



WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

City of Spokane Valley

Petitioner,

vs.

Union Pacific Railroad

Respondent

DOCKET NO. TR-

PETITION TO MODIFY WARNING DEVICES AT A HIGHWAY-RAILROAD GRADE CROSSING

USDOT: 662526C

The Petitioner asks the Washington Utilities and Transportation Commission to approve modification of warning devices at a highway-rail grade crossing.

Section 1 – Petitioner’s Information

City of Spokane Valley, WA

Petitioner

[Handwritten Signature]

Signature

10210 E. Sprague Avenue

Street Address

Spokane Valley, WA 99206

City, State and Zip Code

Same as above

Mailing Address, if different than the street address

Rob Lochmiller

[Handwritten Signature]

Contact Person Name & Signature

509-720-5010, rlochmiller@spokanevalley.org

Contact Phone Number and Email Address

***Section 2 – Respondent’s Information***

Union Pacific Railroad Respondent
9451 Atkinson St Street Address
Roseville, CA 95747 City, State and Zip Code
 Mailing Address, if different than the street address
Mary Schroll Contact Person Name
(916) 789-6111 / mrschrol@up.com Contact Phone Number and Email Address

***Section 3 – Crossing Location***

1. Existing highway/roadway: <u>Barker Road</u>
2. Existing railroad: <u>Union Pacific</u>
3. USDOT Crossing No.: <u>662526C</u>
4. GPS location: <u>Lat. 47.6864630    Long. -117.1544352</u>
5. Railroad mile post (nearest tenth) <u>12.99</u>
6. City: <u>Spokane Valley</u> County: <u>Spokane</u>

*Section 4 – Vehicle Traffic*

1. Name of highway: Barker Road

2. Road authority City of Spokane Valley

3. Average annual daily traffic (AADT) 8,600

4. Number of lanes: 2 lanes

5. Roadway speed: 35 mph

6. Is the crossing part of an established truck route? Yes \_\_\_\_\_ No X

7. If so, trucks are what percent of total daily traffic? 15%

8. Is the crossing part of an established school bus route? Yes X No \_\_\_\_\_

9. If so, how many school buses travel over the crossing each day? 5

10. Describe any changes to the information in 1 through 7, above, expected within ten years:

The traffic volumes will increase as the vacant land to the north is developed.

\_\_\_\_\_  
\_\_\_\_\_





### ***Section 6 – Current Warning Devices***

Provide a complete description of the warning devices currently located at the crossing (vehicle and pedestrian), including signs, gates, lights, train detection circuitry and any other warning devices.

One cantilever and one quad gate/flasher for each direction of travel. Southbound gate/flasher has side flashers for eastbound Euclid Avenue travel. One (1) driving lane southbound and one (1) driving lane northbound - Nine (9) flasher sets and two (2) bells total.

Two stop bars, two W10-1 approach signs, and two RR Xing pavement markings and W10-4 on the parallel roads, Euclid Avenue north and south sides of the tracks.

### ***Section 7 – Description of Proposed Changes***

Describe in detail the number and type of proposed automatic signals (vehicle and pedestrian), gates or other warning devices, and/or changes to train detection circuitry. Please describe any other proposed changes at the crossing, including changes to the crossing surface, signage, pavement markings, etc. If sidewalks are being installed, please provide information on who will maintain them. (Attach additional information sheets, if needed.)

One cantilever, and one quad gate/flasher for each direction of travel. Northbound cantilever provides flasher for both lanes. Southbound cantilever also has 2 sidelights for eastbound Euclid Avenue and westbound access road travel. Two (2) driving lanes northbound, one (1) driving lane southbound and one (1) multi-use path on east side to be maintained by City - Nine (9) flashers and three (3) bells total.

Two stop bars, two W10-1 approach signs, two W10-4 approach signs, two RR Xing pavement markings and other signage in accordance with the MUTCD.

Replace concrete crossing surface with new wider 81ft (10 panels) concrete crossing surface in order to accommodate traffic lanes and multi-use path.

### ***Section 8 – Illustration of Proposed Warning Devices***

Attach a detailed design diagram, drawing, map or other illustration showing all proposed modifications, including signals, signage, pavement markings, sidewalks, etc.

*Section 9 – Waiver of Hearing by Respondent*

**Waiver of Hearing**

The undersigned represents the Respondent in the petition to modify highway-rail grade crossing warning signal system at the following crossing.

USDOT Crossing No. 662526C

We have investigated the conditions at the crossing. We are satisfied the conditions are the same as described by the Petitioner in this docket. We agree the warning signal system should be modified and consent to a decision by the commission without a hearing.

Dated at \_\_\_\_\_, \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Printed name of Respondent


\_\_\_\_\_  
Signature of Respondent's Representative

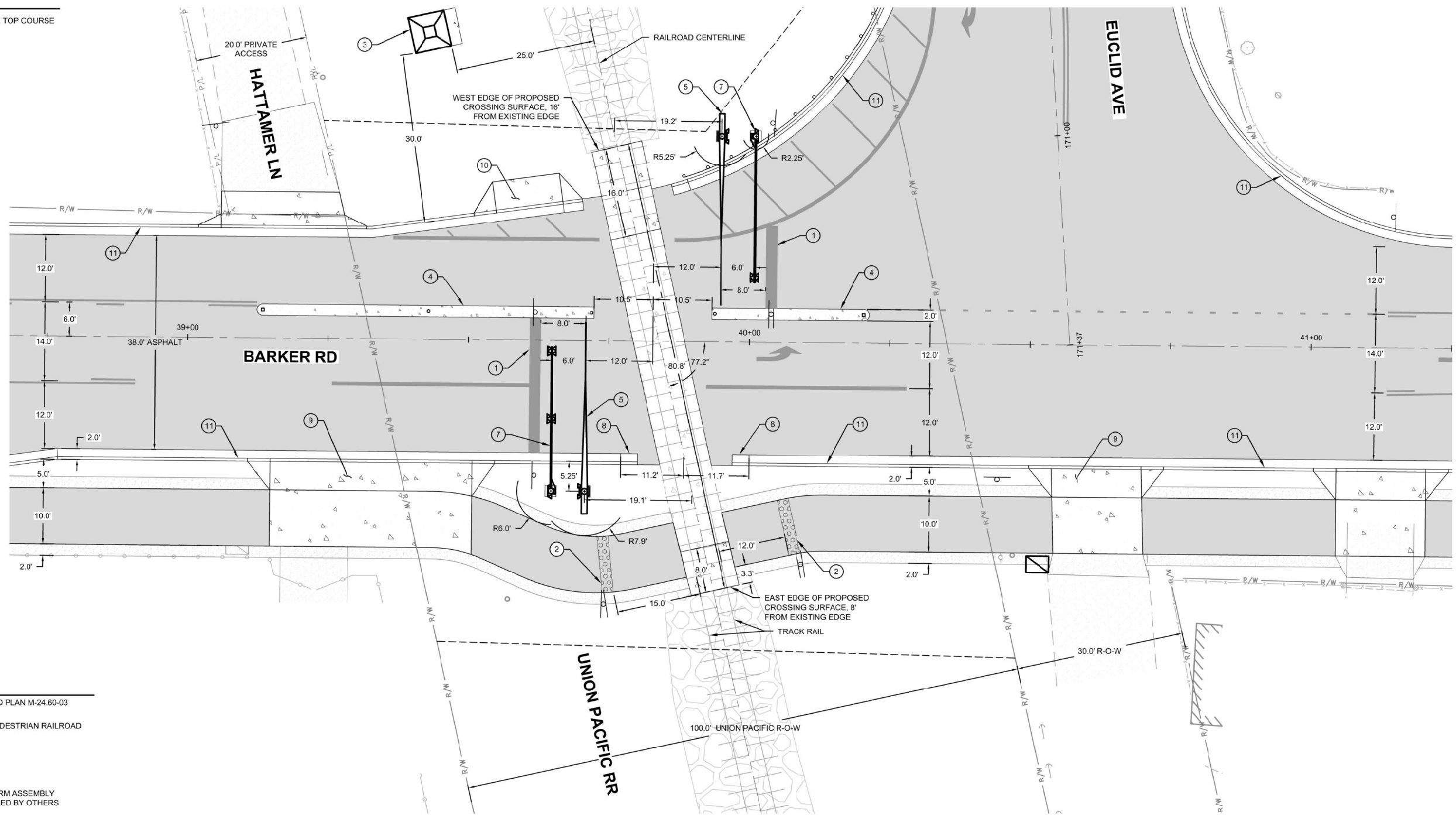
\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone number and e-mail address

\_\_\_\_\_  
Mailing address

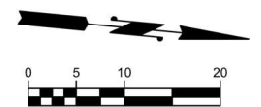
**LEGEND**

-  CRUSHED SURFACE TOP COURSE
-  CONCRETE
-  ARTERIAL HMA



**KEYNOTES**

- ① PLASTIC - STOP BAR, PER WSDOT STANDARD PLAN M-24.60-03 W: 2.0'
- ② 2' x 10' DETECTABLE WARNING SURFACE, PEDESTRIAN RAILROAD CROSSING, WSDOT STD PLAN F-45.10-02
- ③ SIGNAL CABINET
- ④ 8" HIGH CEMENT CONCRETE MEDIAN
- ⑤ ACTIVE TRAFFIC CONTROL DEVICE - GATE ARM ASSEMBLY (ARM LENGTH = 3'), PROVIDED AND INSTALLED BY OTHERS
- ⑥ NOT USED
- ⑦ ACTIVE TRAFFIC CONTROL DEVICE - CANTILEVER ASSEMBLY WITH FLASHERS, PROVIDED AND INSTALLED BY OTHERS
- ⑧ CURB TERMINATION, CTY STD PLAN S-R02
- ⑨ TYPE 1 CONCRETE APPROACH SEPARATED SIDEWALK, SPOKANE VALLEY STD PLAN R-110 RAMP DEPTH = 5' SIDEWALK DEPTH = 10'
- ⑩ CEMENT CONCRETE DRIVEWAY TYPE 4, WSDOT STD PLAN F-90.10-04 AND 4" CSTC DEPTH = 5'
- ⑪ CURB & GUTTER TYPE B, SPOKANE VALLEY STD PLAN R-102



LOCATION: P:\PUBLIC WORKS\CAPITAL PROJECTS\STREET PROJECTS\0313 - BARKER RD UNION PACIFIC CROSSING\DWG\0313\_01\_01.DWG, DATE: 07/01/2020 11:51 AM BY: JANDRE



Know what's below  
Call before you dig.

REVISIONS			
NO.	DATE	DESCRIPTION	BY



CITY OF SPOKANE VALLEY  
COMMUNITY & PUBLIC WORKS DEPARTMENT  
10210 EAST SPRAGUE AVENUE  
SPOKANE VALLEY, WA. 99206  
(509) 720-5000

DRAWN BY   JAM    
DESIGNED BY   JAM  

EXHIBIT  
JULY 1, 2020

**0313 BARKER - UNION PACIFIC CROSSING**  
**UNION PACIFIC RR CROSSING LAYOUT**  
**BARKER RD / UNION PACIFIC**  
**CROSSING, SPOKANE VALLEY, WA**  
**MP 0012.99, DOT 662526C**

**SHEET**  
**1**

## EXHIBIT C

### ESTIMATE OF FORCE ACCOUNT WORK BY THE UNION PACIFIC RAILROAD COMPANY

DESCRIPTION OF WORK: Engineering and other related services for work to be performed within railroad right of way. This includes railroad flagging services, project and construction management during construction activities in railroad right of way. All necessary railroad services will be billed at actual cost.

**DATE:**

12/8/2020

**LOCATION:**

Barker Rd, 662526C  
Spokane Valley

**SUBDIVISION**

Spokane

**STATE:**

WA

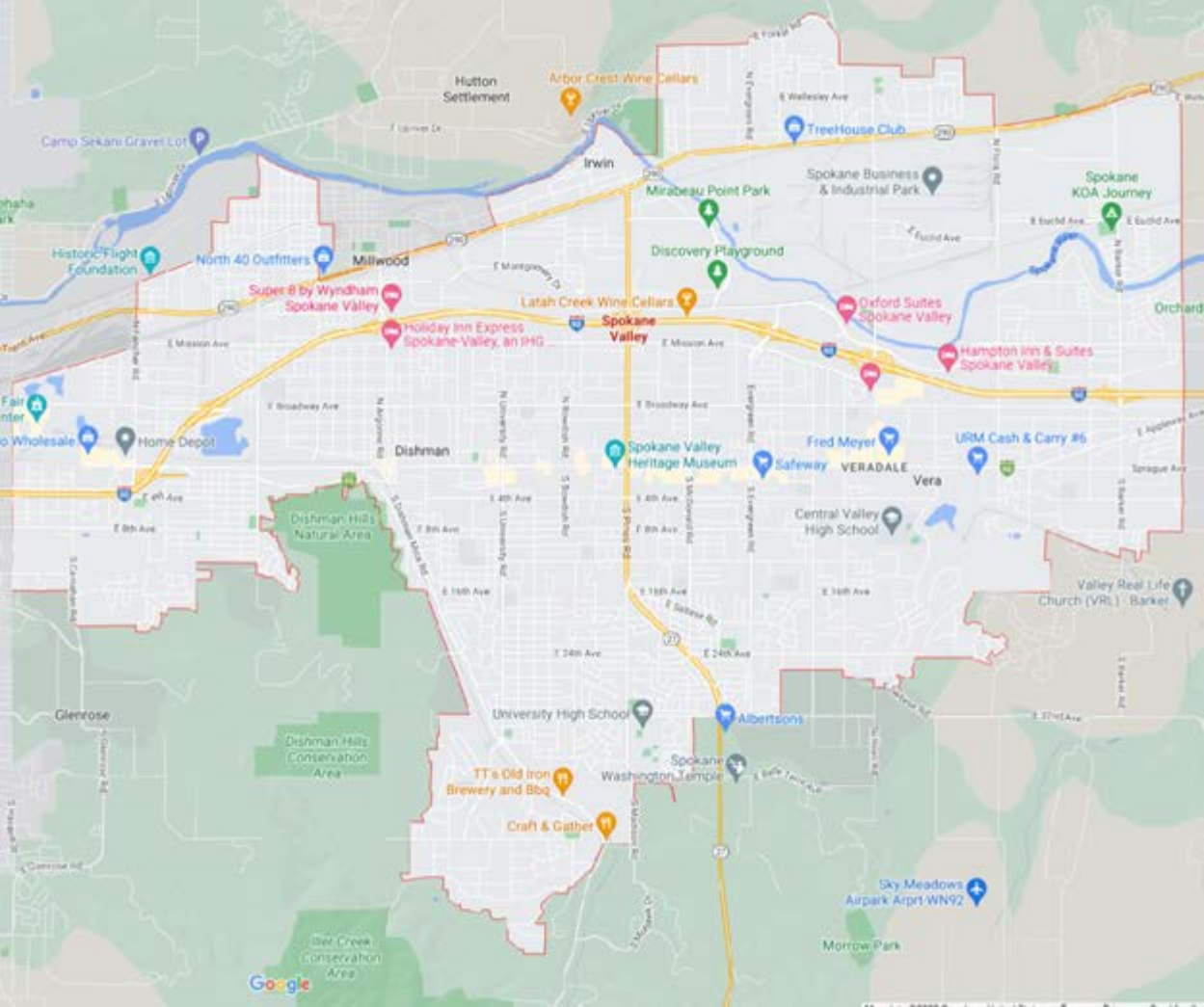
DESCRIPTION	LABOR	MATERIAL	UP %0	Agency % 100	TOTAL
<b>ENGINEERING</b>					
Construction Management	\$ 25,000	\$ -	\$ -	\$ 25,000	\$ 25,000
<b>UPRR CONSTRUCTION</b>					
Signal	\$ 265,898	\$ 139,958	\$ -	\$ 405,856	\$ 405,856
Surface	\$ 97,269	\$ 55,633	\$ -	\$ 152,902	\$ 152,902
<b>FLAGGING / INSPECTION SERVICES</b>					
RATE (per day)	\$ 1,600				
Estimated # Days of Flagging	20	\$ 32,000	\$ -	\$ 32,000.00	\$32,000
<b>TOTAL PROJECT:</b>	<b>\$ 421,767</b>	<b>\$ 195,591</b>	<b>\$ -</b>	<b>\$ 615,758</b>	<b>\$615,758</b>

**TOTAL ESTIMATED COST:**

**\$615,758**

**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, THE RAILROAD WILL BILL FOR ACTUAL  
COSTS AT THE CURRENT RATES EFFECTIVE THEREOF.**

Flagging may be performed by a third-party contractor. Any flagging performed by a third-party contractor will be billed at said third-party contractor rate not included in the above estimate. Alternatively, the Agency may enter into a separate agreement with third-party contractor and will be responsible for all actual costs incurred.



Federal Aid Project Number: Not Yet Assigned	NEPA Start Date: November 13, 2019	Intent of Submittal: <input checked="" type="checkbox"/> Preliminary <input type="checkbox"/> Final <input type="checkbox"/> Re-Evaluate
Agency: City of Spokane Valley	Project Title: Barker Road Widening Project	
County: Spokane		
Beginning terminus: <u>Spokane River</u>	Township(s): <u>25 N</u>	
Ending terminus: <u>Euclid Ave.</u>	Range(s): <u>45 E</u>	
Miles: <u>0.53</u>	Section(s): <u>5, 6, 7, 8</u>	

**Part 1 - Project Description (Attach Vicinity Map)**

**Project Includes two elements:**

- 1. Provide a multi-use path on the east side of Barker Road from Spokane River to the Barker GSP.**
- 2. From Spokane River to Euclid Ave: Reconstruct and widen existing 2 lane rural county road to a 3-lane, City arterial pavement section with curb, gutter, and associated drainage improvements. Scope includes intersection improvements at Euclid Avenues (east and west, offset) and reconstruction of the transition roadway just north of the Euclid intersection.**

**The project will also include a partnership with Spokane County for the installation of sanitary sewer mainlines to serve future development along the corridor.**

**Part 2 – Categorical Exclusion & STIP**

- Identify one CE from 23 CFR 771.117 (CE Guidebook - Appendix A) that fits the entire project **23 CFR 771.117 (d)13**
- Per 23 CFR Part 452(l) identify the subsequent project phase identified on the STIP?  ROW  Construction
- Attach a copy of the STIP page to the CE documentation form.

**NEPA Approval Signatures**

Local Agency Approving Authority	Date	Local Programs Environmental Engineer	Date
Regional Local Programs Engineer	Date	Federal Highway Administration	Date

Completed by (Print Official's Name): Ross Widener	Telephone (include area code): 425-503-3629	E-mail address: rwidener@prodigy.net
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**Part 3 - Permits, Approvals & Right of Way (ROW)**

Yes	No	Permit or Approval	Yes	No	Permit or Approval
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Corps of Engineers <input type="checkbox"/> Sec. 10 <input type="checkbox"/> Sec. 404 <input type="checkbox"/> Nationwide Type _____ <input type="checkbox"/> Individual Permit No. _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Water Quality Certification – Section 401 Issued by _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Coastal Zone Management Certification	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Tribal Permit(s) (if any) _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Critical Areas Ordinance (CAO) Permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other Permits (List) _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Forest Practices Act Permit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is permanent ROW acquisition needed? If yes, amount needed: <u>27,454 sf</u> (acres/sq. ft.).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Hydraulic Project Approval	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is any temporary ROW needed?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Local Building or Site Development Permits	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is relocation required?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Local Clearing and Grading Permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Has ROW (property and/or property interests) been acquired <u>for this project</u> prior to the NEPA start date? If yes, documentation demonstrating compliance with 23 CFR 710.501 may be required.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	National Pollutant Discharge Elimination System (NPDES) Baseline General for Construction	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is a detour required? If yes, please attach detour information.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Shoreline Permit			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Waste Discharge Permit			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Water Rights Permit			

**U.S. Coast Guard Permitting**

- a. Does the project propose any new or modify **any** existing bridges or culverts crossing a waterway?  Yes  No
- b. If Yes, attach a copy of the jurisdictional determination email or letter from the U.S. Coast Guard.

