

## GRADE CROSSING SIGNAL INSTALLATION AGREEMENT

**BNSF File No.: BF10007610**  
**Mile Post 0083.95**  
**Line Segment 0003**  
**U.S. DOT Number 069803B**  
**Aurora Subdivision**

THIS GRADE CROSSING SIGNAL INSTALLATION AGREEMENT (hereinafter called, "Agreement"), is executed to be effective as of 03/17/2015, by and between the City of Rochelle, a Political Subdivision of the State of Illinois, a Municipal Corporation, herein represented and acting through its City Council (hereinafter called, "AGENCY"), and **BNSF RAILWAY COMPANY**, a Delaware Corporation (hereinafter called, "RAILROAD");

### WITNESSETH:

WHEREAS, in the interest of aiding vehicular travel and public safety, the AGENCY is undertaking a project to install railroad crossing signals and activation equipment known as installation of four-quadrant flashers and gates at 15<sup>th</sup> Street;

WHEREAS, the project to install four-quadrant gates is located at U.S. DOT crossing 069803B as indicated on Exhibit "A", attached hereto and incorporated herein;

WHEREAS, the parties agree that the RAILROAD will receive no ascertainable benefit from the installation of advance warning signs, pavement marking stop bars or crossing signal equipment (hereinafter collectively called, "Crossing Signal Equipment");

WHEREAS, the AGENCY is paying for the acquisition and installation of crossing signal equipment at 15th Street

WHEREAS, the RAILROAD agrees to purchase and install, at AGENCY'S sole expense, the crossing signal equipment 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:

### **ARTICLE I – SCOPE OF WORK**

1. The term "Project" as used in this agreement includes any and all work related to the installation of crossing signals and activation equipment at U.S. DOT crossing 069803B, more particularly described on Exhibit "A" and Exhibit "B" which are attached hereto and incorporated herein, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, installation of advance warning signs and pavement marking stop bars, installation of any new crossing surface, temporary and permanent track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation.

## **ARTICLE II – RAILROAD OBLIGATIONS**

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

1. The RAILROAD will, using its own labor forces under applicable labor agreements, install the Crossing Signal Equipment at 15th Street. 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 "B" and incorporated herein.

2. A detailed estimate of RAILROAD'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 "C" and incorporated herein. In the event construction for the Project has not commenced within six (6) months following the effective date of this Agreement, RAILROAD may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit "C". 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 "C" 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. RAILROAD will furnish all labor, materials, tools and equipment for the railroad portion of the work required for the construction of the Project.

4. The RAILROAD will, at AGENCY'S expense, dispose of all scrap from the RAILROAD'S work hereunder.

5. The RAILROAD will finalize and complete billing of all incurred costs under this Agreement no later than one (1) year following installation of the Crossing Signal Equipment.

## **ARTICLE III – AGENCY OBLIGATIONS**

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

1. AGENCY must perform, at AGENCY'S expense, the following work:
  - a) Installation of a pavement marking stop bar in accordance with the Manual on Uniform Traffic Control Devices (hereinafter called, "MUTCD").
  - b) Installation of advance warning signs in accordance with the MUTCD.
2. The AGENCY will approve the location of the signals and signal bungalow prior to installation by RAILROAD.
3. Actual costs for engineering, materials and labor (including third party charges for the installation of electrical service) associated with the installation of the Crossing Signal Equipment must be paid by the AGENCY (including taxes, such as applicable sales and use taxes, business and occupation taxes, and similar taxes).
4. In the event the services of a consultant are needed after execution of this Agreement due to any exigency of the RAILROAD and the Project, the AGENCY and the RAILROAD 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.
5. During the installation of the Crossing Signal Equipment, RAILROAD will send AGENCY progressive invoices detailing the costs of the work performed by RAILROAD under this Agreement. AGENCY must reimburse RAILROAD for completed force-account work within thirty (30) days of the date of the invoice for such work. Upon completion of the Project, RAILROAD will send AGENCY a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit "C". Pursuant to this section, AGENCY must pay the final invoice within ninety (90) days of the date of the final invoice. RAILROAD 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 RAILROAD, 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.
6. AGENCY agrees to provide RAILROAD with one of the following credit enhancements guaranteeing the total amount of AGENCY'S financial obligations (including, without limitation, liquidated damages, indemnity obligations and other expenses) under this Agreement:
  - (a) Irrevocable Bank Letter of Credit drawn upon a bank satisfactory to RAILROAD;
  - (b) Surety Bond underwritten by an insurance company listed in the Department of Treasury Federal Register with terms acceptable to RAILROAD, in RAILROAD'S sole discretion; or
  - (c) A posted cash deposit via wire transfer to a RAILROAD deposit account.

