

BILL NO. 2026-001

ORDINANCE NO.

**AN EMERGENCY ORDINANCE OF THE CITY OF NEVADA, MISSOURI,
APPROVING AN AGREEMENT FOR SAFETY IMPROVEMENTS AT THE HIGHLAND
STREET RAILROAD CROSSING IN NEVADA, MISSOURI**

**IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA,
MISSOURI, THAT:**

Section 1. The Missouri Highways and Transportation Commission supplemental agreement for highway/rail crossing improvements attached hereto and incorporated herein by reference is hereby approved.

Section 2. As requested by MODOT this agreement has been reviewed and approved as to form by City Attorney Wm. G. McCaffree.

Section 3. The Mayor and City Clerk are authorized to execute the same.

Section 4. The City Clerk is authorized and directed to forward a copy of this fully executed ordinance with attachment by email to Sara Clark, PE at Sara.Clark@hdrinc.com

Section 5. This ordinance is an Emergency Ordinance by reason of a request by the Missouri Highways and Transportation Commission Authorities for execution at the earliest possible date.

PASSED, APPROVED AND ADOPTED, by the City Council of Nevada, Missouri, this day of 6th day of January 2026.

(seal)

CAROL BRANHAM, MAYOR

ATTEST:

CYNTHIA DYE, CITY CLERK

CERTIFICATION

I, the undersigned, City Clerk of the City of Nevada, Missouri, do hereby certify that the foregoing Ordinance is a true and correct copy of the original Ordinance duly adopted by the City Council of Nevada, Missouri on the date above stated and that said Ordinance has not been rescinded or amended and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of Nevada, Missouri, this ___ day of _____, 2026.

(SEAL)

CYNTHIA DYE, CITY CLERK

CCO Form: MO66
Approved: 04/04 (BOG)
Revised: 03/24 (TLP)
Modified: 11/25 (MWH)

Highland Street
Nevada, Vernon County
DOT Crossing # 443130V
Job No. RRP-024S(074)

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION SUPPLEMENTAL
AGREEMENT FOR HIGHWAY/RAIL CROSSING IMPROVEMENTS**

THIS SUPPLEMENTAL AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission"), and the Missouri & Northern Arkansas Railroad Company, Inc. (hereinafter, "Railroad"), pursuant to the terms of a Master Agreement For Improved Warning Devices between the Railroad and Commission executed by the Railroad on April 29, 1993, and by the Commission on May 20, 1993 (the "Master Agreement").

WITNESSETH:

WHEREAS, the installation of various safety improvements appears to be warranted at an existing public highway/rail grade crossing in Nevada, Missouri, where Highland Street intersects Railroad's tracks at a point known as DOT Crossing #443130V (hereinafter the "Highland Street Grade Crossing"); and

WHEREAS, the parties agree that this installation shall be in substantial compliance with the *Manual on Uniform Traffic Control Devices* (MUTCD), and will enhance safety to both highway and railroad traffic at said grade crossing; and

WHEREAS, representatives of the parties participated in a diagnostic review and field inspection of this grade crossing on October 29, 2025, during which they considered and tentatively agreed on the specific safety improvements that should be implemented to enhance safety for both highway and railroad traffic at this crossing.

NOW, THEREFORE, in consideration of these premises and of the mutual covenants herein contained, the parties agree as follows:

(1) PURPOSE: The purpose of this Supplemental Agreement is to provide for funding, installation, and maintenance of additional warning devices and other improvements at the Highland Street Grade Crossing (hereinafter, the "Project").

(2) SCOPE OF WORK: The scope of work includes the Railroad's installation of new flashing light signals and gates with LED lights, two audible bells, and a new signal bungalow with redundant constant warning time circuitry, and the installation of concrete crossing surface panels at the Highland Street Grade Crossing (US DOT#443130V).

(3) FUNDING AND APPORTIONMENT: The Commission will reimburse the Railroad for one hundred percent (100%) of the eligible costs of the work described in Section (2) and Section (5) of this Supplemental Agreement.