**Other Federal Agencies** - Does the project involve any federal properties, approvals or funding from other/additional federal agencies?  Yes  No If Yes, please describe.

**Part 4 - Environmental Considerations**

**Will the project involve work in or affect any of the following? Identify proposed mitigation. Attach additional pages or supplemental information if necessary.**

**1. Air Quality** - Identify any anticipated air quality issues.

- Is the project exempt from Air Quality conformity requirements?  Yes  No
- a. If Yes, identify exemption – please refer to Appendix G in the CE Guidebook for a list of exemptions.  
**Safety – Widening narrow pavements or reconstructing bridges (no additional travel lanes)**  
**Air Quality – Bicycle and pedestrian facilities**
- b. Is the project included in the Metropolitan Transportation Plan?  Yes  No  
If Yes, date Metropolitan Transportation Plan was adopted \_\_\_\_\_
- c. Is the project located in an Air Quality Non-Attainment Area or Maintenance Area for carbon monoxide, ozone or PM 10 or PM 2.5?  Yes  No

**2. Critical and Sensitive Areas**

- a. Is this project within a sole source aquifer  Yes  No  
If located within a sole source aquifer, is the project exempt from EPA approval?  
If Yes, please list exemption: **pavement reconstruction, pavement marking, pathways, utility installations, intersection improvements – No aspects of project are listed in Attachment C of the MOU between WSDOT, FHWA, and EPA as all infiltration facilities and added impervious surfaces will meet WSDOT HRM, no USTs or superfund sites in project area, no aspects of project are expected to penetrate or contaminate SSA**  
If No, date of EPA approval: \_\_\_\_\_
- b. Will this project impact Species/Habitat other than ESA listed species?  Yes  No Explain your answer.  
**Project is within a developed area lacking suitable habitat. No priority habitats mapped within project area.**

- c. Is this project within one mile of a Bald Eagle nesting territory, winter concentration area or communal roost?  
 Yes  No If Yes, the local agency must go to the US Fish & Website (<http://www.fws.gov/pacific/eagle/>) and work through the *Do I Need a Permit?* section.
- d. Are wetlands present within the project area?  Yes  No If Yes, estimate the impact in acres: \_\_\_\_\_  
 Please attach a copy of the proposed mitigation plan.

**3. Cultural Resources/Historic Structures** – Identify any historic, archaeological or cultural resources present within the project’s Area of Potential Effects.

Does the project fit into any of the exempt types of projects listed in Appendix J of the CE Guidebook?  
 Yes  No If Yes, note exemptions below.

If No: Date of DAHP concurrence: February 6, 2020

Date of Tribal consultation(s) (if applicable): December 9, 2019

Adverse effects on cultural/historic resources?  Yes  No

If Yes, date of approved Section 106 MOA: \_\_\_\_\_

**4. Floodplains and Floodways**

- a. Is the project located in a 100-year floodplain?  Yes  No
- b. If Yes, is the project located within a 100-year floodway?  Yes  No
- c. Will the project impact a 100-year floodplain?  Yes  No If Yes, describe impacts.

**5. Hazardous and Problem Waste** – Identify potential sources and type(s).

- a. Does the project require excavation below the existing ground surface?  Yes  No
- b. Will groundwater be encountered?  Yes  No
- c. Will any properties be acquired as part of this project?  Yes  No
- d. Is this site located in an undeveloped area (*i.e.* no buildings, parking, storage areas or agriculture)?  Yes  No
- e. Is the project located within a one-mile radius of a known Superfund Site?  Yes  No
- f. Is this project located within a ½-mile radius of a site or sites listed on any of the following Department of Ecology databases?  Yes  No If Yes, check the appropriate boxes below.

Voluntary Cleanup Program (VCP), State Cleanup Site (SCS), or Independent Cleanup Program (ICP)

Underground Storage Tank (UST)

Leaking Underground Storage Tank (LUST)

Confirmed and Suspected Contaminated Sites List (CSCSL)

- g. Has site reconnaissance (windshield survey) been performed?  Yes  No (Please identify any properties not identified in the Ecology or ERS database search as an attachment -- name, address and property use).
- h. Based on the information above and project specific activities, is there a potential for the project to generate, acquire or encounter contaminated soils, groundwater or surface water?  Yes  No



**Please explain:**

The project will excavate approximate 20 feet below the ground surface to install a sewer mainline under the roadway. The project is not expected to encounter groundwater, as data from a USGS groundwater survey for the nearby grade separation project (north of the project area) found groundwater at ~95.59 feet below ground surface. The project is not located within 0.5 miles of any sites within the above listed databases. The closest cleanup sites are the Spokane River Metals Barker Road North site (Cleanup Site 11587) and the Spokane River Metals Barker Road South site (Cleanup Site 11588). The Barker Road North site, a 0.5-acre site containing metal-contaminated sediments along the northern shoreline of the Spokane River, east of and adjacent to the Barker Road Bridge, was remediated through excavation and capping in the fall of 2012. The South site is not included on cleanup reports, but Ecology's site page lists the site's status as "Cleanup Complete – Active O&M/Monitoring", matching that of the north site. Neither site will be directly affected by this project, as the project will not include any work below the existing bridge elevation within the shoreline of the Spokane River.

If you responded **Yes** to any of these questions above (5A – 5F or 5H), contact your Region LPE for assistance as a "Right-Sized" HazMat Analysis Report/Memorandum most likely will be required.

**Part 4 - Environmental Considerations (continued)**

**6. Noise**

- a. Does the project involve constructing a new roadway?     Yes     No
- b. Is there a change in the vertical or horizontal alignment of the existing roadway?     Yes     No
- c. Does the project increase the number of through traffic lanes on an existing roadway?     Yes     No
- d. Is there a change in the topography?     Yes     No
- e. Are there auxiliary lanes extending 1-½ miles or longer being constructed as part of this project?  
 Yes     No
- f. If you answered Yes to any of the preceding questions, identify and describe any potential noise receptors within the project area and subsequent impacts to those noise receptors. Please attach a copy of the noise analysis if required.

If impacts are identified, describe proposed mitigation measures.

**7. 4(f)/6(f) Resources: parks, recreation areas, wildlife refuges, historic properties, wild & scenic rivers, scenic byways**

- a. Please identify any 4(f) properties within the project limits and the areas of impacts.  
**None Present**
- b. Please identify any properties within the project limits that used funds from the Land & Water Conservation Fund Act.  
**None Present**
- c. Please list any Wild and Scenic Rivers and Scenic Byways within the project limits.  
**None present**

**8. Agricultural Lands –**

- a. Are there agricultural lands within 300 feet of the project limits?  Yes  No If Yes, describe impacts:
- b. Are impacted lands considered to be unique and prime farmland?  Yes  No  
If Yes, date of project review by Natural Resource Conservation Service (NRCS): \_\_\_\_\_

**9. Rivers, Streams (continuous or intermittent) or Tidal Waters**

- a. Identify all waterbodies within 300 feet of the project limits or that will otherwise be impacted.  
**The Spokane River flows east to west underneath the Barker Road bridge. This waterbody will not be affected by the project, as the project will only re-paint travel lanes on the bridge, and will not affect any property below the OHWM.**
- b. Identify stream crossing structures by type.  
**The North Barker Road – Bridge**

**Part 4 - Environmental Considerations (continued)**

- 10. Tribal Lands –** Identify whether the project will occur within any Tribal lands, including reservation, trust and fee lands. Please do not list usual and accustomed area.  
**The project will not occur on any tribal lands.**

**11. Water Quality/Stormwater**

- a. Will this project’s proposed stormwater treatment facility be consistent with the guidelines provided by either WSDOT’s HRM, DOE’s stormwater management manual for eastern/western Washington or a local agency equivalent manual?  Yes  No  
If No, explain proposed water quality/quantity treatment for the new and any existing pollution generating impervious surface associated with the proposed project.
- b. Amount of existing pollution generating impervious surface within the project limits: 134,600 S.F.
- c. Net new pollution generating impervious surface to be created as a result of this project: +15,200. S.F.
- d. Amount of proposed post-project untreated pollution generating impervious surface: 0 S.F.

**12. Previous Environmental Commitments**

Describe previous environmental commitments that may affect or be affected by the project – if any.  
**N/A**

- 13. Environmental Justice -** Does the project meet any of the exemptions noted in Appendix L of the CE Documentation Guidebook?  Yes  No

If Yes, please note the exemption and appropriate justification in the space below.

If No, are minority or low-income populations located within a 0.50-mile of the project?

Yes  No If No, attach appropriate data to support findings. If Yes, describe impacts and attach appropriate supporting documentation. Findings should be confirmed using at least two information sources. Please refer to the CE Guidebook for more information.

**The proposal for the project was selected to limit environmental impacts and impacts to the people of Spokane Valley while improving the corridor’s safety for vehicles and non-motorized users. During construction, there will be short-term negative impacts including construction noise and detour routes that will impact the local population. Upon completion, the project will benefit the surrounding population by providing a safer route along North Barker Road. Despite low income and minority populations presences in the project vicinity, the project is not anticipated to have disproportionately high or adverse impacts on these populations.**

**Part 5 - Biological Assessments and EFH Evaluations**

1. Do any listed species potentially occur in the project's action area and/or is any designated critical habitat present within the project's action area?  Yes  No Attach species listings.

Affected ESA Listed Species	2. Will any construction work occur within 0.25 mile of any of the following?	3. Does the project involve blasting, pile driving, concrete sawing, rock-drilling or rock-scaling activity within one mile of any of the following?
Oregon Spotted Frog proposed critical habitat or suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Yellow-billed Cuckoo suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Spotted Owl management areas, designated critical habitat or suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Marbled Murrelet nest or occupied stand, designated critical habitat or suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Western Snowy Plover designated critical habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the project within 0.25 mile of marine waters? If Yes explain potential effects on Killer Whales and on Marbled Murrelet foraging areas.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Killer Whale designated critical habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Grizzly Bear suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Gray Wolf suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Canada Lynx habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Columbia White-tailed Deer suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Woodland Caribou habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Streaked Horned Lark designated critical habitat or suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Taylor's Checkerspot designated critical habitat or suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Mazama Pocket Gopher designated critical habitat or suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Eulachon designated critical habitat or suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Rockfish proposed critical habitat or suitable habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
A mature coniferous or mixed forest stand?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Will the project involve any in-water work?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
5. Will any construction work occur within 300 feet of any perennial or intermittent waterbody that either supports or drains to waterbody supporting listed fish?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
6. Will any construction work occur within 300 feet of any wetland, pond or lake that is connected to any permanent or intermittent waterbody?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
7. Does the action have the potential to directly or indirectly impact designated critical	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

- habitat for salmonids (including adjacent riparian zones)?
8. Will the project discharge treated or untreated stormwater runoff or utilize water from a waterbody that supports or drains into a listed-fish supporting waterbody?  Yes  No
9. Will construction occur outside the existing pavement? If Yes go to 9a.  Yes  No
- 9a. Will construction activities occurring outside the existing pavement involve clearing, grading, filling or modification of vegetation or tree-cutting?  Yes  No
10. Are there any Federally listed Threatened or Endangered plant species located within the project limits? If Yes, please attach a list of these plant species within the action area.  Yes  No
11. Does a mature coniferous or mixed forest stand occur within 200' of the project site?  Yes  No

**Analysis for No Effects Determination** – If there are any Yes answers to questions in Part 5, additional analysis is required. Attach additional sheets if needed.

A USFWS species list, prepared on November 15, 2019 found that only three listed species are potentially present within the project area: yellow-billed cuckoo (*Coccyzus americanus*), bull trout (*Salvelinus confluentus*), and water howellia (*Howellia aquatilis*). Yellow-billed cuckoo have been extirpated from Washington State and have not been confirmed to breed here since the 1930s, thus the project is not expected to affect this species. Furthermore, their preferred habitat is riparian forest stands greater than 50 acres dominated by willows and cottonwoods. No such habitat exists in the project vicinity as habitat along the banks of the Spokane River are highly developed and fragmented. Bull trout are present within the Spokane River, but the project will not involve work within or near the river's OHWM. Upon project completion, all new roadways will collect and treat stormwater runoff in accordance with Ecology's Stormwater Management Manual for Eastern Washington. Therefore, the project will have no effect on bull trout. Water howellia is a flowering plant found in ephemeral glacial ponds and former river oxbows that fill with spring moisture and dry throughout the growing season. As no such habitat exists within the project area, the project will have no effect on water howellia.

**Analysis for RRMP ESA 4(d) determination for NMFS** – A local agency must be certified by the Regional Road Maintenance Forum to utilize 4(d).

**Maintenance Category** (check all that apply)

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> 1. Roadway Surface                    | <input type="checkbox"/> 6 Stream Crossings         | <input type="checkbox"/> 11. Emergency Slide/Washout Repair |
| <input type="checkbox"/> 2. Enclosed Drainage Systems          | <input type="checkbox"/> 7. Gravel Shoulders        | <input type="checkbox"/> 12. Concrete                       |
| <input type="checkbox"/> 3. Cleaning Enclosed Drainage Systems | <input type="checkbox"/> 8. Street Surface Cleaning | <input type="checkbox"/> 13. Sewer Systems                  |
| <input type="checkbox"/> 4. Open Drainage Systems              | <input type="checkbox"/> 9. Bridge Maintenance      | <input type="checkbox"/> 14. Water Systems                  |
| <input type="checkbox"/> 5. Watercourses and Streams           | <input type="checkbox"/> 10. Snow and Ice Control   | <input type="checkbox"/> 15. Vegetation                     |

**Describe how the project fits in the RRMP 4(d) Program:**

**Effect Determinations for ESA and EFH**

If each of the questions in the preceding section resulted in a "No" response or if any of the questions were checked "Yes," but adequate justification can be provided to support a "no effect" determination, then check "No Effect" below. If this checklist cannot be used for Section 7 compliance (i.e., adequate justification cannot be provided or a "may effect" determination is anticipated), a separate biological assessment document is required.

- |  | NMFS  | USFWS | EFH Determination                                      |
|--|-------|-------|--|
| <input checked="" type="checkbox"/> No Effect        | _____ | _____ | <input checked="" type="checkbox"/> No Adverse Effect  |
| <input type="checkbox"/> NLTAA - Date of Concurrence | _____ | _____ | <input type="checkbox"/> Adverse Effect – Date of NMFS |
| <input type="checkbox"/> LTAA – Date BO Issued       | _____ | _____ | concurrency _____                                      |

RRMP 4(d)

Not Applicable

**Part 6 - FHWA Comments**

Kevin Martin  
WSDOT Local Programs  
Eastern Region  
2714 N Mayfair St  
Spokane, WA 99207

November 18, 2019

**Environmental Justice Memo**  
Barker Road Widening Project  
Spokane Valley, WA

Dear Mr. Martin,

In compliance with Presidential Executive Order 12898, DOT Order 5610.2, and FHWA Order 6640.23, an Environmental Justice (EJ) analysis was conducted for the Barker Road Widening Project. The purpose of this EJ analysis is to identify minority and low-income groups in the project area, keep these groups informed about project plans and activities, and encourage their participation in projects.

The project proposed by the city of Spokane Valley includes two elements. One is to provide a multi-use path on the east side of Barker Road from the Spokane River to the Barker grade separation project. The second is to reconstruct and widen the existing 2 lane rural county road to a 3-lane, City arterial pavement section with curb, gutter, and associated drainage improvements from the Spokane river to Euclid Avenue. The scope includes intersection improvements at Euclid Avenues (east and west, offset) and reconstruction of the transition roadway just north of the Euclid intersection. The project will also include a partnership with Spokane County for the installation of sanitary sewer mainlines to serve future development along the corridor.

The purpose of the project is to improve the corridor so that it has capacity to support the economic development occurring today and in the future. The pending Barker/BNSF grade separation project will unlock this corridor to industrial development and is expected to increase its exposure to freight traffic. The project will improve safety by providing a two-way left turn lane along its full length, providing curb and gutter to prevent vehicle run-offs, and separating pedestrian/bicycle traffic from the traveled way via a separated pathway. Thus, the project is expected to increase the safety of vehicles, pedestrians, and bicyclists throughout the length of the corridor. The proposed project is located within Sections 5 through 8 of Range 45 East, Township 25 North. The project is entirely within the City of Spokane Valley.

Minority and low-income groups were identified in a demographics study that utilized 2010 Census data. Using the Environmental Protection Agency's (EPA) EJScreen, demographics data within a half mile of the project area was collected. These data are summarized in the following table:

<b>Total Population in 0.5-Mile Buffer</b>	<b>2,745</b>
White	93%
Black	1%
Native American	1%
Asian	2%
Pacific Islander	0%
Some Other Race	1%
Two or More Races	3%
Hispanic or Latino of Any Race	4%
Minority Population	9%
Household Income Below \$15,000	11%*
Population 5 years and over that speak English "less than very well"	3%*

Source: EJScreen web site Census 2010, Summary Report Attached

\*2013-2017 American Community Survey (ACS) Estimates, Summary Report Attached

Local school data for the 2018-2019 school year was also obtained from the State of Washington Office of Superintendent of Public Instruction (OSPI). The project area crosses two school district boundaries. Areas north of the Spokane River are within the East Valley School District, and areas south of the river are within the Central Valley School District. The closest public elementary school to the project is Riverbend Elementary School (Central Valley School District), located approximately 0.65 miles away from the southern project extent. The closest middle school is Selkirk Middle School (Central Valley School District), located 1.09 miles away from the project's southern extents, and does not have published enrollment data as it opened in 2019. Therefore, the closest middle school and high school with enrollment data is East Valley Middle School and East Valley High School (both East Valley School District) located 2.21 miles and 1.89 miles from the northern project extent, respectively. A demographics summary for the three schools can be seen in the following tables, containing data from the Washington State Office of Public Instruction Washington State Report Card website:

<b>Riverbend Elementary School</b>	
Total Student Body	396
Hispanic/Latino of Any Race	3.0%
Native American/Native Alaskan	1.8%
Asian	1.3%
Black	2.0%
Native Hawaiian/Other Pacific Islander	0.5%
White	87.9%
Two or More Races	3.5%
Low-Income	35%
English Language Learners	5%

<b>East Valley Middle School</b>	
Total Student Body	467
Hispanic/Latino of Any Race	11.3%
Native American/Native Alaskan	2.1%
Asian	0.9%
Black	0.6%
Native Hawaiian/Other Pacific Islander	0.6%
White	78.2%
Two or More Races	6.2%
Low-Income	62%
English Language Learners	3

<b>East Valley High School</b>	
Total Student Body	1,138
Hispanic/Latino of Any Race	10.4%
Native American/Native Alaskan	1.5%
Asian	1.2%
Black	0.8%
Native Hawaiian/Other Pacific Islander	0.6%
White	79.8%
Two or More Races	5.7%
Low-Income	50%
English Language Learners	2%

The project will result in both short-term and long-term impacts. Increased noise is anticipated in the short-term. Increased noise from construction is anticipated for the duration of the project. Noise disturbances will be limited, whenever possible, to the legal working hours for construction as stated in the Spokane Valley Municipal Code.