Any irrevocable letter of credit or surety bond provided to RAILROAD pursuant to this provision shall have a minimum term of eighteen (18) months. The bank issuing the letter of credit and the insurance company issuing the surety bond shall notify RAILROAD thirty (30) days prior to the expiration date of the letter of credit or the surety bond. Upon expiration of any surety bond or letter of credit, AGENCY must immediately provide RAILROAD with a substitute letter of credit, surety bond or cash deposit as set forth above until AGENCY's financial obligations to RAILROAD are fully and finally satisfied.

Any cash deposit provided under this provision will be held in a non-interest bearing account in the name of RAILROAD. If AGENCY's financial obligations at the end of the Project are less than the amount of the cash deposit, RAILROAD shall refund any remaining sum to AGENCY.

AGENCY should forward the letter of credit or the surety bond to BNSF Manager of Credit, 2400 Western Center Boulevard, Fort Worth, Texas 76131 (phone: 817-352-4194). If posting a cash deposit pursuant to this provision, contact BNSF Manager of Credit to obtain the RAILROAD account information.

7. The AGENCY must have advance railroad crossing warning signs and standard pavement markings in place at the crossing shown on Exhibit "A" (if the same are required by the MUTCD) prior to the acceptance of this Project by the AGENCY. The AGENCY assumes full responsibility for the maintenance of advance warning signs and pavement markings and agrees to hold harmless and indemnify the RAILROAD for any claims, damages or losses, in whole or in part, caused by or due to the AGENCY'S failure to maintain the advance warning signs and markings or other requirements of the MUTCD.

8. The AGENCY must give RAILROAD'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.

9. The AGENCY agrees to provide, to the BNSF Manager of Evidence Preservation, such Project documentation and records as are agreed to between the parties including: any Project applications; any letters of approval and/or authorization forms (eg. PR-1240 or the equivalent); any and all payment Voucher forms requesting FHWA reimbursement (eg. PR-20 or the equivalent) or any other such Project authorizations or funding records as BNSF may request from time to time. Such records will be provided by the Agency to BNSF on a mutually agreeable schedule or within two (2) months after such records are generated or received by the AGENCY. Section 130 Documentation shall be provided to BNSF if one of the following manners:

Manager Evidence Preservation  
2600 Lou Menk Drive, AOB-3  
Fort Worth, Texas 76131

Or Electronically to:

**ARTICLE IV- JOINT OBLIGATIONS**

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

1. All cost records of the RAILROAD 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) for a period of one (1) year from the date of the final RAILROAD invoice under this Agreement.
2. Upon completion of the installation of the Crossing Signal Equipment, the RAILROAD, will, at its sole cost and expense, operate and maintain the Crossing Signal Equipment and the new crossing surface in proper condition.
3. 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'S portion of maintenance costs under this Agreement, RAILROAD 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.
4. If a railway or a highway improvement project necessitates rearrangement, relocation, or alteration of the Crossing Signal Equipment installed hereunder, the costs for such rearrangement, relocation or alteration will be the responsibility of the party requesting such changes.
5. If any of the Crossing Signal 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 RAILROAD's sole negligence destroys or damages the Crossing Signal Equipment, RAILROAD 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.
6. If the Crossing Signal Equipment installed hereunder cannot, through age, be maintained, or, by virtue of its obsolescence, requires replacement, the cost of installation of new crossing signal equipment will be negotiated by the parties hereto on the basis of the current Federal Aid Railroad Signal Program participation and applicable AGENCY and, if not applicable, by Illinois Commerce Commission determination at the time of such replacement is warranted.

