



ORIGINAL NEW APPLICATION



0000134726

Arizona Department of Transportation
Intermodal Transportation Division
206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janice K. Brewer
Governor

Jennifer Toth
State Engineer

John S. Halikowski
Director

March 7, 2012

Arizona Corporation Commission
Office of Railroad Safety
Attn: Chris Watson
1200 W Washington Street
Phoenix, AZ 85007

RE: Application to upgrade existing railroad signals
Project: Palo Parado Road Crossing
Federal Project # STP-SSC-0(201)
ADOT Tracs # 0000 SC SSC SR230 01C
Union Pacific Railroad crossing AAR/DOT # 742-018-J
RR-03639A-12-0086

Mr. Watson,

Please find enclosed the original and 13 copies of the application to install railroad signals at Palo Parado Road along with the agreement between ADOT and the Union Pacific Railroad.

Feel free to contact me if you have any questions.

Sincerely,

Armando Lopez, EIT
Railroad Coordinator
Arizona Department of Transportation
205 S 17th Ave, Room 357
MD 618E
Phoenix, AZ 85007
602-712-8747
ALopez4@azdot.gov

Arizona Corporation Commission
DOCKETED

MAR - 7 2012

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enclosures

cc: Vicki Bever, ADOT
Alexander Popovici, Union Pacific Railroad
Jesus Valdez, Santa Cruz County
File

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AZ CORP COMMISSION
DOCKET CONTROL



Arizona Department of Transportation
Intermodal Transportation Division

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Federal Project # STP-SSC-0(201)
ADOT Tracs # 0000 SC SSC SR230 01C
Union Pacific Railroad crossing AAR/DOT # 742-018-J

Mr. Watson,

This application is being submitted to allow the Union Pacific Railroad (UPRR) to furnish and install two gates and two flashers. This work was identified thru the 2009 array and numerous onsite diagnostic meetings.

1. Project Location and Description

The project is located at crossing of UPRR on Palo Parado Road in Otero, Arizona. This is a mainline for UPRR with daily usage. Palo Parado Road is 2 lanes wide and is normally used for 2-way traffic, consisting of 1 west bound lane and 1 east bound lane.

The project consists of furnishing and installing two gates and two flashers.

2. Why the crossing is needed

Based on the 2009 crossing improvement array, this crossing was selected for upgrades by installing gates and flashers.

This crossing was initially a private crossing that was closed by UPRR due to improper use by the public. Santa Cruz County adopted Palo Parado Road as a public road in order to create a public crossing and comply with requests from local residents who were concerned with access needed through this route, especially for emergency vehicles.

3. Construction Phasing

Once an opinion and order is issued, UPRR will acquire and install the signal equipment within 12 to 15 months.

4. Maintenance of the crossing

UPRR will be responsible for installing and maintaining the crossing surface and signal equipment. Santa Cruz County will be responsible for maintaining the road approaches outside of UPRR responsibility.

5. Project Funding

100% of the funding will be provided thru the Federal Highway Administration thru their Section 130/highway-railroad crossing safety improvement program.

Costs are as follows:

Preliminary and Construction Engineering	\$20,000.00
UPRR Furnish and Install Flashers and Gates	<u>\$186,115.00</u>
Total Cost	\$206,115.00

6. Other information (based on typical Staff Data Requests):

1. Provide Average Daily Traffic Counts for each of the locations.

1000 VPD based off of a 2008 study.

2. Please describe the current Level of Service (LOS) at each intersection.

Level of Service B

3. Provide any traffic studies done by the road authorities for each area.

A Palo Parado Road Traffic Assessment was conducted by Kittleson and Associates in November of 2010.

4. Provide the population of the City the crossing is located in.

2000 census: 3,164 persons.

5. Provide what warning devices are currently installed at the crossing.

Currently at this crossing there are only railroad cross bucks and stop signs.

6. Provide distances in miles to the next public crossing on either side of the proposed project location. Are any of these grade separations?

Rio Rico Drive (AAR/DOT 742 022 Y) is also at-grade and is 4.4 miles to the south of the crossing. There is no public access north of this crossing.

7. How and why was grade separation not decided on at this time? Please provide any studies that were done to support these answers.

Grade separation not considered as part of this Section 130 safety upgrade.

8. If this crossing was grade separated, provide a cost estimate of the project.

Estimate \$10,000,000++

9. Please describe what the surrounding areas are zoned for near this intersection. i.e. Are there going to be new housing developments, industrial parks etc.

The areas adjacent to the planned Palo Parado Road alignment are zoned General Rural (GR), which is a large lot (4.13 acres minimum lot size) residential zoning district. There is some General Business (B-2) zoning in the vicinity of the existing Palo Parado TI. The

County Comprehensive Plan for this area is Ranch (R) which is a low density, low intensity land use designation.

10. Please supply the following: number of daily train movements through the crossing, speed of the trains, and the type of movements being made (i.e. thru freight or switching). Is this a passenger train route?

Per the Federal Railroad Administration website this crossing has 5 thru freight train movements per day at speeds between 20 and 25mph and contains no passenger traffic.

11. Please provide the names and locations of all schools (elementary, junior high and high school) within the area of the crossing.

There are no schools within the vicinity of this crossing.

Santa Cruz Valley Unified School District No. 35
1374 West Frontage Road
Rio Rico, AZ 85648-6377
Phone: 520-281-8282

12. Please provide school bus route information concerning the crossing, including the number of times a day a school bus crosses this crossing.

No known scheduled school bus traffic.

13. Please provide information about any hospitals in the area and whether the crossing is used extensively by emergency service vehicles.

Per Santa Cruz County there are no emergency service vehicles that use this crossing at this point in time. The opening of this new crossing will allow quicker access of emergency vehicles to the adjacent neighborhoods.

One of the issues that brought this crossing up for safety improvements is that it was previously a private crossing that the public including emergency vehicles began using, which prompted UPRR to close the crossing due to improper use. Once the crossing was closed, local residents voiced concern primarily with the access for emergency vehicles and Santa Cruz County adopted the road as a public road in order to create a public crossing for access.