During project construction N Barker Rd, between north of Euclid Avenue and just south of the bridge over the Spokane River, will be closed to through traffic. A detour will be required to bypass the construction with signs clearly marking the suggested path. The detour will include E Mission Avenue, E Indiana Avenue, Sullivan Road, E Euclid Avenue, N Flora Road, E Trent Avenue, E Wellesley Avenue, and N Harvard Road (see attached detour exhibit). Vehicles coming from E Trent Ave or E Wellesley Ave intending to head south on N Barker Rd, will be directed to continue west on E Trent Ave to then turn left to head south on Flora Road. Vehicles will then turn right on E Euclid Ave to head west to Sullivan Road, where they can continue south and cross the Spokane River. To reach Barker Road, vehicles will be directed east along E Indiana Avenue and Mission Avenue. Those vehicles wanting to travel north on N Barker Rd to reach E Trent Ave from will be directed on the same detour route going the opposite direction. Driving between E Trent Avenue and E Mission Avenue on N Barker Rd typically takes 4 minutes based on Google Maps no-traffic estimate. The detour adds 10 minutes of travel time.



Housing developments along Mission Avenue and E Indiana Avenue will experience temporary increases in traffic and noise during the detour routing. The detour will otherwise pass through industrial areas outside of this area.

Upon project completion, traffic is expected to flow better through the area due to the addition of a center turn lane, channelization improvements, and pavement widening. Vehicles will no longer have to stop for cross-traffic turning vehicles, and overall the roadway will be safer. Additionally, pedestrian and bicyclist safety will improve through the addition of a separated multi-use path. This will allow for safer non-motorized traffic in the area, where pedestrian and bicycle facilities did not exist prior. Neighboring housing developments are not expected to experience an increase in traffic noise post project completion as no additional travel lanes will be added to the roadway.

Partial property acquisitions are required for this project. Parcels: 55053.0109 and 55082.0131 will require right of way acquisitions to widen roadways along Barker Road and Euclid Avenue as well as to construct stormwater infiltration facilities. Furthermore, temporary construction easements will be required on parcels 55071.6001 and 55082.0130 for project activities. An area of permanent easement within the railroad right of way exists and will be expanded to allow for project roadway improvements. The following table shows initial estimates for property acquisitions and easements required for this project:

Parcel Number	Owner Name	Total Area (SF) *	Right-Of-Way Acquisition (SF)	Temporary Easement (SF)	Permanent Easement (SF)	Existing Roadway Easement (SF) **
55053.0109	Spokane Valley Fire Dept.	125,829	11,455	-	-	-
55082.0131	Mary Hankins	25,040	4,102	-	-	-
55071.6001	River Rose MHP, LLC	691,250	-	875	-	-
55082.0130	Carol & Neil Swift	25,011	-	626	-	-
Railroad	Union Pacific RR	N/A	-	-	912	6,181
<b>Totals</b>			<b>15,557</b>	<b>1,501</b>	<b>912</b>	<b>6,181</b>

\* Total area per Spokane Valley viewer

\*\* No easement records have been located at this time

The proposal for this project was selected to limit environmental impacts and impacts to the people of Spokane Valley while improving the corridor’s safety for vehicles and non-motorized users. During construction, there will be short-term negative impacts including construction noise and detour routes that will impact the local population. Upon completion, the project will benefit the surrounding population by providing a safer route along North Barker Road. Despite low income and minority populations being present within the project vicinity, this project is not anticipated to have disproportionate high or adverse impacts on these populations. Any communication with the public regarding this project will be done in accordance with the City of Spokane Valley’s Title VI Plan. Should you have any questions about this assessment or require

additional information, please contact Ross Widener at (425) 332-3961 or at [rwidener@prodigy.net](mailto:rwidener@prodigy.net).

Sincerely,

A handwritten signature in black ink, appearing to read "Ross Widener". The signature is fluid and cursive, with the first name "Ross" written in a smaller, more compact style than the last name "Widener".

Ross Widener  
Widener & Associates

**Attachments**

Property Acquisition Exhibits

Detour Exhibits

EJScreen data

State of Washington Office of Superintendent of Public Instruction data



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Washington Fish And Wildlife Office  
510 Desmond Drive Se, Suite 102  
Lacey, WA 98503-1263  
Phone: (360) 753-9440 Fax: (360) 753-9405  
<http://www.fws.gov/wafwo/>

In Reply Refer To:

November 15, 2019

Consultation Code: 01EWF00-2020-SLI-0221

Event Code: 01EWF00-2020-E-00394

Project Name: Barker Road Widening

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, and proposed species, designated and proposed critical habitat, and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. The species list is currently compiled at the county level. Additional information is available from the Washington Department of Fish and Wildlife, Priority Habitats and Species website: <http://wdfw.wa.gov/mapping/phs/> or at our office website: [http://www.fws.gov/wafwo/species\\_new.html](http://www.fws.gov/wafwo/species_new.html). Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether or not the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species, and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.). You may visit our website at <http://www.fws.gov/pacific/eagle/for> information on disturbance or take of the species and information on how to get a permit and what current guidelines and regulations are. Some projects affecting these species may require development of an eagle conservation plan: ([http://www.fws.gov/windenergy/eagle\\_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html)). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Also be aware that all marine mammals are protected under the Marine Mammal Protection Act (MMPA). The MMPA prohibits, with certain exceptions, the "take" of marine mammals in U.S. waters and by U.S. citizens on the high seas. The importation of marine mammals and marine mammal products into the U.S. is also prohibited. More information can be found on the MMPA website: <http://www.nmfs.noaa.gov/pr/laws/mmpa/>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Related website:

National Marine Fisheries Service: [http://www.nwr.noaa.gov/protected\\_species/species\\_list/species\\_lists.html](http://www.nwr.noaa.gov/protected_species/species_list/species_lists.html)

Attachment(s):

- Official Species List
-

## Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Washington Fish And Wildlife Office**

510 Desmond Drive Se, Suite 102

Lacey, WA 98503-1263

(360) 753-9440

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## Project Summary

Consultation Code: 01EWF00-2020-SLI-0221

Event Code: 01EWF00-2020-E-00394

Project Name: Barker Road Widening

Project Type: TRANSPORTATION

**Project Description:** Project will provide a multi-use path on the east side of Barker Road from Spokane River to the Barker grade separation project. From Spokane River to Euclid Ave: Reconstruct and widen existing 2 lane rural county road to a 3-lane, City arterial pavement section with curb, gutter, and associated drainage improvements. Scope includes intersection improvements at Euclid Avenues (east and west, offset) and reconstruction of the transition roadway just north of the Euclid intersection.

**Project Location:**

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/47.68238144068863N117.15405938605201W>



Counties: Spokane, WA

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## Endangered Species Act Species

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

### Birds

NAME	STATUS
Yellow-billed Cuckoo <i>Coccyzus americanus</i> Population: Western U.S. DPS There is <b>proposed</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/3911">https://ecos.fws.gov/ecp/species/3911</a>	Threatened

### Fishes

NAME	STATUS
Bull Trout <i>Salvelinus confluentus</i> Population: U.S.A., conterminous, lower 48 states There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/8212">https://ecos.fws.gov/ecp/species/8212</a>	Threatened

### Flowering Plants

NAME	STATUS
Water Howellia <i>Howellia aquatilis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7090">https://ecos.fws.gov/ecp/species/7090</a>	Threatened

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## **Critical habitats**

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

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Washington State Department of Transportation  
Local Programs  
Eastern Region  
Attn: Keith Martin  
2714 N Mayfair St  
Spokane, WA 99207

December 30, 2019

**Area of Potential Effect Memorandum**

Barker Road Widening  
Spokane Valley, WA

Dear Keith Martin,

The purpose of this memo is to outline the Area of Potential Effect (APE) for the Barker Road Widening project in compliance with Section 106 of the National Historic Preservation Act. The City of Spokane Valley is proposing roadway improvements including widening North Barker Road from just north of the Union Pacific Railroad tracks and East Euclid Avenue to the northern side of the Barker Road bridge over the Spokane River. Additionally, the City is proposing to construct channelization and sidewalk modifications both north and south of the road widening area, from approximately 1100 feet north of Garland Avenue southward to the southern end of the bridge over the Spokane River. Project activities will include clearing and grubbing; removing existing asphalt and concrete; roadway paving; shared-use path paving; American's with Disabilities Act (ADA) ramp, crosswalk, and signalization installation; driveway paving; channelization; mailbox installation; curb and gutter construction; existing catch basin modifications; swale grading; storm pond construction; and sewer main installation. The finished project will modify North Barker Road to have two 12-foot traffic lanes with a 12-foot, two-way left-turn lane; 2-foot shoulders; and a separated 10-foot shared-use path along the road's eastern edge. A storm pond will be constructed at the northeast corner of the intersection of Barker Road and East Euclid Avenue, south of the railroad tracks. A new sewer main will be installed as designed by Spokane County. The deepest excavation for this project will be approximately 20 feet below the ground surface (BGS) for the sewer line installation.

The project runs along a ~1.3-mile stretch of North Barker Road with the northern terminus occurring approximately 1100 feet north of Garland Avenue, and the southern terminus occurring just south of the Spokane River. The project is located in Spokane County within the City of Spokane Valley in Sections 5 through 8 in Township 25 North, Range 45 East. The project mostly occurs within existing right-of-way (ROW) for North Barker Road. Some right-of-way acquisition and temporary construction easement areas are necessary to construct this project. Please see the attached Vicinity and APE maps for location details.

The minimal ROW take and easements necessary to complete this occur at the intersections with Euclid Avenue and the Union Pacific Railroad tracks (see attached ROW plans). No buildings or

trees will be removed as part of any easements or ROW acquisitions. The following table shows easement and ROW acquisition areas:

Parcel No.	Parcel Area (SF)	ROW Take (SF)	Remaining Area (SF)	Temporary Easement (SF)	Permanent Easement
55053.0109	125,829	12,688	113,141	0	0
55082.0131	25,040	4,167	20,873	0	0
55082.0130	25,011	0	25,011	626	0
N/A*	N/A	0	0	0	10,099
55064.0611	14,759	0	14,759	0	500

\*Union Pacific ROW

Parcel 55053.0109 will have the largest ROW take for a stormwater pond and facilities. This property is a vacant lot with no buildings or trees. Parcel 55082.0131 is a private residence lot. ROW take will involve a 12-foot wide strip adjacent to Euclid Avenue and a 15-foot wide strip adjacent to Barker Road. No trees will be removed for this take, nor will the house and garage be impacted as they sit close to the eastern property boundary opposite Barker Road. A 5-foot wide temporary construction easement (TCE) will be necessary on parcel 55082.0130. This will not impact any structures or trees. The permanent roadway easement on Union Pacific ROW will occur in an area already cleared by Union Pacific for ROW, so no trees or structures will be impacted. The 10-foot permanent slope easement on parcel 55064.0611 will lie within an existing utility easement so there will be no additional impacts to this property.

Only 5 trees will be removed from this project. 4 of these trees will occur in front of the KOA Campground. The other tree is just north of Jackson Drive on the east side of Barker Road. All trees will be replaced upon project completion.

A search of the Department of Archaeology and Historic Preservation’s (DAHP) Washington Information System for Architectural & Archaeological Records Data (WISAARD) shows that there are no properties listed on the National Register of Historic Places (NRHP) within the project’s APE or adjacent to it. There are also no properties within or adjacent to the APE that have been recorded Historic Property Inventories (HPI’s). The closest site to have been determined eligible for the NRHP is Valleyway Chicken Farm (now the Thornburg Chicken Farm) which is ~3.2 miles from the project site within the City of Spokane. The closest determined historic site listed in the NRHP is the Domrese, Louis, Barn (Washington Heritage Barn) which is ~4.0 miles from the project site in Liberty Lake, WA.

There are five properties adjacent to the project with structures with no determination according to WISAARD. These properties from south to north are: 18710 East Marlin Drive, 18706 East Marlin Drive, 2910 North Barker Road, 3200 North Barker Road, and 3025 North Barker Road. Because these sites have no determination, there are no photos of and limited information about the buildings uploaded to WISSARD. Some of these properties have several buildings. Of the buildings on these properties, the closest to the existing ROW is ~40 feet. 3025 North Barker Road is a KOA campground all the buildings on this property are well away from the roadway, and the loss of 4 trees in the ROW by the entrance will not diminish any “historic” value of the

building(s) on the property that have no determination of historic significance. While the project proposes to widen Barker Road to add a turn lane and bike path, the properties along this roadway have a significant buffer from the roadway. See the photos Google Maps screenshots of these properties below:



18710 East Marlin Drive as seen from Barker Road heading north. The blue line represents the approximate sidewalk edge and the green line represents the approximate existing ROW line.





18706 East Marlin Drive as seen from Barker Road heading north. The blue line represents the approximate sidewalk edge and the green line represents the approximate existing ROW line.



2910 North Barker Road as seen from Barker Road heading north. The blue line represents the approximate sidewalk edge and the green line represents the approximate existing ROW line.





3200 North Barker Road as seen from Barker Road heading north. The blue line represents the approximate sidewalk edge and the green line represents the approximate existing ROW line.



3025 North Barker Road as seen from Barker Road heading south. The blue line represents the approximate roadway edge and the green line represents the approximate existing ROW line.

On behalf of the City of Spokane Valley, we request your assistance in obtaining approval for the APE for the proposed project in compliance with Section 106 of the National Historic Preservation Act. We believe the project will not increase traffic on this road as there is no proposal for additional through traffic lanes. We also there will be no change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance as there will be no building demolitions and trees removed will be replaced. Lastly, we believe the project will not introduce visual, atmospheric or audible elements that

diminish the integrity of the property's significant historic features. Should you have any questions, please contact me at (425) 332-3961 or at [rwidener@prodigy.net](mailto:rwidener@prodigy.net).

Sincerely,

A handwritten signature in blue ink, appearing to read "Ross Widener", written over a light blue horizontal line.

Ross Widener



10210 E Sprague Ave ♦ Spokane Valley WA 99206  
509.921.1000 ♦ Fax: 509.921.1008 ♦ cityhall@spokanevalley.org

## UTILITY NOTICE

January 27, 2021

### **REPLY REQUESTED**

**RE: Barker Road Union Pacific RR Crossing, Project #0313.**

The City of Spokane Valley has a widening project on Barker Road starting at the Euclid Avenue eastbound, north to Euclid Avenue westbound. The project will also include road improvements on Euclid Avenue eastbound to Harmony Road. The project is fully funded and is tentatively scheduled to start in Summer of 2021. The project consists of reconstructing the roadway to a three lane road with curb/gutter and a 10 ft. wide multi-use path along the east side of the roadway. Euclid Avenue will be widened to 40 ft of asphalt. The improvements will include curb/gutter and 6 ft wide sidewalk on the south side. The multi-use path along the east side of Barker Road will continue northbound and southbound along the previous Barker Road project, completed in 2019 and 2020. Spokane County also plans to construct a sewer main in a portion of the Euclid Avenue improvements as part of the City's project. This project will also include water and stormwater facilities.

Please review the project limits to determine if you have any facilities within this area that you would like to improve or that may be in conflict with our proposed improvements. A draft construction plans of the proposed project are attached for your reference.

Please note that the City follows a three year pavement moratorium for new and reconstructed roadways. Therefore, any future work on this street that involves pavement disturbance will not be allowed until three years after the completion of this project.

Please fill out the attached Utility Coordination Form by February 20, 2021 and return to:

City of Spokane Valley  
ATTN: Jeff Morse  
10210 E. Sprague Avenue  
Spokane Valley, Washington 99206  
Or email to [jmorse@spokanevalley.org](mailto:jmorse@spokanevalley.org)

If you need additional information regarding this project, please contact me at [jmorse@spokanevalley.org](mailto:jmorse@spokanevalley.org).

Sincerely,

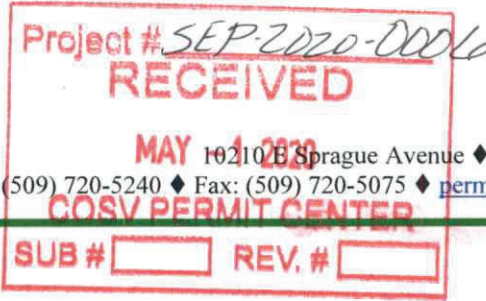
A handwritten signature in blue ink that reads "Jeff Morse".

Jeff Morse,  
Engineering Technician/CAD Administrator





SEPA CHECKLIST  
SVMC 21.20



10210 Sprague Avenue ♦ Spokane Valley WA 99206  
Phone: (509) 720-5240 ♦ Fax: (509) 720-5075 ♦ [permitcenter@spokanevalley.org](mailto:permitcenter@spokanevalley.org)

**STAFF USE ONLY**

Date Submitted: \_\_\_\_\_ Received by: \_\_\_\_\_ Fee: \_\_\_\_\_  
PLUS #: \_\_\_\_\_ File #: \_\_\_\_\_

**PART I – REQUIRED MATERIAL**

**\*\*THE APPLICATION WILL NOT BE ACCEPTED IF THE REQUIRED MATERIALS ARE NOT PROVIDED\*\***

- Completed SEPA Checklist
- Application Fee
- Reduced Site Plan of proposal in 8½” by 11” or 11” by 17” size
- Trip Distribution and Generation Letter, if requested by Development Engineering.

**PURPOSE OF CHECKLIST:**

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

**INSTRUCTIONS FOR APPLICANTS:**

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

**USE OF CHECKLIST FOR NON-PROJECT PROPOSALS:**

Complete this checklist for non-project proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS (Part D).





For non-project actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

## A. BACKGROUND

1. Name of proposed project, if applicable  
Barker Road Widening Project
2. Name of applicant:  
Robert Lochmiller (The City of Spokane Valley)
3. Address and phone number of applicant and contact person:  
10210 E Sprague Ave  
Spokane Valley, WA 99206  
(509) 720-5010
4. Date checklist prepared:  
March 24, 2020
5. Agency requesting checklist:  
The City of Spokane Valley
6. Proposed timing or schedule (including phasing, if applicable):  
June 2020-October 2020
7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.  
There are no plans for future additions, expansion, of further activity related to or connecting to this proposal.
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.  
National Environmental Policy Act (NEPA) Categorical Exclusion (CE) Form  
Environmental Justice (EJ) Memo  
Section 106 Area of Potential Effect (APE) Memo  
4f De Minimis Impact Determination Form
9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.  
No applications are pending for government approval or other proposals that affect this proposal.
10. List any government approvals or permits that will be needed for your proposal, if known.  
Local Clearing and Grading



11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The City of Spokane Valley is proposing to reconstruct and widen North Barker Road from a 2-lane undersized roadway to a 3-lane arterial pavement section with a two-way left-turn lane with curb, gutter, and associated drainage improvements in order to meet the demands placed on the corridor by its adjacent T-1 and T-2 freight routes, Interstate 90, and State Route 290. Intersection improvements will also be constructed at Euclid Avenues (both offsets north and south of the Union Pacific railroad tracks) and the project will include a partnership with Spokane County for the installation of sanitary sewer mainlines to serve future development along the corridor. Furthermore, the project will involve the construction of a 10-foot-wide multi-use pathway along the east side of Barker Road from the Spokane River to the southern limits of the Barker Road grade separation project, ending approximately 1100 feet north of Garland Avenue.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

Sections 5 through 8 of Range 45 East, Township 25 North. The project is entirely within the City of Spokane Valley in Spokane County.