7. This Agreement will inure to the benefit of and be binding on the parties hereto, their successors, and assigns.

8. 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.

9. 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.

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

**BNSF RAILWAY COMPANY**

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

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

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

**City of Rochelle**

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

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

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

EXHIBIT A

38

MP 83.951 DOT# 069803B 15TH ST

Google earth

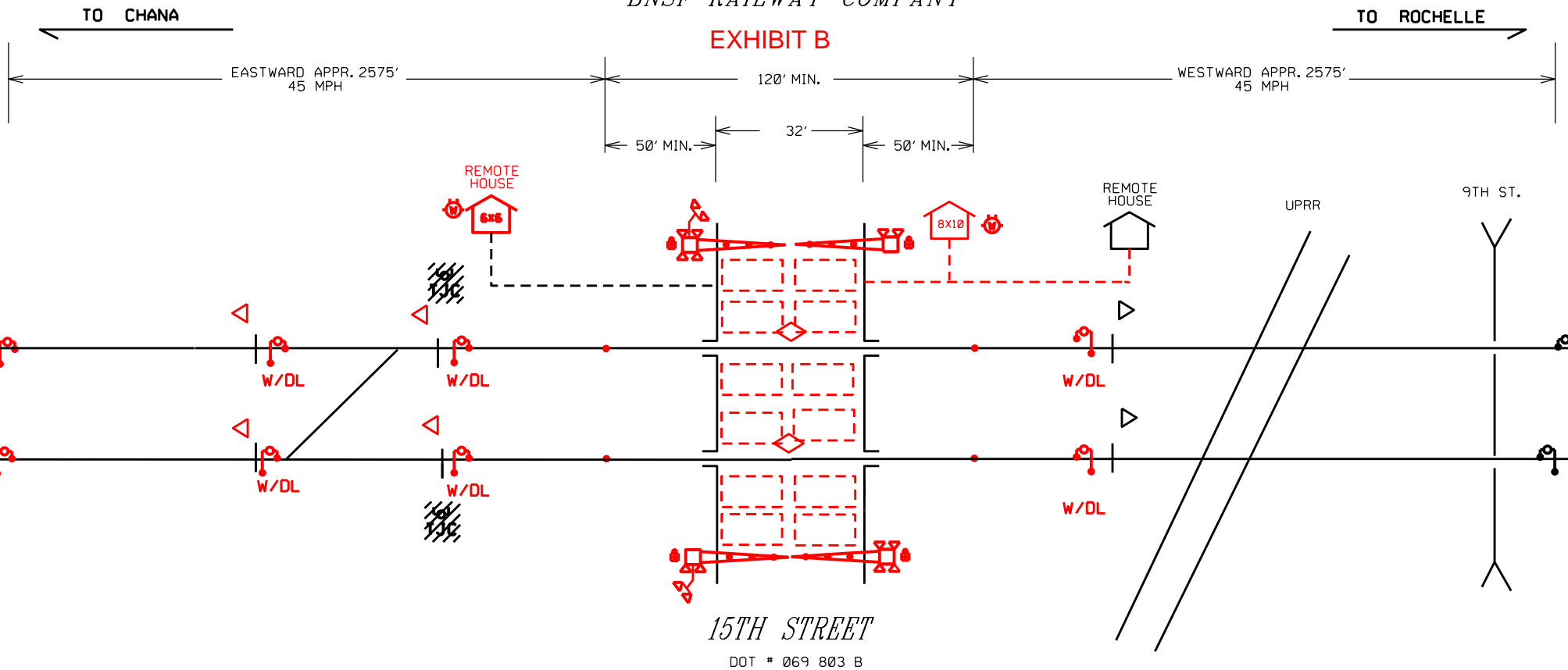
© 2015 Google



100 ft

BNSF RAILWAY COMPANY

EXHIBIT B



15TH STREET

DOT # 069 803 B

PROJECT# 54925

INSTALL: GATES, FLASHERS, PD LOOPS & REMOTE HOUSE

CONTROL DEVICES: CONSTANT WARNING

**BOLD - IN** - OUT SALVAGE: NONE

- INSTRUMENT HOUSE
- BELL
- METER
- CROSSING CONTROL CONNECTIONS
- BIDIRECTIONAL CROSSING CONTROL
- UNIDIRECTIONAL CROSSING CONTROL
- COUPLER OR TERMINATION
- GUARD RAIL