14. Please provide total cost of the railroad improvements to each crossing.

Cost described above.

15. Provide any information as to whether vehicles carrying hazardous materials utilize this crossing and the number of times a day they might cross it.

Per Santa Cruz County there are no vehicles carrying hazardous materials which utilize this crossing.

16. Please provide the posted vehicular speed limit for the roadway.

30 MPH

17. Do any buses (other than school buses) utilize the crossing, and how many times a day do they cross the crossing. Bus traffic varies depending on sporting events.

Per Santa Cruz County there are no buses which utilize this crossing.

18. Please indicate whether any spur lines have been removed within the last three years inside a 10 mile radius of any crossings covered in this application. Please include the reason for the removal, date of the removal and whether an at-grade crossing or crossings were removed in order to remove the spur line.

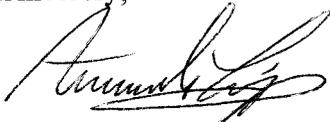
ADOT is not aware of any spur lines that have been removed within a 10 mile radius of this crossing during the last three years.

19. Please fill in the attached FHWA Grade Separation Guidelines Table, (from FHWA's 2007 revised second edition Railroad Highway Grade-Crossing Handbook, page 151) with a yes or no answer as to whether each item applies. Also, please provide all information to support your answers of yes or no (i.e. vehicle delay numbers, any calculations that were performed to get the answers).

20. Based on the current single track configuration at the crossings specified by this application, please provide the current traffic blocking delay per train. Please indicate the time in which vehicular traffic is delayed (1) to allow the train to pass at a crossing and (2) due to trains stopped on the track for any purpose. The delay is measured from the point that the warning devices are activated at the crossing to the time after the train has cleared the crossing and the warning devices are reset.

Per Santa Cruz County there are no significant delays at this crossing.

Sincerely,

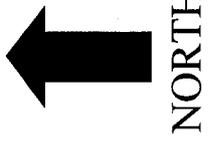


Armando Lopez, EIT
Railroad Coordinator
Arizona Department of Transportation
205 S 17th Ave, Room 357
MD 618E
Phoenix, AZ 85007
602-712-8747
ALopez4@azdot.gov

FHWA - GRADE SEPARATION GUIDELINES

Highway-rail grade crossings should be considered for grade separation or otherwise eliminated across the railroad right of way whenever one or more of the following conditions exist:

	Palo Parado Road
The highway is a part of the designated Interstate Highway System	N
The highway is otherwise designed to have full controlled access	N
The posted highway speed equals or exceeds 70 mph	N
AADT exceeds 100,000 in urban areas or 50,000 in rural areas	N
Maximum authorized train speed exceeds 110 mph	N
An average of 150 or more trains per day or 300 million gross tons/year	N
Crossing exposure (trains/day x AADT) exceeds 1M in urban or 250k in rural, or passenger train crossing exposure exceeds 800k in urban or 200k in rural	N
Expected accident frequency for active devices with gates, as calculated by the US DOT Accident Prediction Formula including five-year accident history, exceeds 0.5	N
Vehicle delay exceeds 40 vehicle hours per day	N



New Junction Box



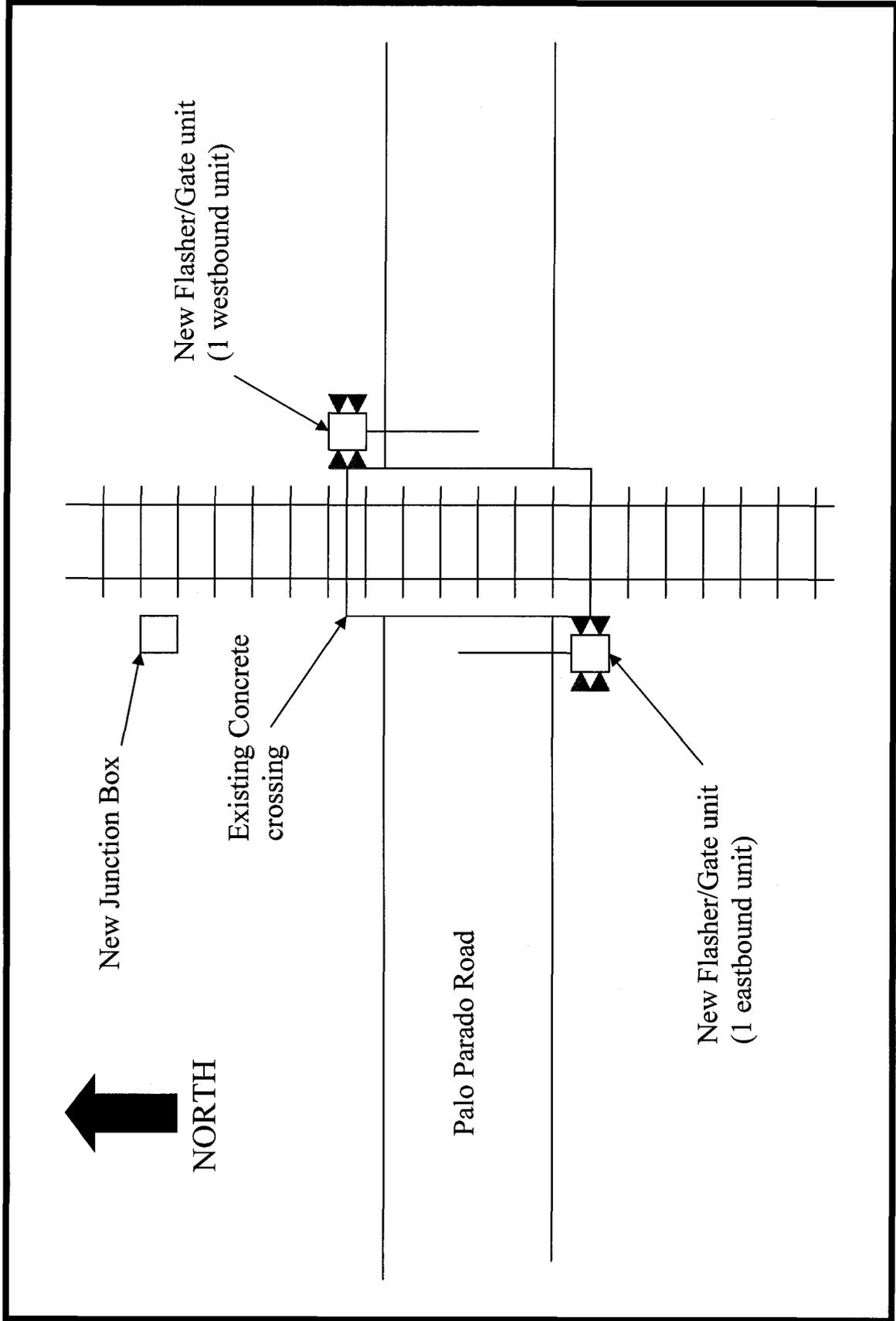
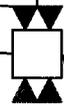
Existing Concrete crossing

