
- B. Failure to mark or identify these Lines will be sufficient cause for BNSF's engineering representative to stop construction at no cost to the Agency or BNSF until these items are completed.
- C. The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.
- D. In addition to the liability terms contained elsewhere in this Agreement, the contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's right-of-way, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's right-of-way, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies). **THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO**



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**THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF BNSF.**

**13) TO THE FULLEST EXTENT PERMITTED BY OKLAHOMA LAW, AGENCY HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY THE AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE PROJECT SITE, (IV) AGENCY'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RIGHT-OF-WAY, INCLUDING, WITHOUT LIMITATION, SUBSEQUENT MAINTENANCE OF THE STRUCTURE BY AGENCY, OR (V) AN ACT OR OMISSION OF AGENCY OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY AGENCY WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF BNSF.**

#### **ARTICLE IV- JOINT OBLIGATIONS**

In consideration of the mutual covenants of the Parties contained herein and the premises, the Parties mutually agree as follows:



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- 1) All cost records of the BNSF pertaining to the Project will be open to inspection and audit at any reasonable time by representatives of the Agency (including the legislative auditor and fiscal analyst for the Agency and the Federal Highway Administration for a period of one (1) year from the date of the final BNSF invoice under this Agreement.
- 2) Upon completion of the installation of the equipment, BNSF, will, at its sole cost and expense, operate and maintain the necessary relays, and the other equipment within the railroad instrument cabin, up to and including the contact terminals in the interface box, required to preempt the highway traffic control signals by the grade crossing warning devices.
- 3) Upon completion of the installation of the equipment, the Agency will own, operate, and maintain, at its sole expense, the highway traffic control signals up to and including connection to the contact terminals in the interface box including all necessary cable and conduit. BNSF shall have no responsibility for the operation or maintenance of the traffic controls signals beyond that prescribed in the clause above.
- 4) Notwithstanding the preceding provision, if any regulations, ordinances, acts, rules or other laws subsequently passed or amended by the Agency or any other appropriate governmental or legislative authority increase the Agency portion of maintenance costs under this Agreement, BNSF will receive the benefit of any such regulations, ordinances, acts, rules or other laws and the Agency's increased portion of maintenance costs will be incorporated into and made a part of this Agreement.
- 5) If a railway or a highway improvement project necessitates rearrangement, relocation, or alteration of the equipment installed hereunder, the costs for such rearrangement, relocation or alteration will be the responsibility of the party requesting such changes.
- 6) If any of the equipment is partially or wholly destroyed, then such repair and/or replacement costs must be distributed among the Parties as follows:
  - A. In the event the BNSF's sole negligence destroys or damages the crossing signal equipment, BNSF must reimburse Agency for the costs to replace or repair such crossing signal equipment.
  - B. In the event the crossing signal equipment is damaged or destroyed by any other cause, Agency must, at its sole cost and expense, replace or repair such crossing signal equipment.
- 7) If the equipment installed hereunder cannot, through age, be maintained, or, by virtue of its obsolescence, requires replacement, the cost of installation of new crossing





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signal equipment will be negotiated by the Parties hereto on the basis of the current Federal Aid Railroad Signal Program participation and applicable agency at the time of such replacement is warranted.

- 8) Notwithstanding anything to the contrary in this Agreement, BNSF's review, approval, and/or other participation in the Project or any element thereof, including the Project design, plan review, and all work performed by BNSF or its contractors hereunder, is expressly limited, and intended and understood by the Parties to be in furtherance of BNSF's railroad purposes, and not in furtherance of Agency's purposes in undertaking the Project. BNSF's work is provided in consideration of the subjective standards of BNSF for its railroad purposes only, and shall in no way be construed or deemed to be a condition or direction to Agency, or an opinion or approval that the plans and specifications or any work intended or completed on the Project is appropriate for any other purpose including highway purposes, is structurally sound, or that such plans, specifications, or intended or completed work meet applicable standards, regulations, laws, statutes, local ordinances, and/or building codes. No benefits to Agency or any third party are provided, intended or implied herein. Agency shall at all times be solely responsible for the adequacy and compliance of all design elements of the Project for highway and other public purposes, and shall waive and release BNSF for any and all claims which may or could result from any work performed by BNSF in connection with the Project.
- 9) This Agreement will inure to the benefit of and be binding on the Parties hereto, their successors, and assigns.
- 10) In the event any paragraph contained in this Agreement or any item, part, or term within any particular paragraph is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remaining paragraphs or items will not be affected; and the rights and obligations of the Parties will be construed and enforced as if this Agreement did not contain that particular paragraph or item held to be invalid or unenforceable.
- 11) This Agreement may be signed in counterparts, any one of which will be deemed to be an original. The Parties further agree that any facsimile copy of a party's signature is valid and binding to the same extent as an original signature.





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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

**AGENCY**

**CITY OF NORMAN, OKLAHOMA**

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

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

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

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

**ATTEST:**

\_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_

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(City of Norman Signature Page for E. Main Street Agreement)



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**BNSF RAILWAY COMPANY**

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

Printed Name: Cheryl Townlian

Title: Assistant Director Public Projects

Accepted and  
Effective Date: \_\_\_\_\_

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(BNSF Signature Page for E. Main Street Agreement)