Warning device placement:  
 Clearance to C.L. Track = Min. 12'  
 Edge of Road to C.L. Foundation:  
     Min. 4'3" with curb,  
     Min. 8'3" without curb,  
     Max. 12'  
 House Clearance:  
     25' Min. to Near Rail  
     30' Min. to Edge of Road  
 ALL LIGHTS TO BE LED

**BNSF RAILWAY CO.**  
 LOCATION: ROCHELLE, IL.  
 STREET: 15TH STREET  
 LS: 0003  
 M.P. 83.95  
 DOT # 069 803 B  
 DIVISION: CHICAGO  
 SUBDIVISION: AURORA  
 KANSAS CITY  
 NO SCALE  
 DATE: 03/04/2015  
 FILE: 54925 STATE SKETCH.dgn  
 JFK



# EXHIBIT C

\*\*\*\*\* MAINTAIN PROPRIETARY CONFIDENTIALITY \*\*\*\*\*

BNSF RAILWAY COMPANY  
FHPM ESTIMATE FOR  
CITY OF ROCHELLE, IL

LOCATION CP 844

DETAILS OF ESTIMATE

PLAN ITEM : 000243726

VERSION : 2

PURPOSE, JUSTIFICATION AND DESCRIPTION

15TH ST - ROCHELLE, IL; INSTALL CONSTANT WARNING, FLASHERS WITH ENTRANCE AND EXIT GATES; CHICAGO DIV; AURORA SUBDIV; LS 3; MP 83.95; DOT# 069803B. SEQ. #54925.

MONTHLY POWER UTILITY COST CENTER : 61690

THE MATERIAL LIST BELOW REFLECTS TYPICAL REPRESENTATIVE PACKAGES USED FOR ESTIMATING PURPOSES ONLY.

THEY CAN BE EXPECTED TO CHANGE AFTER THE ENGINEERING PROCESS. DETAILED AND ACCURATE MATERIAL LISTS WILL BE FURNISHED WHEN ENGINEERING IS COMPLETED.

CONTINUING CONTRACTS HAVE BEEN ESTABLISHED FOR PORTIONS OF SIGNAL WORK ON THE BNSF RAILROAD.

THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

\*\*\*\*\* SIGNAL WORK ONLY \*\*\*\*\*

THE CITY OF ROCHELLE, IL IS FUNDING 100% OF THIS PROJECT..