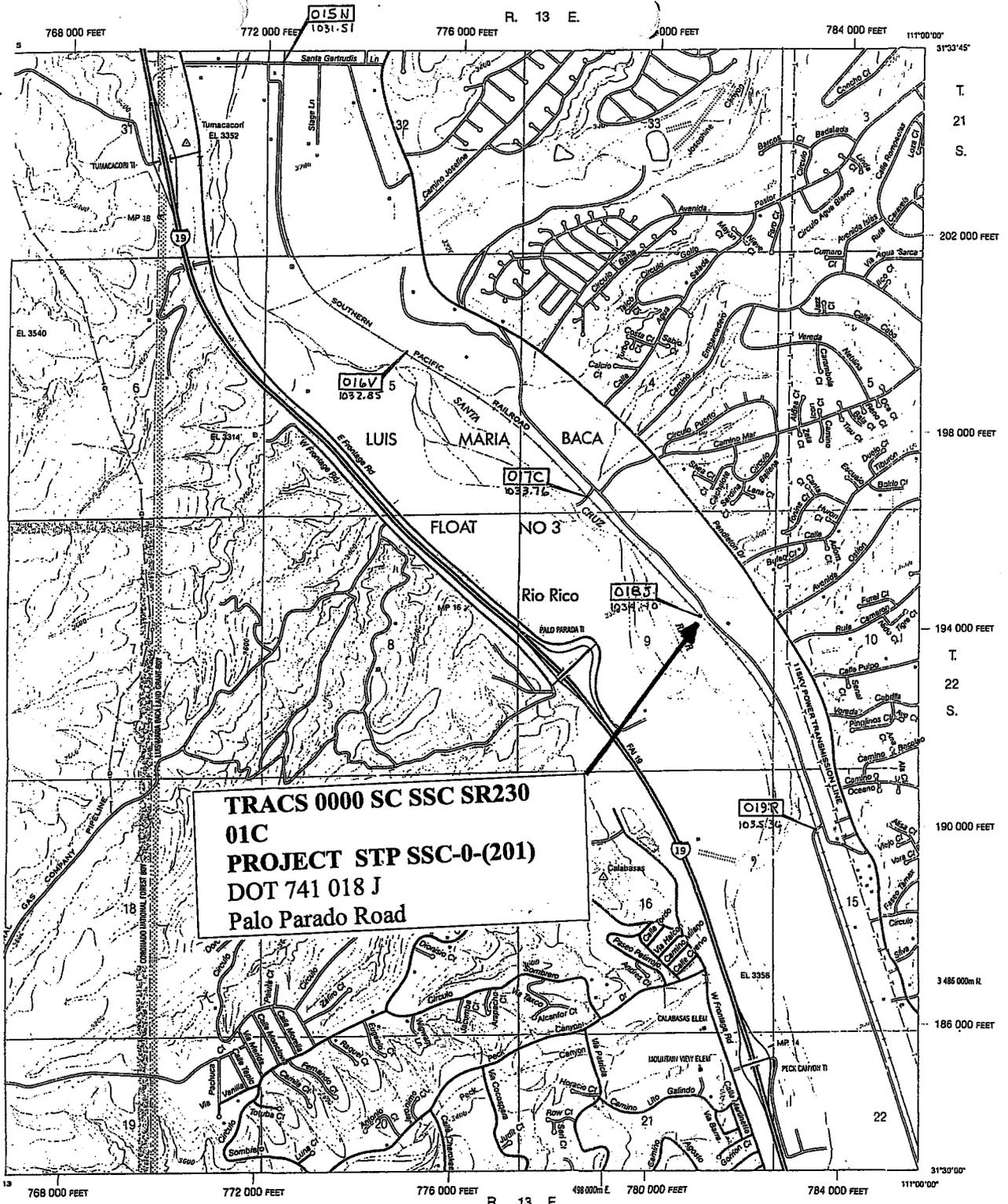
New Flasher/Gate unit
(1 westbound unit)



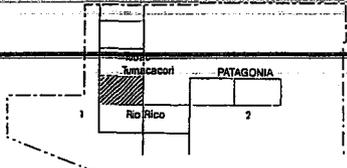
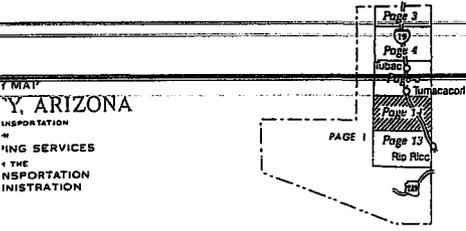
Palo Parado Road

New Flasher/Gate unit
(1 eastbound unit)