13. Does the proposed action lie within the Aquifer Sensitive Area (ASA)? The general Sewer Service Area? Priority Sewer Service Area? (See: Spokane County's ASA Overlay zone Atlas for boundaries).

The project lies within the Spokane Valley-Rathdrum Prairie Aquifer. It is not within a general or priority sewer service area.

14. The following questions supplement Part A.

- a. Critical Aquifer Recharge Area (CARA) / Aquifer Sensitive Area (ASA).

1. Describe any systems, other than those designed for the disposal of sanitary waste, installed for the purpose of discharging fluids below the ground surface (includes systems such as those for the disposal of Stormwater or drainage from floor drains). Describe the type of system, the amount of material to be disposed of through the system and the types of material likely to be disposed of (including materials which may enter the system inadvertently through spills or as a result of firefighting activities).

A stormwater conveyance and treatment system is proposed in accordance to the latest Stormwater Management Manual for Eastern Washington. The area currently has no form of stormwater treatment so stormwater infiltrates into adjacent pervious surfaces.





2. Will any chemicals (especially organic solvents or petroleum fuels) be stored in aboveground or underground storage tanks? If so, what types and quantities of material will be stored?  
No chemicals will be stored in aboveground storage tanks for this project.
3. What protective measures will be taken to insure that leaks or spills of any chemicals stored or used on site will not be allowed to percolate to groundwater? This includes measures to keep chemicals out of disposal systems.  
All equipment will be checked daily for leaks and, if necessary, repairs will be made prior to the commencement of work. A Spill Prevention, Control, and Countermeasures (SPCC) Plan will be prepared by the contractor and approved by the City of Spokane Valley prior to the initiation of construction. All wastewater resulting from construction activities will be fully contained and disposed of offsite in accordance with federal, state, and local laws. Trash will be removed from the site on a daily basis.
4. Will any chemicals be stored, handled or used on the site in a location where a spill or leak will drain to surface or groundwater or to a Stormwater disposal system discharging to surface or groundwater?  
Petroleum products will be used and stored on-site for construction equipment.
5. What are the depths on the site to groundwater and to bedrock (if known)?  
Based on a USGS well no. 77 (site no. 474156117091601) is within the northern portion of the project area. The last recorded groundwater measurement at this well was taken in 2004. Groundwater at this time was 90.56 feet below the ground surface.
6. Will stormwater be discharged into the ground? If so, describe any potential impacts.  
Stormwater will be treated in a new treatment and conveyance system in accordance to the latest Stormwater Management Manual for Eastern Washington.



## B. ENVIRONMENTAL ELEMENTS

### 1) Earth

- a. General description of the site (check one):  flat,  rolling,  hilly, steep slopes,  
 mountainous, other
- b. What is the steepest slope on the site (approximate percent slope)?  
8-15%
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland. According to the USGS Web Soil Survey, the project area is made up of the following soil types: Opportunity very gravelly ashy loam, Garrison very gravelly ashy loam, Uhlig ashy silt loam, and Urban land opportunity.
- d. Are there surface indications or history of unstable soils in the immediate vicinity?  
If so, describe.  
There are no surface indications or history of unstable soils in the immediate area
- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Also indicate source of fill.  
There will be ~7,000 CY of excavation and 3,000 CY of fill for this project.
- f. Could erosion occur as a result of clearing, construction, or use?  
If so, generally describe.  
There is a possibility for erosion during clearing, grading, and excavation.
- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?  
~60% of the project area will be impervious surface upon completion.
- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:  
An Erosion and Sediment Control (ESC) plan will be utilized for this project which will include both structural and non-structural best management practices (BMPs). Structural BMPs may include installation of silt fences, rock checking dams in existing ditches, and placement of catch basin inserts in existing catch basins. Non-structural BMPs may include planning and design, routine inspections, and routine maintenance.

### 2) Air

- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.  
During construction dust may be generated due to construction activities, wind erosion, and traffic over unpaved surfaces. Carbon emissions may be generated due to construction machinery, workers driving to and from the job site, and increased congestion due to





construction activities. There will be no air impacts from the completed project.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

There are no off-site emission sources that will affect this proposal.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Water will be used on loose soil and unpaved surfaces to reduce dust. Sweeping of adjacent streets will also help reduce dust. To reduce carbon emissions, machinery will be turned off when not in use.

### 3) Water

- a. Surface:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

A portion of the project occurs on an existing bridge that crosses the Spokane River.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Restriping will occur on a bridge over the Spokane River.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

No fill or dredge material will be placed or removed from surface water or wetlands.

- 4) Will the proposal require surface water withdrawals or diversions?

Give general description, purpose, and approximate quantities if known.

There will be no water withdrawals or diversions done for this project.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

A portion of the project is within the 100-year floodplain of the Spokane River.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No waste material will be discharged to surface waters as part of this project.

- b. Ground:

- 1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.

No ground water will be withdrawn, and no water will be discharged to the ground water as



part of this project.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

No waste material will be discharged to the ground for this project.

c. Water runoff (including stormwater):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow?

Will this water flow into other waters? If so, describe.

Upon completion, roadway runoff will flow into a stormwater conveyance and treatment system in accordance with the Stormwater Management Manual for Western Washington.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.

No waste material is anticipated to enter ground or surface waters as part of this project.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

The proposed stormwater system described above is a measure to reduce/control surface, ground, and runoff water impacts.

#### 4) Plants

a. Check or circle types of vegetation found on the site:

deciduous tree: alder, maple, aspen, other

evergreen tree: fir, cedar, pine, other shrubs

grass pasture

crop or grain

wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other

water plants: water lily, eelgrass, milfoil, other other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

1 evergreen and 4 deciduous trees will be removed as part of this project.

c. List threatened or endangered species known to be on or near the site.

A threatened and endangered species list for this project obtained from the United States Fish & Wildlife Service (USFWS) states that there is a potential for water howellia (*Howellia aquatilis*) to be present on the project site. However, water howellia is an aquatic plant and this project will not impact the aquatic environment. Therefore, there are no known threatened or endangered species on or near the project site.





- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:  
There is no proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation.

## 5) Animals

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

- birds: hawk, heron, eagle, songbirds, other:
- mammals: deer, bear, elk, beaver, other:
- fish: bass, salmon, trout, herring, shellfish, other:

- b. List any threatened or endangered species known to be on or near the site.  
A threatened and endangered species list for this project obtained from USFWS states that there is a potential for yellow-billed cuckoo (*Coccyzus americanus*) and bull trout (*Salvelinus confluentus*) to be present within the project site. However, yellow-billed cuckoo are considered functionally extirpated from Washington State and there is not suitable riparian forest stand habitat within the project vicinity. Also, as stated before, will not impact the aquatic environment. Therefore, there are no threatened or endangered species known to be on or near the site.
- c. Is the site part of a migration route?            If so, explain.  
The project area is part of a migration route as most of Washington is part of the Pacific Flyway.
- d. Proposed measures to preserve or enhance wildlife, if any:  
There are no proposed measures to preserve or enhance wildlife.

## 6). Energy and natural resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. Electricity will be used for generators, and upon completion, new signals and illumination will use electricity.
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.  
The project will not affect the potential use of solar power by adjacent properties.
- c. What kinds of energy conservation features are included in the plans of this proposal?    List other proposed measures to reduce or control energy impacts, if any:  
There are no energy conservation features included in the project.

## 7) Environmental health



- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe

There is a risk of petroleum products and concrete spills.

- 1) Describe special emergency services that might be required.  
There are no special emergency services required for this project.

- 2) Proposed measures to reduce or control environmental health hazards, if any:  
There are no proposed measures to reduce or control environmental health hazards.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?  
The main source of noise within the project vicinity is traffic noise. This will not affect the project.

- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

There will be temporary noise impacts from construction. Construction noise will be limited to the legal working hours specified in the Spokane Valley Municipal Code.

- 3) Proposed measures to reduce or control noise impacts, if any:  
Construction noise will be limited to the legal working hours specified in the Spokane Valley Municipal Code. Engines will be shut off when not in use.

## 8). Land and shoreline use

- a. What is the current use of the site and adjacent properties?  
The project area is made up of mainly existing right-of-way (ROW). ROW acquisitions to a few adjacent properties are required. Land use surrounding is mostly residential. A campground exists adjacent to the project as well.
- b. Has the site been used for agriculture? If so, describe.  
The site has not been used for agriculture.
- c. Describe any structures on the site.  
A bridge crossing the Spokane River is within the project area.
- d. Will any structures be demolished? If so, what?  
No structures will be demolished.
- e. What is the current zoning classification of the site?  
Zoning surrounding the project is Industrial (I), Single-Family Residential Urban (R-3), and Parks/Open Space (P/OS).





- f. What is the current comprehensive plan designation of the site?  
Comprehensive plan designations surrounding the project area are Industrial (I); Single Family Residential (SF); and Parks, Recreation, and Open Space (POS).
- g. If applicable, what is the current shoreline master program designation of the site?  
The section of the Spokane River within the project area is residential shoreline.
- h. Has any part of the site been classified as an "environmentally sensitive" area?  
If so, specify.  
The Spokane River shoreline is a shoreline of the state.
- i. Approximately how many people would reside or work in the completed project?  
N/A
- j. Approximately how many people would the completed project displace?  
The project will not displace any people.
- k. Proposed measures to avoid or reduce displacement impacts, if any:  
N/A
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:  
There are no proposed measures to ensure the proposal is compatible with existing and projected land uses and plans.

## 9) Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.  
No housing units will be provided in this project.
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.  
No housing units will be eliminated as part of this project.
- c. Proposed measures to reduce or control housing impacts, if any:  
There are no proposed measures to reduce or control housing impacts.

## 10). Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?  
The tallest proposed structures are street signs which will be a maximum of 10 feet tall.
- b. What views in the immediate vicinity would be altered or obstructed?



No views will be obstructed as a result of this project.

- c. Proposed measures to reduce or control aesthetic impacts, if any:  
There are no proposed measures to reduce or control aesthetic impacts.

### 11). Light and glare

- a. What type of light or glare will the proposal produce?                      What time of day would it mainly occur?  
Light from new signals and lighting will be produced as a result of this project. This will be most noticeable at night.
- b. Could light or glare from the finished project be a safety hazard or interfere with views?  
Light or flare will not be a safety hazard or interfere with views upon completion.
- c. What existing off-site sources of light or glare may affect your proposal?  
There are no existing off-site sources or light or glare that may affect this proposal.
- d. Proposed measures to reduce or control light and glare impacts, if any:  
There are no proposed measures to reduce or control light and glare impacts.

### 12) Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?  
The Centennial Trail runs underneath the project area and there is a trailhead on Barker Rd.
- b. Would the proposed project displace any existing recreational uses? If so, describe.  
The project will not displace any recreation opportunities.
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:  
There are no proposed measures to reduce or control recreation opportunities.

### 13). Historic and cultural preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site?                      If so, generally describe.  
There are no objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site.
- b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.  
The site is located within the traditional territory of the Spokane Tribe and Colville Tribe. That being said, there are no landmarks or evidence or historic, archaeological, scientific, or cultural



importance known to be within the project vicinity. An Inadvertent Discovery plan has been prepared.

- c. Proposed measures to reduce or control impacts, if any:  
Inadvertent discovery protocols will be put in place should any culturally or historically significant object be unearthed during the project. A representative from the Collville Reservation will monitor excavation.

#### 14). **Transportation**

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.  
The project occurs mostly on the legal ROW of N Barker Rd and E Euclid Ave
- b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?  
The site is not served by public transit.
- c. How many parking spaces would the completed project have? How many would the project eliminate?  
No parking spaces will be created or eliminated as part of this project.
- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).  
The project is a roadway project involving the improvements to existing roadway..
- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.  
Railroad tracks run through the project area.
- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.  
No vehicle trips will be generated by this proposal.
- g. Proposed measures to reduce or control transportation impacts, if any:  
There are no proposed measures to reduce or control transportation impacts.

#### 15) **Public services**

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)?  
If so, generally describe.  
The project will not result in the need for public services.







a. Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

a. Proposed measures to protect or conserve energy and natural resources are:

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

a. Proposed measures to protect such resources or to avoid or reduce impacts are:

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

a. Proposed measures to avoid or reduce shoreline and land use impacts are

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

a. Proposed measures to reduce or respond to such demand(s) are:

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.



**E. SIGNATURE**

I, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge. I also understand that, should there be any willful misrepresentation or willful lack of full disclosure on my part, the agency may withdraw any Determination of Nonsignificance that it might issue in reliance upon this check list.

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

Please print or type:

Proponent: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Person completing form (if different from proponent):

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

Address: \_\_\_\_\_

Phone: \_\_\_\_\_





**Local Agency Federal Aid  
Project Prospectus**

Prefix	Route	( )	Date	02/25/2020
Federal Aid Project Number			DUNS Number	168240617
Local Agency Project Number		( WSDOT Use Only )	Federal Employer Tax ID Number	71-0914170

Agency City of Spokane Valley	CA Agency <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Federal Program Title <input checked="" type="checkbox"/> 20.205 <input type="checkbox"/> Other			
Project Title Barker Road Widening Project	Start Latitude N 47.6888° End Latitude N 47.6965°	Start Longitude W 117.1539° End Longitude W 117.1546°			
Project Termini From-To Spokane River Barker/BNSF GSP	Nearest City Name Spokane Valley	Project Zip Code (+4) 99027-9545			
Begin Mile Post N/A	End Mile Post N/A	Length of Project 1.18 miles	Award Type <input checked="" type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad		
Route ID N/A	Begin Mile Point N/A	End Mile Point N/A	City Number 1223	County Number 32	County Name Spokane County
WSDOT Region Eastern Region	Legislative District(s) 4	Congressional District(s) 5	Urban Area Number 2		

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
				Month	Year
P.E.	\$100,000	\$100,000	\$0	June	2019
R/W	\$75,000	\$10,100	\$64,900	March	2020
Const.	\$1,299,000	\$1,065,300	\$233,700	June	2021
<b>Total</b>	<b>\$1,474,000</b>	<b>\$1,175,400</b>	<b>\$298,600</b>		

**Description of Existing Facility (Existing Design and Present Condition)**

Roadway Width 22-28 feet	Number of Lanes 2 travel lanes
-----------------------------	-----------------------------------

Existing flat asphalt roadway with a 11-14 ft travel lane in each direction.

**Description of Proposed Work**

Description of Proposed Work (Attach additional sheet(s) if necessary)

Reconstruct Barker Rd at UPRR crossing and the offset intersection of Euclid Ave. and provide shared use path from Spokane River to Grade separation project limits on SR290.

Local Agency Contact Person Robert Lochmiller, PE	Title Senior Engineer	Phone 509-720-5010
Mailing Address 10210 E. Sprague Avenue	City Spokane Valley	State WA
		Zip Code 99206
Project Prospectus	By <u>Gloria Martz</u> Approving Authority	
	Title Engineering Manager	Date 2/28/20

Agency City of Spokane Valley	Project Title Barker Rd/Union Pacific Crossing	Date 02/25/2020
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### Type of Proposed Work

Project Type (Check all that Apply)	Roadway Width 39 ft	Number of Lanes 3 Lanes
<input type="checkbox"/> New Construction <input checked="" type="checkbox"/> Path / Trail <input type="checkbox"/> 3-R <input checked="" type="checkbox"/> Reconstruction <input type="checkbox"/> Pedestrian / Facilities <input type="checkbox"/> 2-R <input type="checkbox"/> Railroad <input type="checkbox"/> Parking <input type="checkbox"/> Other <input type="checkbox"/> Bridge		

### Geometric Design Data

Description	Through Route	Crossroad
<b>Federal Functional Classification</b>	<input type="checkbox"/> Principal Arterial <input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Minor Arterial <input type="checkbox"/> Rural <input type="checkbox"/> Collector <input type="checkbox"/> NHS <input type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Local Access	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Local Access
	<input type="checkbox"/> Urban <input type="checkbox"/> Rural <input type="checkbox"/> NHS	<input type="checkbox"/> Urban <input type="checkbox"/> Rural <input type="checkbox"/> NHS
Terrain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain
Posted Speed	35 mph	
Design Speed	40 mph	
Existing ADT	5,500	
Design Year ADT	6,600	
Design Year	2040	
Design Hourly Volume (DHV)	660	

### Performance of Work

Preliminary Engineering Will Be Performed By City Staff and Consultants	Others 10 %	Agency 90 %
Construction Will Be Performed By Contractor	Contract 100 %	Agency %

### Environmental Classification

<input type="checkbox"/> Class I - Environmental Impact Statement (EIS) <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement	<input checked="" type="checkbox"/> Class II - Categorical Exclusion (CE) <input type="checkbox"/> Projects Requiring Documentation (Documented CE)
<input type="checkbox"/> Class III - Environmental Assessment (EA) <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreements	

### Environmental Considerations

A NEPA Categorical Exclusion Documentation Form will be completed and submitted for approval as part of the design process.



Agency City of Spokane Valley	Project Title Barker Rd/Union Pacific Crossing	Date 02/25/2020
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**Right of Way**

<input type="checkbox"/> No Right of Way Needed * All construction required by the contract can be accomplished within the existing right of way.	<input checked="" type="checkbox"/> Right of Way Needed <input checked="" type="checkbox"/> No Relocation	<input type="checkbox"/> Relocation Required
--	--	--

**Utilities**

No utility work required

All utility work will be completed prior to the start of the construction contract

All utility work will be completed in coordination with the construction contract

**Railroad**

No railroad work required

All railroad work will be completed prior to the start of the construction contract

All the railroad work will be completed in coordination with the construction contract

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

Utility cover/lid adjustments will be completed throughout the project as needed. Spokane County plans to install new sewer main within the project limits. Power poles will be relocated to the back of the multi-use path.