MAINTAIN PROPRIETARY CONFIDENTIALITY  
PRIMARY FUNDING SOURCE IS FHWA  
\*\* BUY AMERICA(N) APPLIES \*\*

DESCRIPTION	QUANTITY U/M	COST	TOTAL \$
*****			
LABOR			
*****			
ELECTRICAL LABOR F/POWER TRANS SYS	108.0 MH	3,039	
SIGNAL FIELD LABOR - CAP	1868.0 MH	55,913	
SIGNAL SHOP LABOR - CAP	120.0 MH	3,624	
PAYROLL ASSOCIATED COSTS		41,279	
DA OVERHEADS		62,361	
EQUIPMENT EXPENSES		17,501	
INSURANCE EXPENSES		10,505	
TOTAL LABOR COST		194,222	194,222
*****			
MATERIAL			
*****			
BATTERY	1.0 LS N	8,084	
BELL, ELECTRONIC	4.0 EA N	784	
BUNGALOW 8X10	1.0 EA N	10,228	
BUNGALOW MATERIAL	1.0 LS N	7,130	
CABLE, 2C/6 T/W	1000.0 FT N	1,210	
CABLE, 3C/2	300.0 FT N	1,752	
CABLE, 5C/10	140.0 FT N	258	
CABLE, 5C/6	1500.0 FT N	6,166	
CABLE, 7C/14	1500.0 EA N	2,550	
CABLE, DAX	3000.0 FT N	7,890	
CHARGERS	1.0 LS N	863	
CONDUIT, PVC 4", SCH 80	300.0 FT N	1,011	
CONSTANT WARNING	1.0 EA N	29,234	
EGMS	1.0 EA N	32,570	
EVENT RECORDER	1.0 EA N	3,625	
FIELD MATERIAL	1.0 LS N	9,240	
FILL DIRT	80.0 CY N	2,000	
FOUNDATION, CONCRETE	4.0 EA N	1,220	
GATE KEEPER, ENTRANCE	2.0 EA N	3,928	
GATE KEEPER, EXIT	2.0 EA N	3,928	
GATE MECHANISM, ENTRANCE	2.0 EA N	12,250	
GATE MECHANISM, EXIT	2.0 EA N	12,250	
HAWK 48 DIM	1.0 EA N	1,450	
HOMERUN CABLE	1500.0 FT N	16,035	
INDUCTOR, DUMMY LOAD	4.0 EA N	3,280	
JUNCTION BOX	6.0 EA N	2,328	

## EXHIBIT C

LED LIGHT	12.0 EA N	2,460	
LED LIGHT GATE KIT	4.0 EA N	756	
LIGHT OUT DETECTOR	2.0 EA N	2,046	
MATERIAL FOR ELECTRICAL	2.0 EA	3,000	
PD LOOPS	12.0 EA N	15,360	
RADAR DETECTION	1.0 LS N	20,000	
RADAR MATERIAL	1.0 LS N	5,000	
RELAY, DAX	2.0 EA N	1,154	
RELAYS, EGMS	26.0 EA N	19,500	
SHUNT, NBS	2.0 EA N	2,180	
SIDELIGHT, 1-WAY W/CANT	2.0 EA N	1,598	
SURFACE ROCK	30.0 CY N	1,500	
TELLULAR DEVICE	1.0 EA N	3,052	
X-REMOTE HSE-BATTERY - SPL 340	36.0 EA N	10,800	
X-REMOTE HSE-BUNGALOW 6X6	1.0 EA N	6,481	
X-REMOTE HSE-BUNGALOW MATERIAL	1.0 LS N	7,130	
X-REMOTE HSE-CABLE	1.0 LS N	6,555	
X-REMOTE HSE-CHARGER	1.0 LS N	863	
X-REMOTE HSE-CONDUIT, PVC 4", SCH 80	200.0 FT N	674	
X-REMOTE HSE-CONSTANT WARNING XP4	2.0 EA N	58,468	
X-REMOTE HSE-CONVERTER, 10-10	4.0 EA N	804	
X-REMOTE HSE-FIELD MATERIAL	1.0 LS N	4,530	
X-REMOTE HSE-GENERATOR, ACG-3	1.0 EA N	339	
X-REMOTE HSE-INDUCTOR, DUMMY LOAD	2.0 EA N	1,640	
X-REMOTE HSE-RELAY, DAX	2.0 EA N	1,154	
X-REMOTE HSE-SHUNTS, NBS	4.0 EA N	4,360	
MATERIAL HANDLING		150	
USE TAX		27,771	
OFFLINE TRANSPORTATION		4,544	
TOTAL MATERIAL COST		395,133	395,133
*****			
OTHER			
*****			
AC POWER SERVICE	2.0 EA	10,000	
CONTRACT ENGINEERING	1.0 LS N	20,000	
CONTRACT STREET MILLING	1.0 LS N	37,500	
DIRECTIONAL BORE	300.0 FT N	15,000	
QUAD GATE SURVEY	1.0 LS N	10,000	
X-REMOTE HSE-DIRECTIONAL BORE	200.0 FT N	10,000	
TOTAL OTHER ITEMS COST		102,500	102,500
PROJECT SUBTOTAL			691,855
CONTINGENCIES			69,185
BILL PREPARATION FEE			7,611
GROSS PROJECT COST			768,651
LESS COST PAID BY BNSF			0
TOTAL BILLABLE COST			768,651