(4) COST OF PROJECT: The cost of the Project shall be the total monies

expended by the Railroad to complete the work described in Section (2) and Section (5), all in accordance with the plan and cost estimate developed by the Railroad for this specific Project and attached to this Supplemental Agreement.

(5) PRELIMINARY WORK: The Railroad shall prepare and submit to the Commission a detailed plan ("Detailed Plan") and detailed cost estimate ("Detailed Cost Estimate") for the work as described in Section (2) of this Supplemental Agreement in accordance with the work recommended pursuant to the diagnostic review of the Highland Street Grade Crossing, which was conducted on October 29, 2025, and in accordance with the provisions of the Master Agreement.

The Detailed Plan shall be attached to this Supplemental Agreement as Exhibit A; the Detailed Cost Estimate shall be attached as Exhibit B; and both Exhibits A and B shall be incorporated by reference in this Supplemental Agreement.

(6) CHANGE ORDERS: If any material change is made in the original plan or scope of work, the Commission's reimbursement to the Railroad shall be limited to the costs covered by a change order issued and approved by the Commission PRIOR to the implementation of such work.

(7) INSTALLATION:

(A) The Railroad, upon receipt of notification from the Commission and in accordance with the Ordered Due Date of the Commission's Administrative Order pursuant to section 389.610 RSMo, approving this Project, shall furnish all labor and material and complete the work described in Section (2) in accordance with the Master Agreements, the Detailed Plan, the Detailed Cost Estimate, and the rules and regulations contained in Title 23 Code of Federal Regulations (hereinafter, "CFR") Part 140 Subpart I and 23 CFR Part 646 Subpart B issued by the Federal Highway Administration.

(8) FORCE ACCOUNT AND NON-FORCE ACCOUNT WORK: The Railroad will furnish all of the material and do all of the work described in Section (2) and in Section (5) of this Supplemental Agreement with its respective own forces, or may perform the work using a contractor paid under a contract let by the Railroad in compliance with provisions of 23 CFR Chapter I, Subchapter B, Part 140, Subpart I and Chapter 34 RSMo. Relevant provisions of 23 CFR and Chapter 34 RSMo are by reference made part of this Supplemental Agreement.

(9) MAINTENANCE AND OPERATION: The Railroad shall operate and maintain the warning devices described in Section (2) at the Railroad's expense as long as it operates trains through the crossing; or until the Commission orders that signals are no longer necessary at the crossing; or until the crossing is abandoned, closed, or for any reason the operation and maintenance of the signals becomes unnecessary.

(10) RELOCATION OR REMOVAL OF SIGNALS: In the event the warning devices become unnecessary for any of the above reasons, the Railroad shall remove and install the devices at another crossing mutually acceptable to the Commission and the Railroad.

(11) PAYMENT PROVISIONS:

(A) Upon receipt of the Railroad's final statement of costs and after a review of the statement in relation to the work performed, the Commission will reimburse the Railroad with State and Federal funds pursuant to Title 23 United States Code (hereinafter, "USC") 130, for one hundred percent (100%) of the costs incurred by the Railroad for its work as described in Section (2) and section (5) of this Supplemental Agreement. If an audit reveals that the Railroad has been overpaid, the Railroad shall immediately refund the Commission for such overpayment. If an audit reveals that the Railroad has been underpaid, the Commission will reimburse the Railroad for such underpayment.

(B) The Commission shall reimburse the Railroad within sixty (60) days after it has received Railroad's progressive invoices, and within one hundred twenty (120) days after it has received the Railroad's final invoice and statement of costs (which shall be conspicuously marked "FINAL"), for the actual costs incurred by the Railroad for eligible work performed in accordance with this Agreement. If the Commission disputes any invoice, the Commission shall pay the Railroad any undisputed amount within sixty (60) days of receipt of the invoice and, within thirty (30) days after receipt of the invoice, notify the Railroad of the disputed amount and request supporting documentation to verify the accuracy of the invoice. The Commission shall thereafter pay the Railroad any remaining portions of the invoice within thirty (30) days of receipt of documentation adequate to justify the disputed expenditures.