FAA Involvement

Is any airport located within 3.2 kilometers (2 miles) of the proposed project?  Yes  No

Remarks

None

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

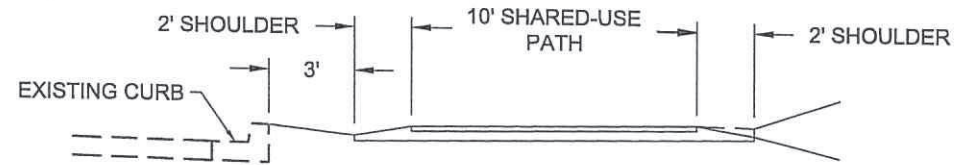
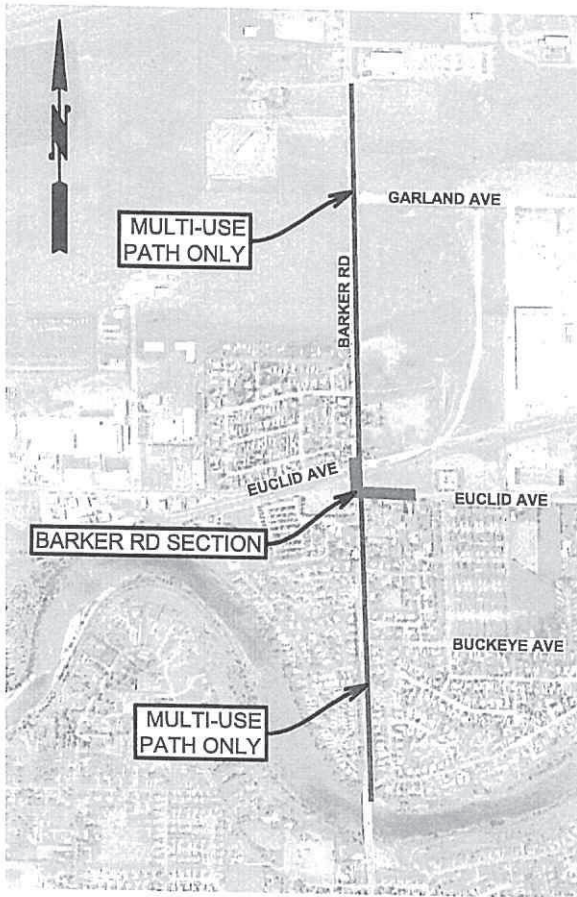
Agency City of Spokane Valley  
By Mark Calhoun  
City Manager

Date 2/27/2020

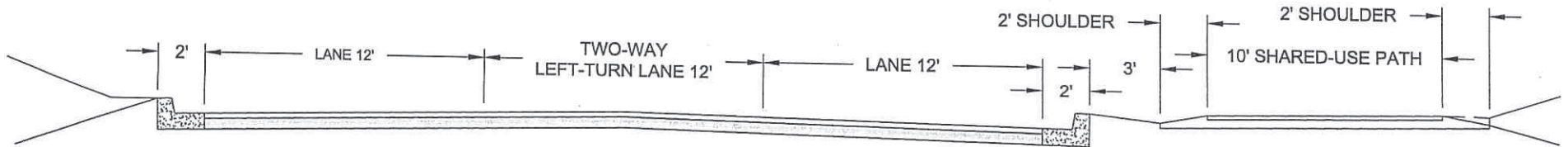
# BARKER RD/UP CROSSING PROJECT

EUCLID AVE TO EUCLID AVE

PATH ONLY - RIVER TO GRADE SEPARATION



MULTI-USE PATH CROSS SECTION



BARKER RD CROSS SECTION

## Executive Summary

The City of Spokane Valley (the City) is committed to reducing fatal and serious injury crashes within its transportation network. [Target Zero: Washington State Strategic Highway Safety Plan](#) provides a data-driven approach to achieving this goal using the Federal Highway Administration’s (FHWA) [Systemic Safety Project Selection Tool](#). This Assessment follows this approach in order to identify projects that will reduce fatal and serious injury crashes, using WSDOT-provided crash data covering a five-year time span. This analysis follows five steps, yielding the following results for each step:

1. Classify fatal and serious crashes by crash type and assign priority levels to each type.

Priority	Definition	Crash Types
Priority 1	30% or more of fatal/serious injury crashes	Hit Pedestrian or Bicyclist
Priority 2	10% to 30% of fatal/serious injury crashes	Angle Excessive Speed Hit Fixed Object

2. Identify roadway characteristics associated with high priority crashes.

Priority	Crash Type	Roadway Characteristics
Priority 1	Hit Pedestrian or Bicyclist	<ul style="list-style-type: none"> <li>• Intersection-related location</li> <li>• 35 mile-per-hour posted speed limit</li> <li>• More than 10,000 average daily traffic (ADT)</li> <li>• Principal Arterial functional classification</li> </ul>
Priority 2	Angle Collisions	<ul style="list-style-type: none"> <li>• Intersection-related location</li> <li>• 35 mile-per-hour posted speed limit</li> <li>• More than 10,000 average daily traffic (ADT)</li> <li>• Principal Arterial functional classification</li> </ul>
Priority 2	Excessive Speed Collisions	<ul style="list-style-type: none"> <li>• Intersection-related location</li> <li>• 35 mile-per-hour posted speed limit</li> <li>• Less than 10,000 ADT</li> <li>• Minor Arterial functional classification</li> </ul>
Priority 2	Hit Fixed Object Collisions	<ul style="list-style-type: none"> <li>• 35 mile-per-hour posted speed limit</li> <li>• Less than 10,000 ADT</li> <li>• Minor Arterial functional classification</li> <li>• Dark conditions</li> </ul>

3. Identify locations within the City transportation network that have these characteristics.  
The top ten locations are as follows:

#	Street	Intersecting Street	#	Street	Intersecting Street
1	Sprague Ave.	Sullivan Rd.	6	Sprague Ave.	Appleway Blvd.
2	Sprague Ave.	Pines Rd.	7	Sullivan	Trent Rd.
3	Sprague Ave.	Argonne/Mullan Rd.	8	Pines	Trent Rd.
4	Sprague Ave.	Evergreen Rd.	9	Pines	SR27
5	Appleway Blvd.	Barker Rd.	10	Argonne	Dishman Mica Rd.

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23 C.F.R. § 646.101

§ 646.101 Purpose.

Currentness

The purpose of this part is to prescribe provisions under which Federal funds may be applied to the costs of public liability and property damage insurance obtained by contractors (a) for their own operations, and (b) on behalf of railroads on or about whose right-of-way the contractors are required to work in the construction of highway projects financed in whole or in part with Federal funds.

SOURCE: 39 FR 36474, Oct. 10, 1974; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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Subpart A. Railroad–Highway Insurance Protection (Refs & Annos)

23 C.F.R. § 646.103

§ 646.103 Application.

Currentness

(a) This part applies:

(1) To a contractors' legal liability for bodily injury to, or death of, persons and for injury to, or destruction of, property.

(2) To the liability which may attach to railroads for bodily injury to, or death of, persons and for injury to, or destruction of, property.

(3) To damage to property owned by or in the care, custody or control of the railroads, both as such liability or damage may arise out of the contractor's operations, or may result from work performed by railroads at or about railroad rights-of-way in connection with projects financed in whole or in part with Federal funds.

(b) Where the highway construction is under the direct supervision of the Federal Highway Administration (FHWA), all references herein to the State shall be considered as references to the FHWA.

SOURCE: 39 FR 36474, Oct. 10, 1974; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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Subpart A. Railroad–Highway Insurance Protection (Refs & Annos)

23 C.F.R. § 646.105

§ 646.105 Contractor's public liability and property damage insurance.

Currentness

(a) Contractors may be subject to liability with respect to bodily injury to or death of persons, and injury to, or destruction of property, which may be suffered by persons other than their own employees as a result of their operations in connection with construction of highway projects located in whole or in part within railroad right-of-way and financed in whole or in part with Federal funds. Protection to cover such liability of contractors shall be furnished under regular contractors' public liability and property damage insurance policies issued in the names of the contractors. Such policies shall be so written as to furnish protection to contractors respecting their operations in performing work covered by their contract.

(b) Where a contractor sublets a part of the work on any project to a subcontractor, the contractor shall be required to secure insurance protection in his own behalf under contractor's public liability and property damage insurance policies to cover any liability imposed on him by law for damages because of bodily injury to, or death of, persons and injury to, or destruction of, property as a result of work undertaken by such subcontractors. In addition, the contractor shall provide for and on behalf of any such subcontractors protection to cover like liability imposed upon the latter as a result of their operations by means of separate and individual contractor's public liability and property damage policies; or, in the alternative, each subcontractor shall provide satisfactory insurance on his own behalf to cover his individual operations.

(c) The contractor shall furnish to the State highway department evidence satisfactory to such department and to the FHWA that the insurance coverages required herein have been provided. The contractor shall also furnish a copy of such evidence to the railroad or railroads involved. The insurance specified shall be kept in force until all work required to be performed shall have been satisfactorily completed and accepted in accordance with the contract under which the construction work is undertaken.

SOURCE: 39 FR 36474, Oct. 10, 1974; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

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23 C.F.R. § 646.107

§ 646.107 Railroad protective insurance.

Currentness

In connection with highway projects for the elimination of hazards of railroad-highway crossings and other highway construction projects located in whole or in part within railroad right-of-way, railroad protective liability insurance shall be purchased on behalf of the railroad by the contractor. The standards for railroad protective insurance established by §§ 646.109 through 646.111 shall be adhered to insofar as the insurance laws of the State will permit.

**Credits**

[39 FR 36474, Oct. 10, 1974, as amended at 47 FR 33955, Aug. 5, 1982]

SOURCE: 39 FR 36474, Oct. 10, 1974; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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Subpart A. Railroad–Highway Insurance Protection (Refs & Annos)

23 C.F.R. § 646.109

§ 646.109 Types of coverage.

Currentness

(a) Coverage shall be limited to damage suffered by the railroad on account of occurrences arising out of the work of the contractor on or about the railroad right-of-way, independent of the railroad's general supervision or control, except as noted in § 646.109(b)(4).

(b) Coverage shall include:

(1) Death of or bodily injury to passengers of the railroad and employees of the railroad not covered by State workmen's compensation laws;

(2) Personal property owned by or in the care, custody or control of the railroads;

(3) The contractor, or any of his agents or employees who suffer bodily injury or death as the result of acts of the railroad or its agents, regardless of the negligence of the railroad;

(4) Negligence of only the following classes of railroad employees:

(i) Any supervisory employee of the railroad at the job site;

(ii) Any employee of the railroad while operating, attached to, or engaged on, work trains or other railroad equipment at the job site which are assigned exclusively to the contractor; or

(iii) Any employee of the railroad not within (b)(4)(i) or (ii) who is specifically loaned or assigned to the work of the contractor for prevention of accidents or protection of property, the cost of whose services is borne specifically by the contractor or governmental authority.

SOURCE: 39 FR 36474, Oct. 10, 1974; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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Subpart A. Railroad–Highway Insurance Protection (Refs & Annos)

23 C.F.R. § 646.111

§ 646.111 Amount of coverage.

#### Currentness

(a) The maximum dollar amounts of coverage to be reimbursed from Federal funds with respect to bodily injury, death and property damage is limited to a combined amount of \$2 million per occurrence with an aggregate of \$6 million applying separately to each annual period except as provided in paragraph (b) of this section.

(b) In cases involving real and demonstrable danger of appreciably higher risks, higher dollar amounts of coverage for which premiums will be reimbursable from Federal funds shall be allowed. These larger amounts will depend on circumstances and shall be written for the individual project in accordance with standard underwriting practices upon approval of the FHWA.

#### Credits

[39 FR 36474, Oct. 10, 1974, as amended at 43 FR 22177, May 24, 1978; 47 FR 33955, Aug. 5, 1982]

SOURCE: 39 FR 36474, Oct. 10, 1974; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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23 C.F.R. § 646.200

§ 646.200 Purpose and applicability.

Currentness

(a) The purpose of this subpart is to prescribe policies and procedures for advancing Federal-aid projects involving railroad facilities.

(b) This subpart, and all references hereinafter made to projects, applies to Federal-aid projects involving railroad facilities, including projects for the elimination of hazards of railroad-highway crossings, and other projects which use railroad properties or which involve adjustments required by highway construction to either railroad facilities or facilities that are jointly owned or used by railroad and utility companies.

(c) Additional instructions for projects involving the elimination of hazards of railroad/highway grade crossings pursuant to [23 U.S.C. 130](#) are set forth in 23 CFR part 924.

(d) Procedures on reimbursement for projects undertaken pursuant to this subpart are set forth in 23 CFR part 140, subpart I.

(e) Procedures on insurance required of contractors working on or about railroad right-of-way are set forth in 23 CFR part 646, subpart A.

**Credits**

[[40 FR 16059](#), April 9, 1975, as amended at [45 FR 20795](#), March 31, 1980; [62 FR 45328](#), Aug. 27, 1997; [68 FR 24641](#), May 8, 2003]

SOURCE: [40 FR 16059](#), Apr. 9, 1975; [53 FR 32218](#), Aug. 24, 1988; [54 FR 9039](#), March 3, 1989; [54 FR 13369](#), April 3, 1989; [62 FR 45328](#), Aug. 27, 1997; [68 FR 24641](#), May 8, 2003, unless otherwise noted.

AUTHORITY: [23 U.S.C. 109\(e\)](#), [120\(c\)](#), [130](#), [133\(d\)\(1\)](#), and [315](#); [49 CFR 1.48\(b\)](#).

Notes of Decisions (46)

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23 C.F.R. § 646.202

§ 646.202 [Reserved]

Currentness

**Credits**

[62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003]

SOURCE: 40 FR 16059, Apr. 9, 1975; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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23 C.F.R. § 646.204

§ 646.204 Definitions.

**Currentness**

For the purposes of this subpart, the following definitions apply:

Active warning devices means those traffic control devices activated by the approach or presence of a train, such as flashing light signals, automatic gates and similar devices, as well as manually operated devices and crossing watchmen, all of which display to motorists positive warning of the approach or presence of a train.

Company shall mean any railroad or utility company including any wholly owned or controlled subsidiary thereof.

Construction shall mean the actual physical construction to improve or eliminate a railroad-highway grade crossing or accomplish other railroad involved work.

A diagnostic team means a group of knowledgeable representatives of the parties of interest in a railroad-highway crossing or a group of crossings.

Main line railroad track means a track of a principal line of a railroad, including extensions through yards, upon which trains are operated by timetable or train order or both, or the use of which is governed by block signals or by centralized traffic control.

Passive warning devices means those types of traffic control devices, including signs, markings and other devices, located at or in advance of grade crossings to indicate the presence of a crossing but which do not change aspect upon the approach or presence of a train.

Preliminary engineering shall mean the work necessary to produce construction plans, specifications, and estimates to the degree of completeness required for undertaking construction thereunder, including locating, surveying, designing, and related work.

Railroad shall mean all rail carriers, publicly-owned, private, and common carriers, including line haul freight and passenger railroads, switching and terminal railroads and passenger carrying railroads such as rapid transit, commuter and street railroads.

Utility shall mean the lines and facilities for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, water, steam, sewer and similar commodities.

**Credits**

[62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003]

SOURCE: 40 FR 16059, Apr. 9, 1975; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(e), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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23 C.F.R. § 646.206

§ 646.206 Types of projects.

Currentness

(a) Projects for the elimination of hazards, to both vehicles and pedestrians, of railroad-highway crossings may include but are not limited to:

- (1) Grade crossing elimination;
- (2) Reconstruction of existing grade separations; and
- (3) Grade crossing improvements.

(b) Other railroad-highway projects are those which use railroad properties or involve adjustments to railroad facilities required by highway construction but do not involve the elimination of hazards of railroad-highway crossings. Also included are adjustments to facilities that are jointly owned or used by railroad and utility companies.

SOURCE: 40 FR 16059, Apr. 9, 1975; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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23 C.F.R. § 646.208

§ 646.208 Funding.

**Currentness**

(a) Railroad/highway crossing projects may be funded through the Federal-aid funding source appropriate for the involved project.

(b) Projects for the elimination of hazards at railroad/highway crossings may, at the option of the State, be funded with the funds provided by 23 U.S.C. 133(d)(1).

**Credits**

[62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003]

SOURCE: 40 FR 16059, Apr. 9, 1975; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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23 C.F.R. § 646.210

§ 646.210 Classification of projects and railroad share of the cost.

Currentness

(a) State laws requiring railroads to share in the cost of work for the elimination of hazards at railroad-highway crossings shall not apply to Federal-aid projects.

(b) Pursuant to 23 U.S.C. 130(b), and 49 CFR 1.48:

(1) Projects for grade crossing improvements are deemed to be of no ascertainable net benefit to the railroads and there shall be no required railroad share of the costs.

(2) Projects for the reconstruction of existing grade separations are deemed to generally be of no ascertainable net benefit to the railroad and there shall be no required railroad share of the costs, unless the railroad has a specific contractual obligation with the State or its political subdivision to share in the costs.

(3) On projects for the elimination of existing grade crossings at which active warning devices are in place or ordered to be installed by a State regulatory agency, the railroad share of the project costs shall be 5 percent.

(4) On projects for the elimination of existing grade crossings at which active warning devices are not in place and have not been ordered installed by a State regulatory agency, or on projects which do not eliminate an existing crossing, there shall be no required railroad share of the project cost.

(c) The required railroad share of the cost under § 646.210(b) (3) shall be based on the costs for preliminary engineering, right-of-way and construction within the limits described below:

(1) Where a grade crossing is eliminated by grade separation, the structure and approaches required to transition to a theoretical highway profile which would have been constructed if there were no railroad present, for the number of lanes on the existing highway and in accordance with the current design standards of the State highway agency.

(2) Where another facility, such as a highway or waterway, requiring a bridge structure is located within the limits of a grade separation project, the estimated cost of a theoretical structure and approaches as described in § 646.210(c) (1) to eliminate the railroad-highway grade crossing without considering the presence of the waterway or other highway.

(3) Where a grade crossing is eliminated by railroad or highway relocation, the actual cost of the relocation project, the estimated cost of the relocation project, or the estimated cost of a structure and approaches as described in § 646.210 (c) (1), whichever is less.

(d) Railroads may voluntarily contribute a greater share of project costs than is required. Also, other parties may voluntarily assume the railroad's share.

SOURCE: [40 FR 16059](#), Apr. 9, 1975; [53 FR 32218](#), Aug. 24, 1988; [54 FR 9039](#), March 3, 1989; [54 FR 13369](#), April 3, 1989; [62 FR 45328](#), Aug. 27, 1997; [68 FR 24641](#), May 8, 2003, unless otherwise noted.

AUTHORITY: [23 U.S.C. 109\(e\)](#), [120\(c\)](#), [130](#), [133\(d\)\(1\)](#), and [315](#); [49 CFR 1.48\(b\)](#).

Notes of Decisions (5)

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23 C.F.R. § 646.212

§ 646.212 Federal share.

Currentness

(a) General.

(1) Federal funds are not eligible to participate in costs incurred solely for the benefit of the railroad.

(2) At grade separations Federal funds are eligible to participate in costs to provide space for more tracks than are in place when the railroad establishes to the satisfaction of the State highway agency and FHWA that it has a definite demand and plans for installation of the additional tracks within a reasonable time.

(3) The Federal share of the cost of a grade separation project shall be based on the cost to provide horizontal and/or vertical clearances used by the railroad in its normal practice subject to limitations as shown in the appendix or as required by a State regulatory agency.

(b) The Federal share of railroad/highway crossing projects may be:

(1) Regular pro rata sharing as provided by 23 U.S.C. 120(a) and 120(b).

(2) One hundred percent Federal share, as provided by 23 U.S.C. 120(c).

(3) Ninety percent Federal share for funds made available through 23 U.S.C. 133(d)(1).

**Credits**

[40 FR 16059, April 9, 1975, as amended at 47 FR 33955, Aug. 5, 1982; 53 FR 32218, Aug. 24, 1988; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003]

SOURCE: 40 FR 16059, Apr. 9, 1975; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

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23 C.F.R. § 646.214

§ 646.214 Design.

Currentness

(a) General.

(1) Facilities that are the responsibility of the railroad for maintenance and operation shall conform to the specifications and design standards used by the railroad in its normal practice, subject to approval by the State highway agency and FHWA.

(2) Facilities that are the responsibility of the highway agency for maintenance and operation shall conform to the specifications and design standards and guides used by the highway agency in its normal practice for Federal-aid projects.

(b) Grade crossing improvements.

(1) All traffic control devices proposed shall comply with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways supplemented to the extent applicable by State standards.

(2) Pursuant to [23 U.S.C. 109\(e\)](#), where a railroad-highway grade crossing is located within the limits of or near the terminus of a Federal-aid highway project for construction of a new highway or improvement of the existing roadway, the crossing shall not be opened for unrestricted use by traffic or the project accepted by FHWA until adequate warning devices for the crossing are installed and functioning properly.