**TRACS 0000 SC SSC SR230
01C
PROJECT STP SSC-0-(201)
DOT 741 018 J
Palo Parado Road**

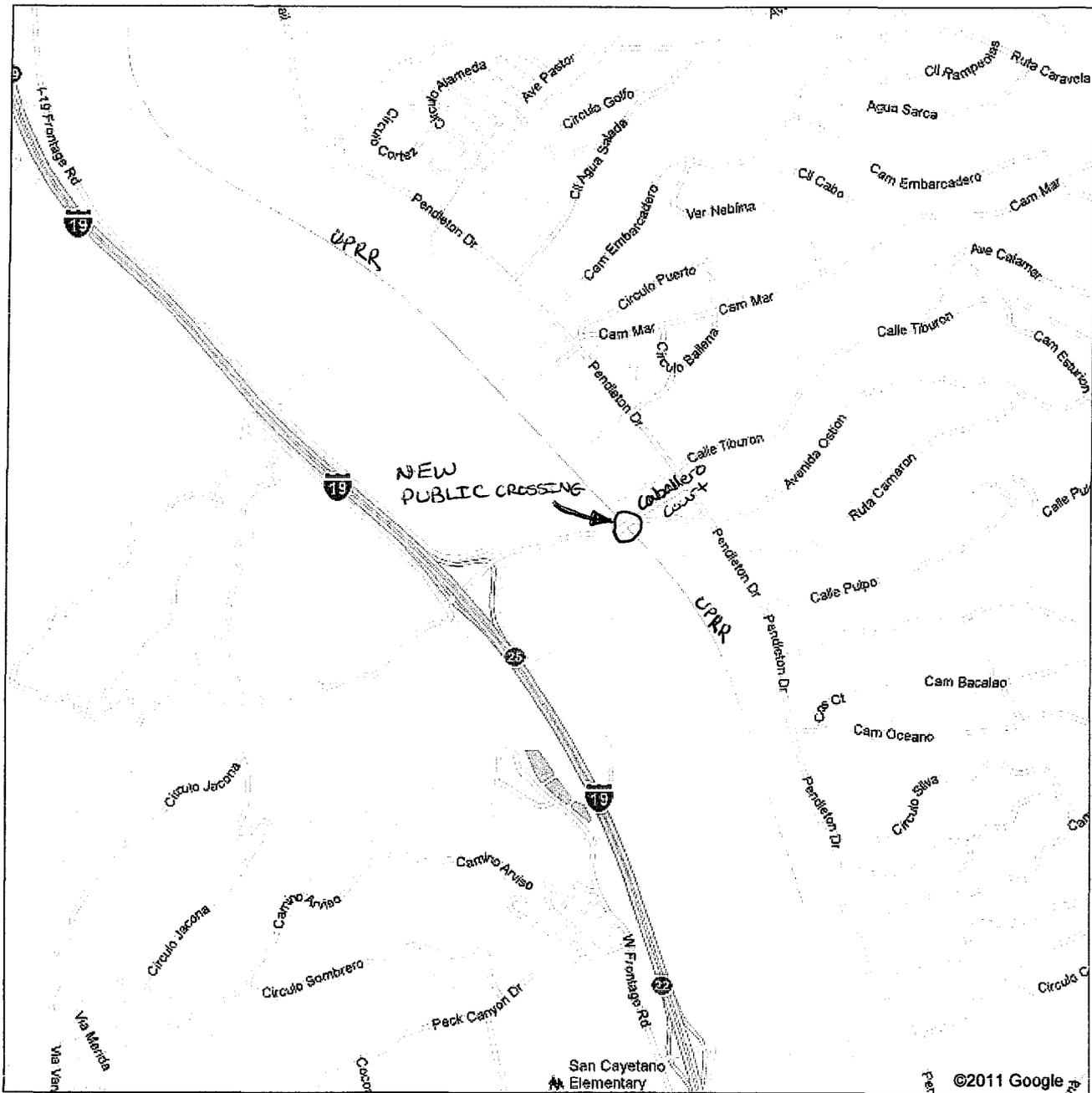


STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION
PLANNING SERVICES
GENERAL HIGHWAY MAP

TRACS No. 0000 SC SSC SR230 01C
Project No. STP-SSC-0(201)
Agreement No. 1532-91-SPTC
EXHIBIT "A"
Sheet 3 of 3

Google maps Address Nogales, AZ

Get Google Maps on your phone
Text the word "GMAPS" to 466453



Janice K. Brewer
Governor

John S. Halikowski
Director

Arizona Department of Transportation
Intermodal Transportation Division
206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Floyd Roehrich Jr.
State Engineer

September 14, 2011

RAILROAD CROSSING PROJECT

TRACS No.: 0000 SC SSC SR230 01C
Project No.: STP-SSC-0(201)
Location: Palo Parado Road
AAR/DOT No.: 742-018-J
RR M.P.: 1034.40 Nogales Subdivision
ADOT Accounting No: R1532HB11

RAILROAD AGREEMENT
For
FEDERAL AID
Railroad Crossing Projects

THE UNION PACIFIC RAILROAD COMPANY
Agreement No. 1532-91-SPTC
RAIL/HIGHWAY SAFETY PROGRAM

EXHIBIT A
Agreement 1532-91-SPTC
TRACS No. 0000 SC SSC SR230 01C
PROJECT STP-SSC-0(201)
ADOT Accounting Number R1532HB11

SUMMARY OF ESTIMATE

	Total
Preliminary Engineering:	\$20,000.00
Construction:	
Signals	
Construction Engineering	\$16,654.00
Labor	\$59,360.00
Materials	<u>\$110,101.00</u>
Signal Subtotal	\$186,115.00
	<u><u>*\$206,115.00</u></u>

* Railroad will invoice ADOT for 100% of total work.
Railroad will separate Preliminary Engineering costs from
Construction costs. Costs include installation of signals and
providing power to the site.