(12) INDEMNIFICATION: To the extent allowed or imposed by law, the Railroad shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Railroad's wrongful or negligent performance of its obligations under this Agreement.

(13) INSURANCE:

(A) The Railroad is required or will require any contractor procured by the Railroad to work under this Agreement:

1. To carry commercial general liability or railroad liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and the Missouri Department of Transportation and its employees, as additional insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities (\$600,000 per claimant and \$4,000,000 per occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(B) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(14) NON-EMPLOYMENT OF UNAUTHORIZED ALIENS: Pursuant to section 285.530 RSMo no business entity or employer shall knowingly employ, hire for employment,

or continue to employ an unauthorized alien to perform work within the State of Missouri. As a condition for the award of any contract or grant in excess of five thousand dollars (\$5,000) by the State or by any political subdivision of the State to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall:

(A) By sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. E-Verify is an example of a federal work authorization program. The business entity must affirm its enrollment and participation in the E-Verify federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by providing acceptable enrollment and participation documentation consisting of **completed** copy of the E-Verify Memorandum of Understanding (MOU). For business entities that are not already enrolled and participating in a federal work authorization program, E-Verify is available at <https://www.e-verify.gov/>.

(B) By sworn affidavit, the Railroad affirms that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. A copy of the affidavit referenced herein is provided within this document, attached as Exhibit C.

(15) WAIVER OF HEARING ON ISSUANCE OF ADMINISTRATIVE ORDERS:

This Supplemental Agreement is made subject to approval of the proposed Project by a final administrative order issued by the Missouri Highways and Transportation Commission, or by the Missouri Administrative Hearing Commission (AHC), in accordance with section 389.610 RSMo Supp. 2004. With reference to the issuance of that administrative order, the Railroad and the Commission stipulate that the construction of the Project as described in this Supplemental Agreement will promote public safety and will not adversely affect public necessity. The Railroad consents that the Commission or the AHC, or both, may issue administrative orders approving and authorizing the construction of this Project in conformity with the provisions of this Supplemental Agreement, and the Railroad waives its right to notice and an opportunity for hearing before the issuance of these administrative orders provided no other party requests a hearing.

(16) NONDISCRIMINATION ASSURANCE: If work under this Supplemental Agreement is funded in whole or in part with any Federal funds administered by the United States Department of Transportation (USDOT), the following provisions apply:

(A) Civil Rights Statutes: The Railroad shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 USC 2000d and 2000e, *et seq.*), as well as any applicable titles of the Americans with Disabilities Act. In addition, if the Railroad is providing services or operating programs on behalf of the Department or the Commission, they shall comply with all applicable provisions of Title II of the Americans with Disabilities Act.

(B) Administrative Rules: The Railroad shall comply with the administrative rules of the USDOT relative to nondiscrimination in federally assisted programs of the USDOT (49 CFR Subtitle A, Part 21) which are herein incorporated by reference and made part of this Supplemental Agreement.

(C) Nondiscrimination: The Railroad shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age, or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Railroad shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the Railroad. These apply to all solicitations either by competitive bidding or negotiation made by the Railroad for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the Railroad of the requirements of this Supplemental Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability, national origin, age, or ancestry of any individual.

(E) Information and Reports: The Railroad shall provide all information and reports required by this Supplemental Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the USDOT to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the Railroad is in the exclusive possession of another who fails or refuses to furnish this information, the Railroad shall so certify to the Commission or the USDOT as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the Railroad fail to comply with the nondiscrimination provisions of this Supplemental Agreement, the Commission shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Supplemental Agreement until the Railroad complies; and/or
2. Cancellation, termination, or suspension of this Supplemental Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The Railroad shall include the provisions of this Section of this Supplemental Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the USDOT. The Railroad will take such action with respect to any subcontract or procurement as the Commission or the USDOT may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the Railroad becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Railroad may request the United States to enter into such litigation to protect the interests of the United States.