(3)(i) Adequate warning devices, under § 646.214(b)(2) or on any project where Federal-aid funds participate in the installation of the devices are to include automatic gates with flashing light signals when one or more of the following conditions exist:

(A) Multiple main line railroad tracks.

(B) Multiple tracks at or in the vicinity of the crossing which may be occupied by a train or locomotive so as to obscure the movement of another train approaching the crossing.

(C) High Speed train operation combined with limited sight distance at either single or multiple track crossings.



(D) A combination of high speeds and moderately high volumes of highway and railroad traffic.

(E) Either a high volume of vehicular traffic, high number of train movements, substantial numbers of schoolbuses or trucks carrying hazardous materials, unusually restricted sight distance, continuing accident occurrences, or any combination of these conditions.

(F) A diagnostic team recommends them.

(ii) In individual cases where a diagnostic team justifies that gates are not appropriate, FHWA may find that the above requirements are not applicable.

(4) For crossings where the requirements of § 646.214(b)(3) are not applicable, the type of warning device to be installed, whether the determination is made by a State regulatory agency, State highway agency, and/or the railroad, is subject to the approval of FHWA.

(c) Grade crossing elimination. All crossings of railroads and highways at grade shall be eliminated where there is full control of access on the highway (a freeway) regardless of the volume of railroad or highway traffic.

#### **Credits**

[[40 FR 16059](#), April 9, 1975, as amended at [47 FR 33955](#), Aug. 5, 1982; [62 FR 45328](#), Aug. 27, 1997; [68 FR 24641](#), May 8, 2003]

SOURCE: [40 FR 16059](#), Apr. 9, 1975; [53 FR 32218](#), Aug. 24, 1988; [54 FR 9039](#), March 3, 1989; [54 FR 13369](#), April 3, 1989; [62 FR 45328](#), Aug. 27, 1997; [68 FR 24641](#), May 8, 2003, unless otherwise noted.

AUTHORITY: [23 U.S.C. 109\(e\)](#), [120\(c\)](#), [130](#), [133\(d\)\(1\)](#), and [315](#); [49 CFR 1.48\(b\)](#).

#### **Notes of Decisions (168)**

Current through February 17, 2022; [87 FR 8990](#).

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Subpart B. Railroad–Highway Projects (Refs & Annos)

23 C.F.R. § 646.216

§ 646.216 General procedures.

Currentness

(a) General. Unless specifically modified herein, applicable Federal-aid procedures govern projects undertaken pursuant to this subpart.

(b) Preliminary engineering and engineering services.

(1) As mutually agreed to by the State highway agency and railroad, and subject to the provisions of § 646.216(b)(2), preliminary engineering work on railroad-highway projects may be accomplished by one of the following methods:

(i) The State or railroad's engineering forces;

(ii) An engineering consultant selected by the State after consultation with the railroad, and with the State administering the contract; or

(iii) An engineering consultant selected by the railroad, with the approval of the State and with the railroad administering the contract.

(2) Where a railroad is not adequately staffed, Federal-aid funds may participate in the amounts paid to engineering consultants and others for required services, provided such amounts are not based on a percentage of the cost of construction, either under contracts for individual projects or under existing written continuing contracts where such work is regularly performed for the railroad in its own work under such contracts at reasonable costs.

(c) Rights-of-way.

(1) Acquisition of right-of-way by a State highway agency on behalf of a railroad or acquisition of nonoperating real property from a railroad shall be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and applicable FHWA right-of-way procedures in 23 CFR, chapter I, subchapter H. On projects for the elimination of hazards of railroad-highway crossings by the relocation of railroads, acquisition or replacement right-of-way by a railroad shall be in accordance with 42 U.S.C. 4601 et seq.

(2) Where buildings and other depreciable structures of the railroad (such as signal towers, passenger stations, depots, and other buildings, and equipment housings) which are integral to operation of railroad traffic are wholly or partly affected by a highway project, the costs of work necessary to functionally restore such facilities are eligible for participation. However, when replacement of such facilities is necessary, credits shall be made to the cost of the project for:

(i) Accrued depreciation, which is that amount based on the ratio between the period of actual length of service and total life expectancy applied to the original cost.

(ii) Additions or improvements which provide higher quality or increased service capability of the facility and which are provided solely for the benefit of the railroad.

(iii) Actual salvage value of the material recovered from the facility being replaced. Total credits to a project shall not be required in excess of the replacement cost of the facility.

(3) Where Federal funds participate in the cost of replacement right-of-way, there will be no charge to the project for the railroad's existing right-of-way being transferred to the State highway agency except when the value of the right-of-way being taken exceeds the value of the replacement right-of-way.

(d) State-railroad agreements.

(1) Where construction of a Federal-aid project requires use of railroad properties or adjustments to railroad facilities, there shall be an agreement in writing between the State highway agency and the railroad company.

(2) The written agreement between the State and the railroad shall, as a minimum include the following, where applicable:

(i) The provisions of this subpart and of 23 CFR part 140, subpart I, incorporated by reference.

(ii) A detailed statement of the work to be performed by each party.

(iii) Method of payment (either actual cost or lump sum),

(iv) For projects which are not for the elimination of hazards of railroad-highway crossings, the extent to which the railroad is obligated to move or adjust its facilities at its own expense,

(v) The railroad's share of the project cost,

(vi) An itemized estimate of the cost of the work to be performed by the railroad,

- (vii) Method to be used for performing the work, either by railroad forces or by contract,
  - (viii) Maintenance responsibility,
  - (ix) Form, duration, and amounts of any needed insurance,
  - (x) Appropriate reference to or identification of plans and specifications,
  - (xi) Statements defining the conditions under which the railroad will provide or require protective services during performance of the work, the type of protective services and the method of reimbursement to the railroad, and
  - (xii) Provisions regarding inspection of any recovered materials.
- (3) On work to be performed by the railroad with its own forces and where the State highway agency and railroad agree, subject to approval by FHWA, an agreement providing for a lump sum payment in lieu of later determination of actual costs may be used for any of the following:
- (i) Installation or improvement of grade crossing warning devices and/or grade crossing surfaces, regardless of cost, or
  - (ii) Any other eligible work where the estimated cost to the State of the proposed railroad work does not exceed \$100,000 or
  - (iii) Where FHWA finds that the circumstances are such that this method of developing costs would be in the best interest of the public.
- (4) Where the lump sum method of payment is used, periodic reviews and analyses of the railroad's methods and cost data used to develop lump sum estimates will be made.
- (5) Master agreements between a State and a railroad on an areawide or statewide basis may be used. These agreements would contain the specifications, regulations, and provisions required in conjunction with work performed on all projects. Supporting data for each project or group of projects must, when combined with the master agreement by reference, satisfy the provisions of § 646.216(d)(2).
- (6) Official orders issued by regulatory agencies will be accepted in lieu of State-railroad agreements only where, together with supplementary written understandings between the State and the railroad, they include the items required by § 646.216(d)(2).
- (7) In extraordinary cases where FHWA finds that the circumstances are such that requiring such agreement or order would not be in the best interest of the public, projects may be approved for construction with the aid of Federal funds, provided satisfactory commitments have been made with respect to construction, maintenance and the railroad share of project costs.

(e) Authorizations.

(1) The costs of preliminary engineering, right-of-way acquisition, and construction incurred after the date each phase of the work is included in an approved statewide transportation improvement program and authorized by the FHWA are eligible for Federal-aid participation. Preliminary engineering and right-of-way acquisition costs which are otherwise eligible, but incurred by a railroad prior to authorization by the FHWA, although not reimbursable, may be included as part of the railroad share of project cost where such a share is required.

(2) Prior to issuance of authorization by FHWA either to advertise the physical construction for bids or to proceed with force account construction for railroad work or for other construction affected by railroad work, the following must be accomplished:

(i) The plans, specifications and estimates must be approved by FHWA.

(ii) A proposed agreement between the State and railroad must be found satisfactory by FHWA. Before Federal funds may be used to reimburse the State for railroad costs the executed agreement must be approved by FHWA. However, cost for materials stockpiled at the project site or specifically purchased and delivered to the company for use on the project may be reimbursed on progress billings prior to the approval of the executed State–Railroad Agreement in accordance with [23 CFR 140.922\(a\)](#) and [§ 646.218](#) of this part.

(iii) Adequate provisions must be made for any needed easements, right-of-way, temporary crossings for construction purposes or other property interests.

(iv) The pertinent portions of the State-railroad agreement applicable to any protective services required during performance of the work must be included in the project specifications and special provisions for any construction contract.

(3) In unusual cases, pending compliance with [§ 646.216\(e\)\(2\)\(ii\)](#), (iii) and (iv), authorization may be given by FHWA to advertise for bids for highway construction under conditions where a railroad grants a right-of-entry to its property as necessary to prosecute the physical construction.

(f) Construction.

(1) Construction may be accomplished by:

(i) Railroad force account,

(ii) Contracting with the lowest qualified bidder based on appropriate solicitation,

(iii) Existing continuing contracts at reasonable costs, or



(iv) Contract without competitive bidding, for minor work, at reasonable costs.

(2) Reimbursement will not be made for any increased costs due to changes in plans:

(i) For the convenience of the contractor, or

(ii) Not approved by the State and FHWA.

(3) The State and FHWA shall be afforded a reasonable opportunity to inspect materials recovered by the railroad prior to disposal by sale or scrap. This requirement will be satisfied by the railroad giving written notice, or oral notice with prompt written confirmation, to the State of the time and place where the materials will be available for inspection. The giving of notice is the responsibility of the railroad, and it may be held accountable for full value of materials disposed of without notice.

(4) In addition to normal construction costs, the following construction costs are eligible for participation with Federal-aid funds when approved by the State and FHWA:

(i) The cost of maintaining temporary facilities of a railroad company required by and during the highway construction to the extent that such costs exceed the documented normal cost of maintaining the permanent facilities.

(ii) The cost of stage or extended construction involving grade corrections and/or slope stabilization for permanent tracks of a railroad which are required to be relocated on new grade by the highway construction. Stage or extended construction will be approved by FHWA only when documentation submitted by the State establishes the proposed method of construction to be the only practical method and that the cost of the extended construction within the period specified is estimated to be less than the cost of any practicable alternate procedure.

(iii) The cost of restoring the company's service by adjustments of existing facilities away from the project site, in lieu of and not to exceed the cost of replacing, adjusting or relocating facilities at the project site.

(iv) The cost of an addition or improvement to an existing railroad facility which is required by the highway construction.

#### **Credits**

[[40 FR 16059](#), April 9, 1975, as amended at [40 FR 29712](#), July 15, 1975; [47 FR 33956](#), Aug. 5, 1982; [62 FR 45328](#), Aug. 27, 1997; [68 FR 24641](#), May 8, 2003]

SOURCE: [40 FR 16059](#), Apr. 9, 1975; [53 FR 32218](#), Aug. 24, 1988; [54 FR 9039](#), March 3, 1989; [54 FR 13369](#), April 3, 1989; [62 FR 45328](#), Aug. 27, 1997; [68 FR 24641](#), May 8, 2003, unless otherwise noted.

AUTHORITY: [23 U.S.C. 109\(e\)](#), [120\(c\)](#), [130](#), [133\(d\)\(1\)](#), and [315](#); [49 CFR 1.48\(b\)](#).

Notes of Decisions (4)

Current through February 17, 2022; 87 FR 8990.

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23 C.F.R. § 646.218

§ 646.218 Simplified procedure for accelerating grade crossing improvements.

Currentness

- (a) The procedure set forth in this section is encouraged for use in simplifying and accelerating the processing of single or multiple grade crossing improvements.
- (b) Eligible preliminary engineering costs may include those incurred in selecting crossings to be improved, determining the type of improvement for each crossing, estimating the cost and preparing the required agreement.
- (c) The written agreement between a State and a railroad shall contain as a minimum:
- (1) Identification of each crossing location.
  - (2) Description of improvement and estimate of cost for each crossing location.
  - (3) Estimated schedule for completion of work at each location.
- (d) Following programming, authorization and approval of the agreement under § 646.218(c), FHWA may authorize construction, including acquisition of warning device materials, with the condition that work at any particular location will not be undertaken until the proposed or executed State-railroad agreement under § 646.216(d)(2) is found satisfactory by FHWA and the final plans, specifications, and estimates are approved and with the condition that only material actually incorporated into the project will be eligible for Federal participation.
- (e) Work programmed and authorized under this simplified procedure should include only that which can reasonably be expected to reach the construction stage within one year and be completed within two years after the initial authorization date.

SOURCE: 40 FR 16059, Apr. 9, 1975; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

Current through February 17, 2022; 87 FR 8990.

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23 C.F.R. § 646.220

§ 646.220 Alternate Federal–State procedure.

Currentness

(a) On other than Interstate projects, an alternate procedure may be used, at the election of the State, for processing certain types of railroad-highway work. Under this procedure, the State highway agency will act in the relative position of FHWA for reviewing and approving projects.

(b) The scope of the State's approval authority under the alternate procedure includes all actions necessary to advance and complete the following types of railroad-highway work:

(1) All types of grade crossing improvements under § 646.206(a)(3).

(2) Minor adjustments to railroad facilities under § 646.206(b).

(c) The following types of work are to be reviewed and approved in the normal manner, as prescribed elsewhere in this subpart.

(1) All projects under § 646.206(a)(1) and (2).

(2) Major adjustments to railroad facilities under § 646.206(b).

(d) Any State wishing to adopt the alternate procedure may file a formal application for approval by FHWA. The application must include the following:

(1) The State's written policies and procedures for administering and processing Federal-aid railroad-highway work, which make adequate provisions with respect to all of the following:

(i) Compliance with the provisions of title 23 U.S.C., title 23 CFR, and other applicable Federal laws and Executive Orders.

(ii) Compliance with this subpart and 23 CFR part 140, subpart I and 23 CFR part 172.



(iii) For grade crossing safety improvements, compliance with the requirements of 23 CFR part 924.

(2) A statement signed by the Chief Administrative Officer of the State highway agency certifying that:

(i) The work will be done in accordance with the applicable provisions of the State's policies and procedures submitted under § 646.220(d)(1), and

(ii) Reimbursement will be requested in only those costs properly attributable to the highway construction and eligible for Federal fund participation.

(e) When FHWA has approved the alternate procedure, it may authorize the State to proceed in accordance with the State's certification, subject to the following conditions:

(1) The work has been programmed.

(2) The State submits in writing a request for such authorization which shall include a list of the improvements or adjustments to be processed under the alternate procedure, along with the best available estimate of cost.

(f) The FHWA Regional Administrator may suspend approval of the certified procedure, where FHWA reviews disclose noncompliance with the certification. Federal-aid funds will not be eligible to participate in costs that do not qualify under § 646.220(d)(1).

#### **Credits**

[40 FR 16059, Apr. 9, 1975; 40 FR 29712, July 15, 1975; 40 FR 31211, July 25, 1975; 42 FR 30835, June 17, 1977; 45 FR 20795, Mar. 31, 1980]

SOURCE: 40 FR 16059, Apr. 9, 1975; 53 FR 32218, Aug. 24, 1988; 54 FR 9039, March 3, 1989; 54 FR 13369, April 3, 1989; 62 FR 45328, Aug. 27, 1997; 68 FR 24641, May 8, 2003, unless otherwise noted.

AUTHORITY: 23 U.S.C. 109(e), 120(c), 130, 133(d)(1), and 315; 49 CFR 1.48(b).

Current through February 17, 2022; 87 FR 8990.

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23 C.F.R. Pt. 646, Subpt. B, App.

APPENDIX TO SUBPART B OF PART 646—HORIZONTAL AND VERTICAL  
CLEARANCE PROVISIONS FOR OVERPASS AND UNDERPASS STRUCTURES

Currentness

The following implements provisions of 23 CFR 646.212(a)(3).

a. Lateral Geometrics

A cross section with a horizontal distance of 6.1 meters, measured at right angles from the centerline of track at the top of rails, to the face of the embankment slope, may be approved. The 6.1–meters distance may be increased at individual structure locations as appropriate to provide for drainage if justified by a hydraulic analysis or to allow adequate room to accommodate special conditions, such as where heavy and drifting snow is a problem. The railroad must demonstrate that this is its normal practice to address these special conditions in the manner proposed. Additionally, this distance may also be increased up to 2.5 meters as may be necessary for off-track maintenance equipment, provided adequate horizontal clearance is not available in adjacent spans and where justified by the presence of an existing maintenance road or by evidence of future need for such equipment. All piers should be placed at least 2.8 meters horizontally from the centerline of the track and preferably beyond the drainage ditch. For multiple track facilities, all dimensions apply to the centerline of the outside track.

Any increase above the 6.1–meters horizontal clearance distance must be required by specific site conditions and be justified by the railroad to the satisfaction of the State highway agency (SHA) and the FHWA.

b. Vertical Clearance

A vertical clearance of 7.1 meters above the top of rails, which includes an allowance for future ballasting of the railroad tracks, may be approved. Vertical clearance greater than 7.1 meters may be approved when the State regulatory agency having jurisdiction over such matters requires a vertical clearance in excess of 7.1 meters or on a site by site basis where justified by the railroad to the satisfaction of the SHA and the FHWA. A railroad's justification for increased vertical clearance should be based on an analysis of engineering, operational and/or economic conditions at a specific structure location.

Federal-aid highway funds are also eligible to participate in the cost of providing vertical clearance greater than 7.1 meters where a railroad establishes to the satisfaction of a SHA and the FHWA that it has a definite formal plan for electrification of its rail system where the proposed grade separation project is located. The plan must cover a logical independent segment of the rail system and be approved by the railroad's corporate headquarters. For 25 kv line, a vertical clearance of 7.4 meters may be approved. For 50 kv line, a vertical clearance of 8.0 meters may be approved.

A railroad's justification to support its plan for electrification shall include maps and plans or drawings showing those lines to be electrified; actions taken by its corporate headquarters committing it to electrification including a proposed schedule;

and actions initiated or completed to date implementing its electrification plan such as a showing of the amounts of funds and identification of structures, if any, where the railroad has expended its own funds to provide added clearance for the proposed electrification. If available, the railroad's justification should include information on its contemplated treatment of existing grade separations along the section of its rail system proposed for electrification.

The cost of reconstructing or modifying any existing railroad-highway grade separation structures solely to accommodate electrification will not be eligible for Federal-aid highway fund participation.

**c. Railroad Structure Width**

Two and eight tenths meters of structure width outside of the centerline of the outside tracks may be approved for a structure carrying railroad tracks. Greater structure width may be approved when in accordance with standards established and used by the affected railroad in its normal practice.

In order to maintain continuity of off-track equipment roadways at structures carrying tracks over limited access highways, consideration should be given at the preliminary design stage to the feasibility of using public road crossings for this purpose. Where not feasible, an additional structure width of 2.5 meters may be approved if designed for off-track equipment only.

**Credits**

[[53 FR 32218](#), Aug. 24, 1988; [62 FR 45328](#), Aug. 27, 1997; [68 FR 24641](#), May 8, 2003]

SOURCE: [40 FR 16059](#), Apr. 9, 1975; [53 FR 32218](#), Aug. 24, 1988; [54 FR 9039](#), March 3, 1989; [54 FR 13369](#), April 3, 1989; [62 FR 45328](#), Aug. 27, 1997; [68 FR 24641](#), May 8, 2003, unless otherwise noted.

AUTHORITY: [23 U.S.C. 109\(e\)](#), [120\(c\)](#), [130](#), [133\(d\)\(1\)](#), and [315](#); [49 CFR 1.48\(b\)](#).