DATE: 2011-09-13

ESTIMATE OF MATERIAL AND FORCE ACCOUNT WORK
 BY THE
 UNION PACIFIC RAILROAD

THIS ESTIMATE GOOD FOR 6 MONTHS EXPIRATION DATE IS :2012-03-13

DESCRIPTION OF WORK:

INSTALL AUTOMATIC FLASHING LIGHT CROSSING SIGNALS
 WITH GATES AT RIO RICO, AZ. PALO PARADO M.P. 50.00
 ON THE NOGALES SUB DOT #742018J
 WORK TO BE PERFORMED BY RAILROAD WITH EXPENSE AS BELOW:
 SIGNAL - FEDERAL/STATE - 100%
 ESTIMATED USING FEDERAL ADDITIVES - 105.61%

PID: 69177 AWO: 05456 MP,SUBDIV: 50.00, NOGALES
 SERVICE UNIT: 16 CITY: CALABASAS STATE: AZ

DESCRIPTION	QTY	UNIT	LABOR	MATERIAL	RECOLL	UPRR	TOTAL
ENGINEERING WORK							
ENGINEERING			3303		3303		3303
LABOR ADDITIVE 105.61%			8530		8530		8530
SIG-HWY XNG			4821		4821		4821
TOTAL ENGINEERING			16654		16654		16654
SIGNAL WORK							
BILL PREP			900		900		900
CONTRACT				5198	5198		5198
LABOR ADDITIVE 105.61%			30490		30490		30490
MATL STORE EXPENSE				7	7		7
METER SERVICE				15000	15000		15000
MIPP				5000	5000		5000
PERSONAL EXPENSES				15750	15750		15750
ROCK/GRAVEL/FILL				6000	6000		6000
SALES TAX				2079	2079		2079
SIGNAL	27970		51982		79952		79952
TRANSP/IB/OB/RCLW CONTR			9084		9084		9084
ENVIRONMENTAL PERMITS			1		1		1
TOTAL SIGNAL			59360	110101	169461		169461
LABOR/MATERIAL EXPENSE			76014	110101			
RECOLLECTIBLE/UPRR EXPENSE					186115	0	
ESTIMATED PROJECT COST							186115

THE ABOVE FIGURES ARE ESTIMATES ONLY AND SUBJECT TO FLUCTUATION. IN THE EVENT OF AN INCREASE OR DECREASE IN THE COST OR QUANTITY OF MATERIAL OR LABOR REQUIRED, UPRR WILL BILL FOR ACTUAL CONSTRUCTION COSTS AT THE CURRENT EFFECTIVE RATE.

**AREMA UNIT STATEMENT OF RAILROAD HIGHWAY GRADE CROSSING SIGNALS
ESTIMATED MAINTENANCE COSTS**

FOR

PID #69177



BUILDING AMERICA®

BY THE **UNION PACIFIC RAILROAD**

STREET

PALO PARADO

TOWN

RIO RICO, AZ.

MILEPOST

50

SUBDIVISION

NOGALES

AAR/DOT NO.

742018J

WORK ORDER#

5456

DESCRIPTION	UNIT VALUE	QUANTITY	UNITS
NON-CODED TRK. CIRCUIT , (Standalone AFTAC or Ring 10)	2	0	0
SUPERIMPOSED CIRCUIT (AFTAC) / DETECTION LOOP	2	0	0
HIGHWAY GRADE CROSSING SIGNAL (ONE PAIR OF FLASHING LIGHTS)	2	2	4
ADDITIONAL PAIR OF LIGHTS	1	2	2
GATE MECHANISM, AUTOMATIC WITH ARM UP TO 26 FT	8	2	16
GATE MECHANISM, AUTOMATIC WITH ARM OVER 26 FT	10	0	0
GCP/HXP (Constant warning device, per track circuit)	15	1	15
EXIT GATE MANAGEMENT SYSTEM RACK*	10	0	0
MOVEMENT DETECTOR (PMD)	6	0	0
MOVEMENT DETECTOR (STANDBY UNIT)	3	0	0
RADIO DATA LINK, PER UNIT	1	0	0
PREEMPTION CIRCUIT	2	0	0
DATA RECORDER	1	0	0
REMOTE MONITORING DEVICE*	2	1	2
BONDED RAIL JOINTS (per mile, each rail, single bonded)	1	0	0
BATTERY AND CHARGER (per set)	1	2	2

TOTAL UNIT COUNT

41

PAVEMENT RESTORATION COSTS

(Actual)