(17) COMPLIANCE WITH LAWS: The Railroad shall comply with all applicable federal, state, and local laws and regulations in the performance of this Supplemental Agreement.

(18) BUY AMERICA: The Railroad agrees to abide by the provisions of the Buy America requirements of the 49 CFR Part 661.

(19) AMENDMENTS: Any change in this Supplemental Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representative of the parties.

(20) COMMISSION REPRESENTATIVE: The Multimodal Operations Director is designated as the Commission's representative for the purpose of administering the provisions of this Supplemental Agreement.

(21) ASSIGNMENT: The Railroad shall not assign, transfer, or delegate any interest in this Supplemental Agreement without the prior written consent of the Commission.

(22) LAW OF MISSOURI TO GOVERN: This Supplemental Agreement shall be construed according to the laws of the State of Missouri. The Railroad shall comply with all local, state, and federal laws and regulations relating to the performance of this Supplemental Agreement.

(23) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Supplemental Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Vernon County, Missouri.

(24) CANCELLATION: The Commission may cancel this Supplemental Agreement at any time for a material breach of contractual obligations by providing the Railroad with written notice of cancellation. Should the Commission exercise its right to cancel the Supplemental Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Railroad.

(25) AUDIT OF RECORDS: The Railroad shall maintain all records relating to this Supplemental Agreement, including but not limited to invoices and payrolls. These records must be available at all reasonable times at no charge to the Commission and/or its designees or representatives during the period of this Supplemental Agreement and any extension thereof, and for three (3) years from the date of final payment made under this Supplemental Agreement.

(26) RAILROAD NOTIFICATION: At least five (5) days prior to the commencement of work described in Section (2) or Section (5), the Railroad shall notify the Commission of the date it plans to commence said work. If the Commission does not receive said notification from the Railroad, the Commission may withhold an amount of five percent (5%) of the final payment to the Railroad. Such five percent (5%) payment will not be provided to the Railroad until after a final audit has been performed by the Commission.

(27) AUTHORITY TO EXECUTE: The signers of this Supplemental Agreement warrant that they are acting officially and properly on behalf of their respective institutions and have been duly authorized, directed and empowered to execute this Supplemental Agreement.

(28) ORIGINAL AGREEMENT: Except as otherwise modified, amended, or supplemented by this Supplemental Agreement, the Master Agreement and all previous Supplemental Agreements between the parties shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have entered into this Supplemental Agreement on the last date written below. The Agency executed same pursuant to Ordinance No. _____, of said Agency, approved on the ____ day of _____, 20____.

Executed by Railroad on _____ (date).

Executed by City/County on _____ (date).

Executed by MHTC on _____ (date).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

MISSOURI & NORTHERN ARKANSAS
RAILROAD COMPANY, INC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

ATTEST:

COUNTY OF _____

Secretary to the Commission

Presiding Commissioner

_____ County, Missouri

APPROVED AS TO FORM:

Commission Counsel

District I Commissioner

District II Commissioner

CITY OF NevadZ, MISSOURI

By: _____
Carol Branham
Title: Mayor

By: _____
Cindy Dye
Title: City Clerk

City Ordinance No. _____



**PLACEHOLDER FOR
DETAILED PLAN
TO BE PREPARED BY RAILROAD**

***[DRAFTER'S NOTE: PLEASE INSERT ACTUAL EXHIBIT
IN LIEU OF THIS PLACEHOLDER PAGE, AND
THEN DELETE THIS PAGE]***

**EXHIBIT
B**

**PLACEHOLDER FOR
DETAILED COST ESTIMATE
TO BE PREPARED BY RAILROAD**

***[DRAFTER'S NOTE: PLEASE INSERT ACTUAL EXHIBIT
IN LIEU OF THIS PLACEHOLDER PAGE, AND
THEN DELETE THIS PAGE]***