Current through February 17, 2022; [87 FR 8990](#).

**PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT**

BARKER ROAD  
DOT NUMBER 662526C  
12.99 – SPOKANE SUBDIVISION  
SPOKANE, SPOKANE COUNTY, WASHINGTON

THIS AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2021 ("Effective Date"), by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, to be addressed at Real Estate Department, 1400 Douglas Street, Mail Stop 1690, Omaha, Nebraska 68179 ("Railroad") and **CITY OF SPOKANE VALLEY**, a municipal corporation or political subdivision of the State of Washington to be addressed at 10210 E. Sprague Avenue, Spokane Valley, Washington, 99206 ("Political Body").

**RECITALS:**

By instrument dated February 17, 2017, the Union Pacific Railroad Company and the Political Body entered into an agreement (the "Original Agreement") covering the construction, use, maintenance and repair of an at grade public road crossing over Barker Road, DOT Number 662526 C at Railroad's Milepost 12.99 on Railroad's Spokane Subdivision at or near Spokane, Spokane County, Washington.

The Political Body now desires to undertake as its project (the "Project") the reconstruction and widening of the road crossing that was constructed under the Original Agreement. The road crossing, as reconstructed and widened is hereinafter the "Roadway" and the portion of the Railroad's property where the Roadway crosses the Railroad's property is the "Crossing Area."

The right of way granted by Union Pacific Railroad to the Political Body under the terms of the Original Agreement or a separate document is not sufficient to allow for the reconstruction and widening of the Roadway. Therefore, under this Agreement, the Railroad will be granting additional rights to the Political Body to facilitate the reconstruction and widening of the Roadway. The portion of Railroad's property that Political Body needs to use in connection with the Roadway (including the right of way area covered under the Original Agreement or in a separate document) is shown on the print marked **Exhibit A** and also shown in the detailed plans marked **Exhibit A-1**, with each exhibit being attached hereto and hereby made a part hereof (the "Crossing Area")

The Railroad and the Political Body are entering into this Agreement to cover the above.

## **AGREEMENT:**

**NOW, THEREFORE**, it is mutually agreed by and between the parties hereto as follows:

### **Section 1. EXHIBIT B**

The general terms and conditions marked **Exhibit B**, are attached hereto and hereby made a part hereof.

### **Section 2. RAILROAD GRANTS RIGHT**

For and in consideration **FORTY FIVE THOUSAND NINE HUNDRED FOUR DOLLARS AND EIGHTY FOUR CENTS (\$45,904.84)** to be paid by the Political Body to the Railroad upon the execution and delivery of this Agreement and in further consideration of the Political Body's agreement to perform and comply with the terms of this Agreement, the Railroad hereby grants to the Political Body the right to construct, maintain and repair the Roadway over and across the Crossing Area.

For purposes of advanced signal preemption, Railroad hereby grants permission and authority to Political Body and/or its Contractor (as defined below) to install the conduit with the necessary wiring on Railroad right of way on the condition that prior to performing any work on Railroad's property, Political Body shall, or shall require its Contractor to, notify the Railroad and/or enter into a right of entry agreement with Railroad, as applicable pursuant to the terms and conditions of this Agreement.

### **Section 3. DEFINITION OF CONTRACTOR**

For purposes of this Agreement the term "Contractor" shall mean the contractor or contractors hired by the Political Body to perform any Project work on any portion of the Railroad's property and shall also include the Contractor's subcontractors and the Contractor's and subcontractor's respective employees, officers and agents, and others acting under its or their authority.

#### **Section 4. CONTRACTOR'S RIGHT OF ENTRY AGREEMENT - INSURANCE**

A. Prior to Contractor performing any work within the Crossing Area and any subsequent maintenance and repair work, the Political Body shall require the Contractor to:

- execute the Railroad's then current Contractor's Right of Entry Agreement
- obtain the then current insurance required in the Contractor's Right of Entry Agreement; and
- provide such insurance policies, certificates, binders and/or endorsements to the Railroad.

B. The Railroad's current Contractor's Right of Entry Agreement is marked **Exhibit D**, attached hereto and hereby made a part hereof. The Political Body confirms that it will inform its Contractor that it is required to execute such form of agreement and obtain the required insurance before commencing any work on any Railroad property. Under no circumstances will the Contractor be allowed on the Railroad's property without first executing the Railroad's Contractor's Right of Entry Agreement and obtaining the insurance set forth therein and also providing to the Railroad the insurance policies, binders, certificates and/or endorsements described therein.

C. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Senior Manager - Contracts  
Union Pacific Railroad Company  
Real Estate Department  
1400 Douglas Street, Mail Stop 1690  
Omaha, NE 68179-1690  
UP File Folder No. 3034-86

D. If the Political Body's own employees will be performing any of the Project work, the Political Body may self-insure all or a portion of the insurance coverage subject to the Railroad's prior review and approval.

#### **Section 5. FEDERAL AID POLICY GUIDE**

If the Political Body will be receiving any federal funding for the Project, the current rules, regulations and provisions of the Federal Aid Policy Guide as contained in 23 CFR 140, Subpart I and 23 CFR 646, Subparts A and B are incorporated into this Agreement by reference.



**Section 6. NO PROJECT EXPENSES TO BE BORNE BY RAILROAD**

The Political Body agrees that no Project costs and expenses are to be borne by the Railroad. In addition, the Railroad is not required to contribute any funding for the Project.

**Section 7. WORK TO BE PERFORMED BY RAILROAD; BILLING SENT TO POLITICAL BODY; POLITICAL BODY'S PAYMENT OF BILLS**

A. The work to be performed by the Railroad, at the Political Body's sole cost and expense, is described in the Railroad's Material and Force Account Estimate dated December 8, 2020, marked **Exhibit C**, attached hereto and hereby made a part hereof (the "Estimate"). As set forth in the Estimate, the Railroad's estimated cost for the Railroad's work associated with the Project is Six Hundred Fifteen Thousand Seven Hundred Fifty Eight Dollars (\$615,758).

B. The Railroad, if it so elects, may recalculate and update the Estimate submitted to the Political Body in the event the Political Body does not commence construction on the portion of the Project located on the Railroad's property within six (6) months from the date of the Estimate.

C. The Political Body acknowledges that the Estimate does not include any estimate of flagging or other protective service costs that are to be paid by the Political Body or the Contractor in connection with flagging or other protective services provided by the Railroad in connection with the Project. All of such costs incurred by the Railroad are to be paid by the Political Body or the Contractor as determined by the Railroad and the Political Body. If it is determined that the Railroad will be billing the Contractor directly for such costs, the Political Body agrees that it will pay the Railroad for any flagging costs that have not been paid by any Contractor within thirty (30) days of the Contractor's receipt of billing.

D. The Railroad shall send progressive billing to the Political Body during the Project and final billing to the Political Body within one hundred eighty (180) days after receiving written notice from the Political Body that all Project work affecting the Railroad's property has been completed.

E. The Political Body agrees to reimburse the Railroad within thirty (30) days of its receipt of billing from the Railroad for one hundred percent (100%) of all actual costs incurred by the Railroad in connection with the Project including, but not limited to, all actual costs of engineering review (including preliminary engineering review costs incurred by Railroad prior to the Effective Date of this Agreement), construction, inspection, flagging (unless flagging costs are to be billed directly to the Contractor), procurement of materials, equipment rental, manpower and deliveries to the job site and all direct and indirect overhead labor/construction costs including Railroad's standard additive rates.

## **Section 8. PLANS**

A. The Political Body, at its expense, shall prepare, or cause to be prepared by others, the detailed plans and specifications for the Project and the Structure and submit such plans and specifications to the Railroad's Assistant Vice President Engineering-Design, or his authorized representative, for prior review and approval. The plans and specifications shall include all Roadway layout specifications, cross sections and elevations, associated drainage, and other appurtenances.

B. The final one hundred percent (100%) completed plans that are approved in writing by the Railroad's Assistant Vice President Engineering-Design, or his authorized representative, are hereinafter referred to as the "Plans". The Plans are hereby made a part of this Agreement by reference.

C. No changes in the Plans shall be made unless the Railroad has consented to such changes in writing.

D. The Railroad's review and approval of the Plans will in no way relieve the Political Body or the Contractor from their responsibilities, obligations and/or liabilities under this Agreement, and will be given with the understanding that the Railroad makes no representations or warranty as to the validity, accuracy, legal compliance or completeness of the Plans and that any reliance by the Political Body or Contractor on the Plans is at the risk of the Political Body and Contractor.

## **Section 9. NON-RAILROAD IMPROVEMENTS**

A. Submittal of plans and specifications for protecting, encasing, reinforcing, relocation, replacing, removing and abandoning in place all non-railroad owned facilities (the "Non Railroad Facilities") affected by the Project including, without limitation, utilities, fiber optics, pipelines, wirelines, communication lines and fences is required under Section 8. The Non Railroad Facilities plans and specifications shall comply with Railroad's standard specifications and requirements, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines. Railroad has no obligation to supply additional land for any Non Railroad Facilities and does not waive its right to assert preemption defenses, challenge the right-to-take, or pursue compensation in any condemnation action, regardless if the submitted Non Railroad Facilities plans and specifications comply with Railroad's standard specifications and requirements. Railroad has no obligation to permit any Non Railroad Facilities to be abandoned in place or relocated on Railroad's property.

B. Upon Railroad's approval of submitted Non Railroad Facilities plans and specifications, Railroad will attempt to incorporate them into new agreements or supplements of existing agreements with Non Railroad Facilities owners or operators. Railroad may use its standard terms and conditions, including, without limitation, its standard license fee and administrative charges when requiring supplements or new

agreements for Non Railroad Facilities. Non Railroad Facilities work shall not commence before a supplement or new agreement has been fully executed by Railroad and the Non Railroad Facilities owner or operator, or before Railroad and Political Body mutually agree in writing to (i) deem the approved Non Railroad Facilities plans and specifications to be Plans pursuant to Section 8B, (ii) deem the Non Railroad Facilities part of the Structure, and (iii) supplement this Agreement with terms and conditions covering the Non Railroad Facilities.

#### **Section 10. EFFECTIVE DATE; TERM; TERMINATION**

A. This Agreement is effective as of the Effective Date first herein written and shall continue in full force and effect for as long as the Roadway remains on the Railroad's property.

B. The Railroad, if it so elects, may terminate this Agreement effective upon delivery of written notice to the Political Body in the event the Political Body does not commence construction on the portion of the Project located on the Railroad's property within twelve (12) months from the Effective Date.

C. If the Agreement is terminated as provided above, or for any other reason, the Political Body shall pay to the Railroad all actual costs incurred by the Railroad in connection with the Project up to the date of termination, including, without limitation, all actual costs incurred by the Railroad in connection with reviewing any preliminary or final Project Plans.

#### **Section 11. CONDITIONS TO BE MET BEFORE POLITICAL BODY CAN COMMENCE WORK**

Neither the Political Body nor the Contractor may commence any work within the Crossing Area or on any other Railroad property until:

- (i) The Railroad and Political Body have executed this Agreement.
- (ii) The Railroad has provided to the Political Body the Railroad's written approval of the Plans.
- (iii) Each Contractor has executed Railroad's Contractor's Right of Entry Agreement and has obtained and/or provided to the Railroad the insurance policies, certificates, binders, and/or endorsements required under the Contractor's Right of Entry Agreement.
- (iv) Each Contractor has given the advance notice(s) required under the Contractor's Right of Entry Agreement to the Railroad Representative named in the Contractor's Right of Entry Agreement.

## **Section 12. FUTURE PROJECTS**

Future projects involving substantial maintenance, repair, reconstruction, renewal and/or demolition of the Roadway shall not commence until Railroad and Political Body agree on the plans for such future projects, cost allocations, right of entry terms and conditions and temporary construction rights, terms and conditions.

## **Section 13. ASSIGNMENT; SUCCESSORS AND ASSIGNS**

A. Political Body shall not assign this Agreement without the prior written consent of Railroad.

B. Subject to the provisions of Paragraph A above, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Railroad and Political Body.

## **Section 14. SPECIAL PROVISIONS PERTAINING TO AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

If the Political Body will be receiving American Recovery and Reinvestment Act ("ARRA") funding for the Project, the Political Body agrees that it is responsible in performing and completing all ARRA reporting documents for the Project. The Political Body confirms and acknowledges that Section 1512 of the ARRA provisions applies only to a "recipient" receiving ARRA funding directing from the federal government and, therefore, (i) the ARRA reporting requirements are the responsibility of the Political Body and not of the Railroad, and (ii) the Political Body shall not delegate any ARRA reporting responsibilities to the Railroad. The Political Body also confirms and acknowledges that (i) the Railroad shall provide to the Political Body the Railroad's standard and customary billing for expenses incurred by the Railroad for the Project including the Railroad's standard and customary documentation to support such billing, and (ii) such standard and customary billing and documentation from the Railroad provides the information needed by the Political Body to perform and complete the ARRA reporting documents. The Railroad confirms that the Political Body and the Federal Highway Administration shall have the right to audit the Railroad's billing and documentation for the Project as provided in Section 11 of **Exhibit B** of this Agreement.

## **Section 15. TERMINATION OF ORIGINAL AGREEMENT**

Upon the completion of the Roadway, the Original Agreement dated February 17, 2017, and identified in the Railroad's Records as Audit 284117, shall terminate and the terms and conditions of this Agreement shall govern the use, maintenance and repair of the Roadway.

**Section 16. SIGNAL MAINTENANCE COSTS**

A. Effective as of the Effective Date of this Agreement, the Political Body, in addition to maintaining at its sole cost and expense the portion of the Roadway described in Section 2 of **Exhibit B**, agrees to pay to Railraod the sum of Eight Thousand Six Hundred Seventy Dollars (\$8,670) per annum, payable annually in advance, as payment for Railroad's maintenance of the railroad crossing warning signals as outlined in **Exhibit F** that are to be installed by the Railroad at the Crossing Area as shown in the Signal Schematic labeled **Exhibit E**.

B. The above annual fee is based on the number of current signal units at the Crossing Area. Effective on the first anniversary of this Agreement and on the anniversary date of each subsequent one year period, the annual fee will be increased at a rate based on the American Association of Railroad's (AAR) signal unit cost index. Such changes in the maintenance fee may be made by the Railroad by means of automatic adjustment in billing. The signal unit base for the annual fee may be re-determined by the Railroad at any time subsequent to the expiration of five (5) years following the date on which the annual rental was last determined or established. Such changes in the maintenance fee may be made by means of automatic adjustment in billing.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be duly executed as of the Effective Date first herein written.

**UNION PACIFIC RAILROAD COMPANY**  
(Federal Tax ID #94-6001323)

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

**CITY OF SPOKANE VALLEY**

\_\_\_\_\_  
[City Clerk] [County Clerk]

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Seal)

Pursuant to Resolution/Order No. \_\_\_\_\_  
dated: \_\_\_\_\_, 20\_\_ hereto attached

**EXHIBIT A  
TO  
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

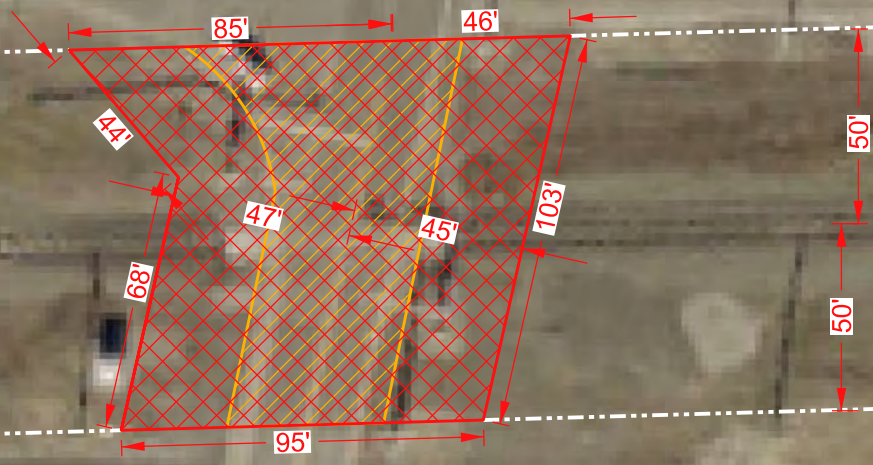
**Exhibit A** will be a print showing the Crossing Area (see Recitals)







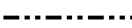
EUCLID AVE.

BARKER RD.



**CROSSING AREA: 10,120 SQ.FT. / 0.23 AC. +/-**  
**EXISTING CROSSING AREA: 4,578 SQ.FT. / 0.11 AC. +/-**

LEGEND:

- CROSSING AREA ..... 
- EXISTING CROSSING AREA ..... 
- UPRRCO. R/W OUTLINED ..... 

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY  
 SPOKANE, SPOKANE COUNTY, WA  
 M.P. 12.99 - SPOKANE SUB.