Annual Maintenance Cost at \$170/Unit

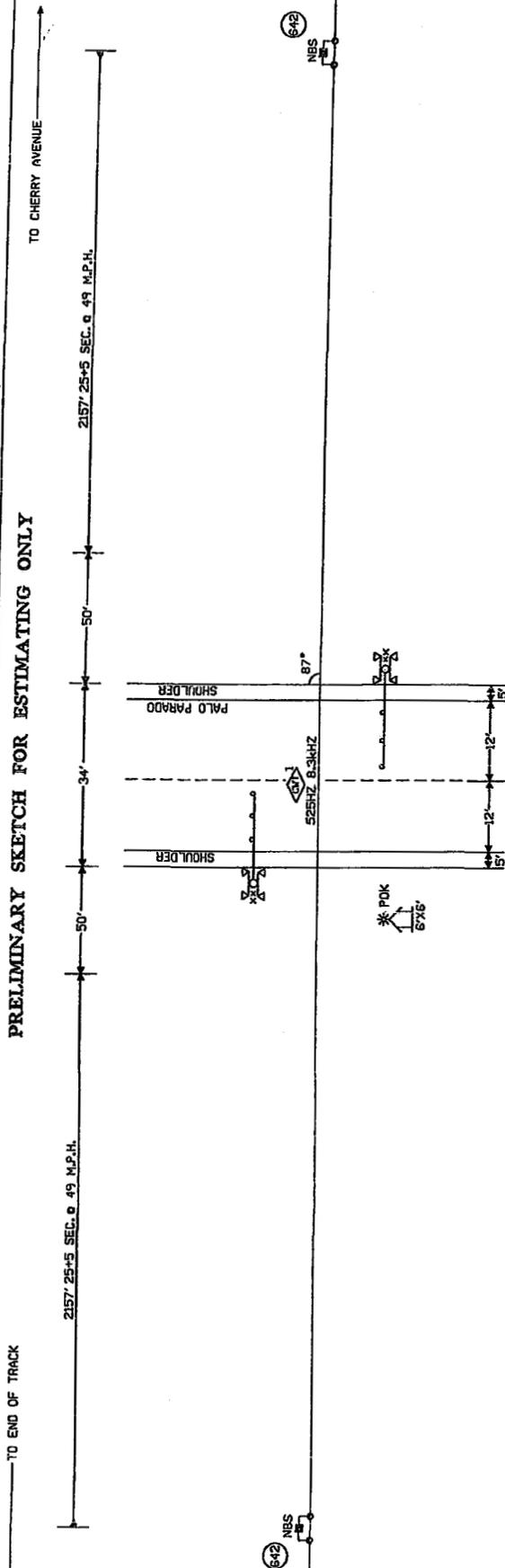
\$6,970

*UP supplied Unit Value

July 3, 2010

TRACS No. 0000 SC SSC SR230 01C
Project No. STP-SSC-0(201)
Agreement No. 1532-91-SPTC
EXHIBIT "A"
Sheet 3 of 4

PRELIMINARY SKETCH FOR ESTIMATING ONLY



- NOTES**
- WARNING DEVICE PLACEMENTS:
 - CROSSINGS > 90 DEGREES OR > C.L. FOUNDATION TO C.L. TRACK = 15'
 - CROSSINGS > 90 DEGREES: TIP OF GATE TO C.L. TRACK = 12'
 - EDGE OF ROAD TO C.L. FOUNDATIONS: MIN. 4' WITH CURB MIN. 6'3" WITHOUT CURB
 - HOUSE CLEARANCE: RAIL 25' MIN. TO NEAR OF ROAD 30' MIN. TO EDGE OF ROAD
 - ◇ = CONSTANT WARNING BI-DIRECTIONAL
 - ◇ = CONSTANT WARNING UNI-DIRECTIONAL
 - ◇ = MOTION SENSOR
 - = DAX
 - 4" X 40' CONDUIT
 - LIGHTS: LED LIGHTS
 - xx = BELL
 - ▬ = RETAINING WALL

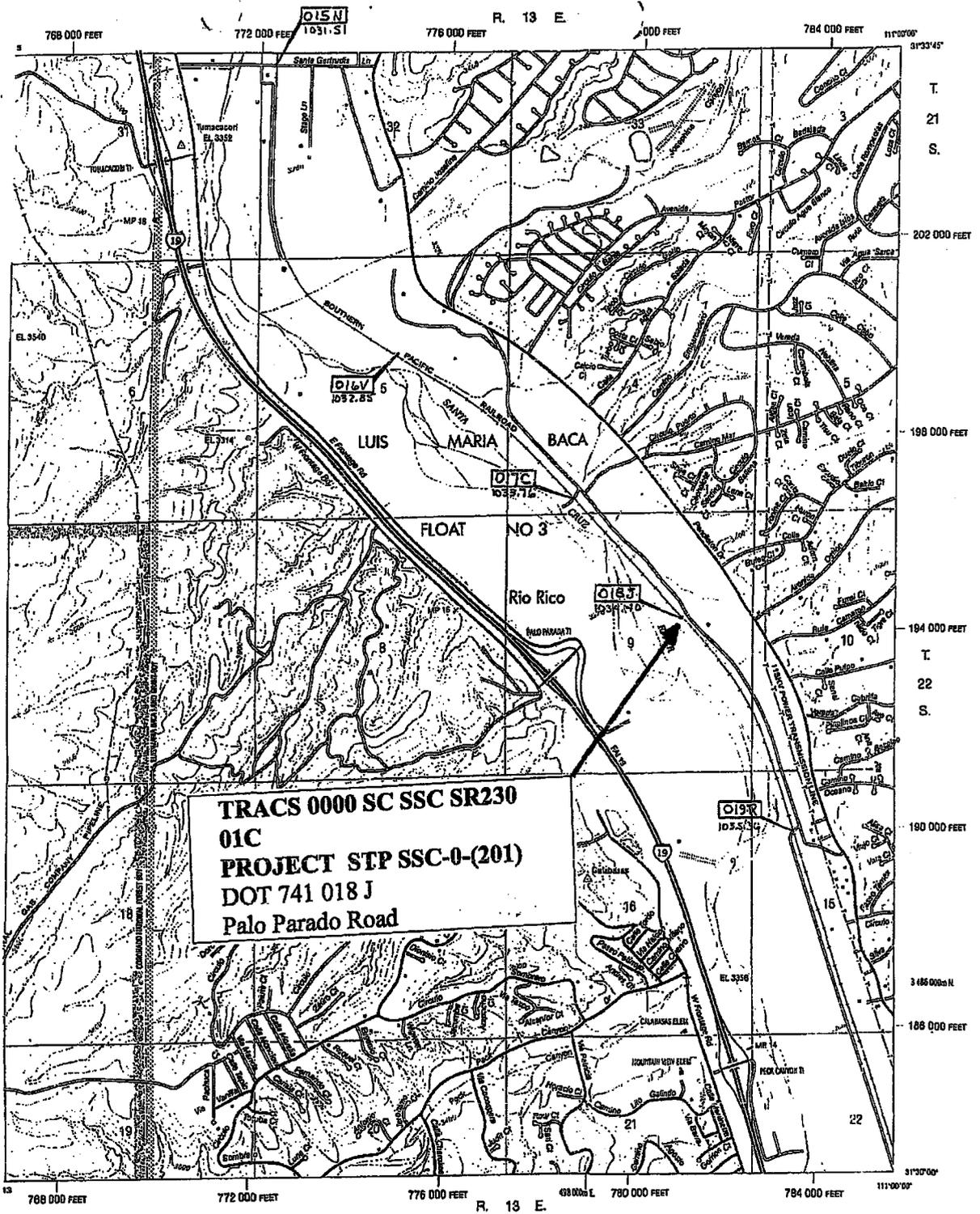
CONSTRUCTION NOTES

1. GATES TO BE PLACED 4" FROM PROPOSED SHOULDER WIDENING AND RAISED CURB.

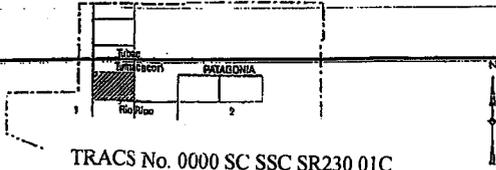
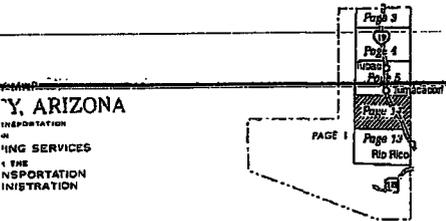
TRACS No. 0000 SC SSC SR230 01C
 Project No. STP-SSC-0(201)
 Agreement No. 1532-91-SPTC
YELLOW IN EXHIBIT "A"
 Sheet 4 of 4

JOB REF. # 6310		DATE 05/26/10		UNION PACIFIC RAILROAD		SHEET 01	
PID# 69177		DATE XRL		RIO RICO, ARIZONA		DOT 742018J	
LABOR ADD		DATE		PALO PARADO		MP. 50.00	
		AFE		NOGALES SUBDIVISION		ID# 050525T	

WIS ← ○ → EUN



**TRACS 0000 SC SSC SR230
01C
PROJECT STP SSC-0(201)
DOT 741 018 J
Palo Parado Road**



TRACS No. 0000 SC SSC SR230 01C
Project No. STP-SSC-0(201)
Agreement No. 1532-91-SPTC
EXHIBIT "B"
Sheet 1 of 1

Y, ARIZONA
TRANSPORTATION
ENGINEERING SERVICES
CONSULTANTS

STATE OF ARIZONA
DEPARTMENT OF TRANSPORTATION

Agreement No. 1532-91-SPTC

Agreement Addendum No. 1

Company's Name: The Union Pacific Railroad Company
Address: 101 S. Watson Road, Arlington, TX 76010

The purpose of this addendum is to modify the Company name as stated herein:

WHEREAS: Agreement No. 1532-91-SPTC terms the "RAILROAD" as SOUTHERN PACIFIC TRANSPORTATION COMPANY.

WHEREAS: Agreement No. 1532-91-SPTC is revised to term the "RAILROAD" as the UNION PACIFIC RAILROAD COMPANY.

THEREFORE: The parties hereto agree that Agreement No. 1532-91-SPTC is hereby amended as shown herein. All other provisions of Agreement No. 1532-91-SPTC shall remain unabrogated.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

ARIZONA DEPARTMENT OF TRANSPORTATION

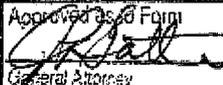
UNION PACIFIC RAILROAD COMPANY

By 
~~WILLIAM R. BRISCOE, P.E.~~
J. Patrick Hackett
Utility & Railroad Engineering Section

By 
CHIEF ENGINEER

Date 2-18-99

Date _____

Approved as to Form

General Attorney

A. G. CONTRACT NO. KR95-1689-TF

ARIZONA DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION
UTILITY AND RAILROAD ENGINEERING SECTION

MASTER
RAILROAD AGREEMENT
For
FEDERAL AID
Railroad Crossing Projects

SOUTHERN PACIFIC TRANSPORTATION COMPANY
Agreement No. 1532-91-SPTC
RAIL/HIGHWAY SAFETY PROGRAM

THIS AGREEMENT by and between SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation, herein termed "RAILROAD," and STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, herein termed "STATE".

WITNESSETH:

The parties hereto desire to set forth by this instrument their understanding and agreements with respect to the installation, at various times, of railroad warning devices and/or surface crossing materials with track rehabilitation, if required, throughout the State of Arizona, where a roadway crosses the property and tracks of RAILROAD.

Agreement No. 1532-91-SPTC

AGREEMENT:

NOW THEREFORE, it is mutually agreed as follows:

1. The work to be performed by RAILROAD under this agreement is hereinafter referred to as "PROJECT".

2. RAILROAD agrees to furnish all labor, materials, tools, and equipment necessary to install such warning devices including necessary actuating and operating circuits and adequate instrument housing and/or roadway crossing materials with track rehabilitation, if required, upon its property at certain designated grade crossings.

Said installation shall comply with the latest standards prescribed by the Association of American Railroads and the Manual On Uniform Traffic Control Devices, Part VIII.

3. RAILROAD will prepare both a cost estimate, marked Exhibit "A" and a location plan marked, Exhibit "B", showing the general details of each PROJECT and send them to STATE for acceptance.

4. It is agreed that the work to be performed by RAILROAD is a part of a Federal-Aid project. Pursuant to the provisions of Federal-Aid Policy Guide Subchapter G, Part 646 Subpart B, there is no ascertainable net benefit to RAILROAD, and STATE agrees to reimburse RAILROAD for one hundred percent (100%) of the cost and expense incurred by RAILROAD in furnishing of materials and performing the work as described in the Cost Estimate, marked EXHIBIT "A", attached to and made a part hereof.

5. It is understood and agreed that the STATE is acting solely as an agent for the project sponsor in securing and administering Federal funds and STATE assumes no other liability hereunder for the project sponsor.

6. Prior to commencing construction of each PROJECT, Railroad agrees to notify STATE, in writing, of the actual construction start date. Upon completion of each PROJECT, RAILROAD agrees to notify STATE, in writing, of the actual completion date. The construction start date shall not be prior to receiving a notice to proceed from STATE. Construction progress payments shall not be made without the actual construction start date. Final payment shall not be made without the actual construction completion date.

7. The work for each PROJECT shall be performed by RAILROAD forces on an actual cost basis, and as supported by the analysis of estimated costs set forth in Exhibit "A". The actual cost shall be payable in payments as follows:

- a. RAILROAD will order the materials for each PROJECT, and may invoice the STATE upon receipt, for materials and related costs, as set forth in Exhibit "A".
- b. RAILROAD may submit monthly invoices for work performed and materials installed unless invoiced under subparagraph a.
- c. Minimum payment, except for final invoice, is \$5,000.
- d. Upon completion of all work under each PROJECT, RAILROAD shall arrange for a joint close-out inspection of the completed PROJECT. Upon determination by STATE that the work has been completed in accordance

with Exhibits "A" and "B", RAILROAD will submit final and complete invoice to the STATE. STATE agrees to pay RAILROAD the difference between the final invoice and any previous payments for PROJECT. Any amount with which STATE disagrees shall be paid under protest, subject to resolution.

- e. All invoices will be paid by STATE within sixty (60) days of receipt.

All expenses incurred by RAILROAD for work which STATE is obligated to reimburse RAILROAD hereunder, including all work incidental to such work but not specifically mentioned herein, shall be subject to the provisions of the Federal-Aid Policy Guide Subchapter B Part 140 Subpart I.

8. Pursuant to A.R.S. Sections 35-214, 35-215 and 41-1279.04, the books of RAILROAD shall be open for inspection and audit by authorized representatives of STATE and the Federal Government for a period of not less than five (5) years from the date final payment has been received by RAILROAD. State agrees to pay RAILROAD any sums found to be owing as a result of an audit within sixty (60) days of receipt of the audit by the Utility and Railroad Engineering Section of STATE. RAILROAD agrees to reimburse STATE, within sixty (60) days of notification for any amount STATE disallows as a result of its audit. Any audit exceptions with which RAILROAD disagrees shall be paid to STATE under protest subject to resolution.

9. All invoices shall contain STATE's project number and agreement number. The invoice shall be sent to:

Agreement No. 1532-91-SPTC

ARIZONA DEPARTMENT OF TRANSPORTATION
Utility and Railroad Engineering Section
205 South 17th Ave. Mail Drop 618E
Phoenix, Arizona 85007-3212

10. Once installation of railroad warning devices and/or roadway crossing material has been completed, RAILROAD shall maintain, in kind, the railroad warning devices and the crossing material two feet outside of each rail as long as they remain in place. However, RAILROAD shall be entitled to receive any contribution toward the cost of such maintenance as may be now or hereafter made available by means of any law, ordinance, regulation, order, grant or by other means or sources.

11. Claims and disputes between STATE and RAILROAD involving sums less than \$100,000 and arising out of the terms of this Agreement relating to work performed, invoicing and similar matters, shall be subject to arbitration, at the request of either party, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining; provided, however, that claims or disputes arising out of personal injury, death, property damage, or environmental incidents shall not be subject to arbitration without the concurrence of both parties, except to the extent otherwise required by the rules of Arizona courts.

12. In compliance with the regulations of the United States Department of Transportation, RAILROAD hereby agrees to comply fully with all of the provisions of Appendix "A", attached hereto and by this reference made a part of this Agreement; provided, however, that Appendix "A" shall be applicable only in those cases where RAILROAD does not perform the work contemplated in this Agreement with its own forces.

13. This Agreement is subject to the budgetary limitations set forth in Arizona Revised Statutes Subsection 28-1823 through 28-1826 inclusive and is further subject to the provisions of Chapter 1 of Title 35, Arizona Revised Statutes.

14. STATE and RAILROAD each agrees to be liable to the other party for its own acts of negligence and the negligence of its own employees.

15. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of RAILROAD and the assigns of STATE.

16. RAILROAD is required to comply with Executive Order 75-5, "Non-Discrimination in Employment by Government Contractors and Subcontractors," which is hereby included in its entirety by reference and considered a part of this Agreement.

17. Pursuant to A.R.S. Subsection 38-511, STATE may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of STATE or any of its departments or agencies is, at any time while this Agreement or any extension of it is in effect, an employee of any other party to this Agreement with respect to the subject matter of this Agreement.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year signed by both parties.

SOUTHERN PACIFIC
TRANSPORTATION COMPANY

ARIZONA DEPART. OF TRANSPORTATION
HIGHWAY DIVISION

By Janis L. Moeller
Its MANAGER - CONTRACTS

By William R. Briscoe
Manager of Utility & Railroad
Engineering Section

Date October 2, 1995

Date 10-17-95

Approved as to form
William R. Briscoe
ATTORNEY 10/5/95

STATE OF COLORADO)
) ss.
COUNTY of DENVER)

The foregoing instrument was acknowledged before me this 2nd day of October, 1995, by Ms. J. L. Moeller, the MANAGER-CONTRACTS of SOUTHERN PACIFIC TRANSPORTATION COMPANY, a Delaware corporation, on behalf of the corporation.

My Commission Expires
ALISON DILGES
2-11-97

My Commission Expires 2-11-97

Notary Public Alison Dilges

STATE OF ARIZONA)
) ss.
COUNTY of MARICOPA)

The foregoing instrument was acknowledged before me this 17 day of October, 1995, by William R. Briscoe, the Manager of Utility and Railroad Engineering Section of the Arizona Department of Transportation, on behalf of the STATE.

My Commission Expires:
Commission Expires 10/23/95

Connie Marie
Notary Public

Agreement No. 1532-91-SPTC

APPENDIX A
(Revised)

II EQUAL OPPORTUNITY

1. Selection of Labor:

During the performance of this contract, the contractor shall not discriminate against labor from any other State, possession or territory of the United States.

2. Employment Practices:

During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State highway department setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway department advising the said labor union or workers' representative of the contractors commitments under this section II-2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of this Section II-2 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Federal Highway Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment:

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

a. Compliance With Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time. (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

c. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

d. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (1) withholding of payments to the contractor under the contract until the contractor complies, and/or
- (2) cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provision of this paragraph 3 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontractor or procurement as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State highway department to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.