SIRR/WA/V-1/7  
 SCALE: 1" = 50'

OFFICE OF REAL ESTATE  
 OMAHA, NEBRASKA DATE: 4-13-2020  
 DSK FILE: 3034-86




CADD FILENAME	0303486
SCAN FILENAME	AERIAL PRINT

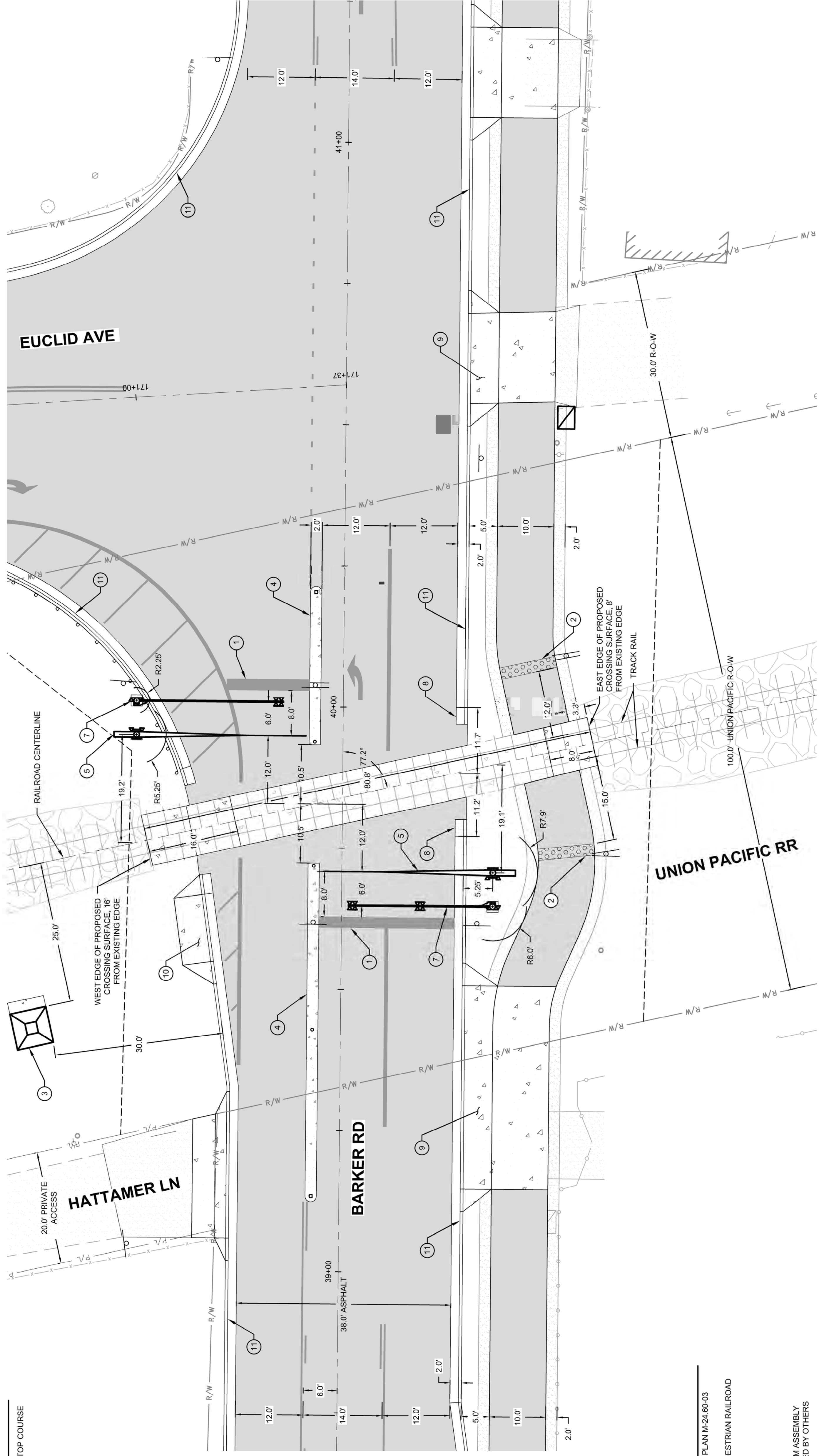
**EXHIBIT A-1  
TO  
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

**Exhibit A-1** will be the detailed plans of the Crossing Area (see Recitals)



**LEGEND**

-  CRUSHED SURFACE TOP COURSE
-  CONCRETE
-  ARTERIAL HMA



**KEYNOTES**

- 1 PLASTIC - STOP BAR, PER WSDOT STANDARD PLAN M-24.60-03 W/ 2.0'
- 2 2' X 10' DETECTABLE WARNING SURFACE - PEDESTRIAN RAILROAD CROSSING, WSDOT STD PLAN F-45.10-02
- 3 SIGNAL CABINET
- 4 8" HIGH CEMENT CONCRETE MEDIAN
- 5 ACTIVE TRAFFIC CONTROL DEVICE - GATE ARM ASSEMBLY (ARM LENGTH = 30'), PROVIDED AND INSTALLED BY OTHERS
- 6 NOT USED
- 7 ACTIVE TRAFFIC CONTROL DEVICE - CANTILEVER ASSEMBLY WITH FLASHERS, PROVIDED AND INSTALLED BY OTHERS
- 8 CURB TERMINATION, CITY STD PLAN S-R02
- 9 TYPE 1 CONCRETE APPROACH SEPARATED SIDEWALK, SPOKANE VALLEY STD PLAN R-110 RAMP DEPTH = 5' SIDEWALK DEPTH = 10'
- 10 CEMENT CONCRETE DRIVEWAY TYPE 4, WSDOT STD PLAN F-80.10-04 AND 4" CSTC DEPTH = 5"
- 11 CURB & GUTTER TYPE B, SPOKANE VALLEY STD PLAN R-102



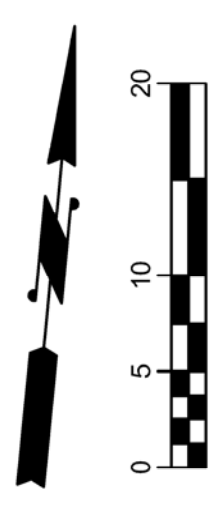
NO.	DATE	DESCRIPTION	BY

**CITY OF Spokane Valley**  
 COMMUNITY & PUBLIC WORKS DEPARTMENT  
 10210 EAST SPRAGUE AVENUE  
 SPOKANE VALLEY, WA. 99206  
 (509) 720-5000

DRAWN BY: JAM  
 DESIGNED BY: JAM  
 EXHIBIT  
 JULY 1, 2020

**0313 BARKER - UNION PACIFIC CROSSING**  
**UNION PACIFIC RR CROSSING LAYOUT**  
 BARKER RD / UNION PACIFIC  
 CROSSING, SPOKANE VALLEY, WA  
 MP 0012.99, DOT 662526C

**SHEET 1**





**EXHIBIT B  
TO  
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

**SECTION 1. CONDITIONS AND COVENANTS**

A. The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Political Body shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Political Body shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad's property by or under authority of the Political Body for the purpose of conveying electric power or communications incidental to the Political Body's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Political Body to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.

B. The Railroad reserves the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes. In the event the Railroad shall place additional tracks upon the Crossing Area, the Political Body shall, at its sole cost and expense, modify the Roadway to conform with all tracks within the Crossing Area.

C. The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded, and also to any renewals thereof. The Political Body shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Railroad's property, unless the Political Body at its own expense settles with and obtains releases from such nonparties.

D. The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property; and the right to cross the Crossing Area with all kinds of equipment.

E. So far as it lawfully may do so, the Political Body will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating

property.

F. If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the Roadway and its appurtenances, or for the performance of any work in connection with the Project, the Political Body will acquire all such other property and rights at its own expense and without expense to the Railroad.

## **SECTION 2. CONSTRUCTION OF ROADWAY**

A. The Political Body, at its expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.

B. Except as may be otherwise specifically provided herein, the Political Body, at its expense, will furnish all necessary labor, material and equipment, and shall construct and complete the Roadway and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper highway warning devices (except those installed by the Railroad within its right of way) and all necessary drainage facilities, guard rails or barriers, and right of way fences between the Roadway and the railroad tracks. Upon completion of the Project, the Political Body shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.

C. All construction work of the Political Body upon the Railroad's property (including, but not limited to, construction of the Roadway and all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Assistant Vice President Engineering-Design of the Railroad or his authorized representative and in compliance with the Plans, and other guidelines furnished by the Railroad.

D. All construction work of the Political Body shall be performed diligently and completed within a reasonable time. No part of the Project shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Political Body. The Political Body hereby assumes the risk of any such delays and agrees that no claims for damages on account of any delay shall be made against the Railroad by the State and/or the Contractor.

### **SECTION 3. INJURY AND DAMAGE TO PROPERTY**

If the Political Body, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Political Body is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Political Body at the Political Body's own expense, or by the Railroad at the expense of the Political Body, and to the satisfaction of the Railroad's Assistant Vice President Engineering-Design.

### **SECTION 4. RAILROAD MAY USE CONTRACTORS TO PERFORM WORK**

The Railroad may contract for the performance of any of its work by other than the Railroad forces. The Railroad shall notify the Political Body of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Political Body shall reimburse the Railroad for the amount of the contract.

### **SECTION 5. MAINTENANCE AND REPAIRS**

A. The Political Body shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed, the entire Crossing Area and Roadway, except the portions between the track tie ends, which shall be maintained by and at the expense of the Railroad.

B. If, in the future, the Political Body elects to have the surfacing material between the track tie ends, or between tracks if there is more than one railroad track across the Crossing Area, replaced with paving or some surfacing material other than timer planking, the Railroad, at the Political Body's expense, shall install such replacement surfacing, and in the future, to the extent repair or replacement of the surfacing is necessitated by repair or rehabilitation of the Railroad's tracks through the Crossing Area, the Political Body shall bear the expense of such repairs or replacement.

### **SECTION 6. CHANGES IN GRADE**

If at any time the Railroad shall elect, or be required by competent authority to, raise or lower the grade of all or any portion of the track(s) located within the Crossing Area, the Political Body shall, at its own expense, conform the Roadway to conform with the change of grade of the trackage.

### **SECTION 7. REARRANGEMENT OF WARNING DEVICES**

If the change or rearrangement of any warning device installed hereunder is necessitated for public or Railroad convenience or on account of improvements for either the Railroad, highway or both, the parties will apportion the expense incidental



thereto between themselves by negotiation, agreement or by the order of a competent authority before the change or rearrangement is undertaken.

## **SECTION 8. SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS**

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Political Body that the work will be performed in a safe manner and in conformity with the following standards:

A. **Definitions.** All references in this Agreement to the Political Body shall also include the Contractor and their respective officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Political Body shall include work both within and outside of the Railroad's property.

B. **Entry on to Railroad's Property by Political Body.** If the Political Body's employees need to enter Railroad's property in order to perform an inspection of the Roadway, minor maintenance or other activities, the Political Body shall first provide at least ten (10) working days advance notice to the Railroad Representative. With respect to such entry on to Railroad's property, the Political Body, to the extent permitted by law, agrees to release, defend and indemnify the Railroad from and against any loss, damage, injury, liability, claim, cost or expense incurred by any person including, without limitation, the Political Body's employees, or damage to any property or equipment (collectively the "Loss") that arises from the presence or activities of Political Body's employees on Railroad's property, except to the extent that any Loss is caused by the sole direct negligence of Railroad.

C. **Flagging.**

(i) If the Political Body's employees need to enter Railroad's property as provided in Paragraph B above, the Political Body agrees to notify the Railroad Representative at least thirty (30) working days in advance of proposed performance of any work by Political Body in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30) day notice, the Railroad Representative will determine and inform Political Body whether a flagman need be present and whether Political Body needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill

Political Body for such expenses incurred by Railroad. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Political Body agrees that Political Body is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

(ii) The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Political Body shall pay on the basis of the new rates and charges.

(iii) Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Political Body may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Political Body must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Political Body will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

D. **Compliance With Laws.** The Political Body shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Political Body shall use only such methods as are consistent with safety, both as concerns the Political Body, the Political Body's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Political Body (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal

Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Political Body to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Political Body shall reimburse, and to the extent it may lawfully do so, indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Political Body further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

E. **No Interference or Delays.** The Political Body shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

F. **Supervision.** The Political Body, at its own expense, shall adequately police and supervise all work to be performed by the Political Body, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Political Body for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Political Body with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Political Body will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

G. **Suspension of Work.** If at any time the Political Body's engineers or the Vice President-Engineering Services of the Railroad or their respective representatives shall be of the opinion that any work of the Political Body is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Political Body shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

H. **Removal of Debris.** The Political Body shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Political Body at the Political Body's own expense or by the Railroad at the expense of the Political Body. The Political Body shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

I. **Explosives.** The Political Body shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice

President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate.

J. **Excavation.** The Political Body shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Political Body shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Political Body, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Political Body in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Assistant Vice President Engineering - Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

K. **Drainage.** The Political Body, at the Political Body's own expense, shall provide and maintain suitable facilities for draining the Roadway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The Political Body, at the Political Body's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Political Body, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Political Body shall not obstruct or interfere with existing ditches or drainage facilities.

L. **Notice.** Before commencing any work, the Political Body shall provide the advance notice to the Railroad that is required under the Contractor's Right of Entry Agreement.

M. **Fiber Optic Cables.** Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Political Body shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except

holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Political Body. If it is, Political Body will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

## **SECTION 9. INTERIM WARNING DEVICES**

If at anytime it is determined by a competent authority, by the Political Body, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Political Body shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the new or improved devices have been installed.

## **SECTION 10. OTHER RAILROADS**

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

## **SECTION 11. BOOKS AND RECORDS**

The books, papers, records and accounts of Railroad, so far as they relate to the items of expense for the materials to be provided by Railroad under this Project, or are associated with the work to be performed by Railroad under this Project, shall be open to inspection and audit at Railroad's offices in Omaha, Nebraska, during normal business hours by the agents and authorized representatives of Political Body for a period of three (3) years following the date of Railroad's last billing sent to Political Body.

## **SECTION 12. REMEDIES FOR BREACH OR NONUSE**

A. If the Political Body shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the Roadway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Political Body will reimburse the Railroad for the expenses thereof.

B. Nonuse by the Political Body of the Crossing Area for public highway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Political Body hereunder.

C. The Political Body will surrender peaceable possession of the Crossing Area and Roadway upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

**SECTION 13. MODIFICATION - ENTIRE AGREEMENT**

No waiver, modification or amendment of this Agreement shall be of any force or effect unless made in writing, signed by the Political Body and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Political Body shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Political Body and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.



**EXHIBIT C**

**TO**

**PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

**Exhibit C** (if applicable) will be Railroad's Material and Force Agreement Estimate.

## EXHIBIT C

### ESTIMATE OF FORCE ACCOUNT WORK BY THE UNION PACIFIC RAILROAD COMPANY

DESCRIPTION OF WORK: Engineering and other related services for work to be performed within railroad right of way. This includes railroad flagging services, project and construction management during construction activities in railroad right of way. All necessary railroad services will be billed at actual cost.

**DATE:**

**12/8/2020**

**LOCATION:**

**Barker Rd, 662526C  
Spokane Valley**

**SUBDIVISION**

**Spokane**

**STATE:**

**WA**

DESCRIPTION	LABOR	MATERIAL	UP %0	Agency % 100	TOTAL
<b>ENGINEERING</b>					
Construction Management	\$ 25,000	\$ -	\$ -	\$ 25,000	\$ 25,000
<b>UPRR CONSTRUCTION</b>					
Signal	\$ 265,898	\$ 139,958	\$ -	\$ 405,856	\$ 405,856
Surface	\$ 97,269	\$ 55,633	\$ -	\$ 152,902	\$ 152,902
<b>FLAGGING / INSPECTION SERVICES</b>					
RATE (per day)	\$ 1,600				
Estimated # Days of Flagging	20	\$ 32,000	\$ -	\$ 32,000.00	\$32,000
<b>TOTAL PROJECT:</b>	<b>\$ 421,767</b>	<b>\$ 195,591</b>	<b>\$ -</b>	<b>\$ 615,758</b>	<b>\$615,758</b>

**TOTAL ESTIMATED COST:**

**\$615,758**

**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, THE RAILROAD WILL BILL FOR ACTUAL  
COSTS AT THE CURRENT RATES EFFECTIVE THEREOF.**

Flagging may be performed by a third-party contractor. Any flagging performed by a third-party contractor will be billed at said third-party contractor rate not included in the above estimate. Alternatively, the Agency may enter into a separate agreement with third-party contractor and will be responsible for all actual costs incurred.

**EXHIBIT D**  
**TO**  
**PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT**

**CONTRACTOR'S**  
**RIGHT OF ENTRY AGREEMENT**

**THIS AGREEMENT** is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad"); and \_\_\_\_\_, a \_\_\_\_\_ corporation ("Contractor").

**RECITALS:**

Contractor has been hired by \_\_\_\_\_ to perform work relating to \_\_\_\_\_

\_\_\_\_\_ (the "work"), with all or a portion of such work to be performed on property of Railroad in the vicinity of Railroad's Milepost \_\_\_\_\_ on Railroad's \_\_\_\_\_ [Subdivision] [Branch] [at or near DOT No. \_\_\_\_\_] located at or near \_\_\_\_\_, in \_\_\_\_\_ County, State of \_\_\_\_\_, as such location is in the general location shown on the print marked **Exhibit A**, attached hereto and hereby made a part hereof, which work is the subject of a contract dated \_\_\_\_\_ between Railroad and \_\_\_\_\_.

Railroad is willing to permit Contractor to perform the work described above at the location described above subject to the terms and conditions contained in this Agreement

**AGREEMENT:**

**NOW, THEREFORE**, it is mutually agreed by and between Railroad and Contractor, as follows:

**ARTICLE 1 - DEFINITION OF CONTRACTOR.**

For purposes of this Agreement, all references in this agreement to Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

**ARTICLE 2 - RIGHT GRANTED; PURPOSE.**

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

**ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B, C AND D.**

The terms and conditions contained in **Exhibit B**, **Exhibit C** and **Exhibit D**, attached hereto, are hereby made a part of this Agreement.

**ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.**

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

**ARTICLE 5 - SCHEDULE OF WORK ON A MONTHLY BASIS.**

The Contractor, at its expense, shall provide on a monthly basis a detailed schedule of work to the Railroad Representative named in Article 4B above. The reports shall start at the execution of this Agreement and continue until this Agreement is terminated as provided in this Agreement or until the Contractor has completed all work on Railroad's property.

**ARTICLE 6 - TERM; TERMINATION.**

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue until \_\_\_\_\_, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

**ARTICLE 7 - CERTIFICATE OF INSURANCE.**

A. Before commencing any work, Contractor will provide Railroad with the (i) insurance binders, policies, certificates and endorsements set forth in **Exhibit C** of this Agreement, and (ii) the insurance endorsements obtained by each subcontractor as required under Section 12 of **Exhibit B** of this Agreement.

B. All insurance correspondence, binders, policies, certificates and endorsements shall be sent to:

Union Pacific Railroad Company  
\_\_\_\_\_  
[Insert mailing address]  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Folder No. \_\_\_\_\_

**ARTICLE 8 - DISMISSAL OF CONTRACTOR'S EMPLOYEE.**

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

**ARTICLE 9- ADMINISTRATIVE FEE.**

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad \_\_\_\_\_ Dollars (\$\_\_\_\_\_) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

**ARTICLE 10 - CROSSINGS; COMPLIANCE WITH MUTCD AND FRA GUIDELINES.**

A. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

B. Any permanent or temporary changes, including temporary traffic control, to crossings must conform to the Manual of Uniform Traffic Control Devices (MUTCD) and any applicable Federal Railroad Administration rules, regulations and guidelines, and must be reviewed by the Railroad prior to any changes being implemented. In the event the Railroad is found to be out of compliance with federal safety regulations due to the Contractor's modifications, negligence, or any other reason arising from the Contractor's presence on the Railroad's property, the Contractor agrees to assume liability for any civil penalties imposed upon the Railroad for such noncompliance.

**ARTICLE 11.- EXPLOSIVES.**

Explosives or other highly flammable substances shall not be stored or used on Railroad's property without the prior written approval of Railroad.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

**UNION PACIFIC RAILROAD COMPANY**

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

\_\_\_\_\_  
(Name of Contractor)

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

**EXHIBIT A**

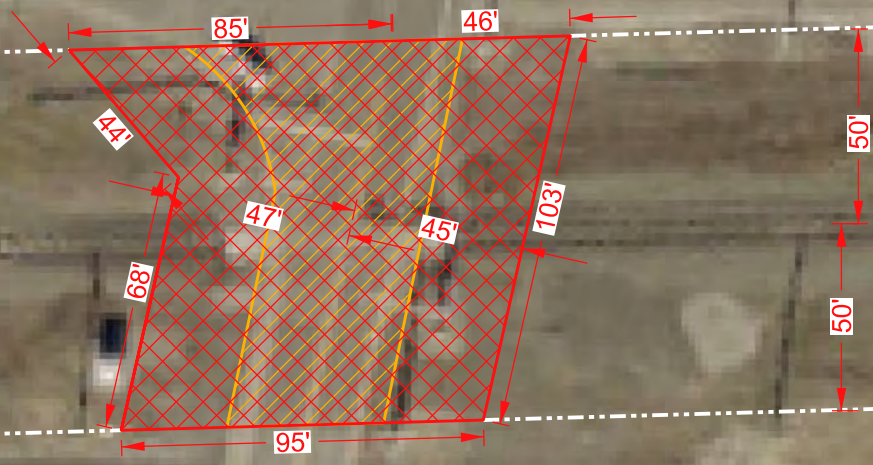
Exhibit A will be a print showing the general location of the work site.





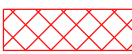

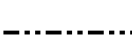
EUCLID AVE.

BARKER RD.



**CROSSING AREA: 10,120 SQ.FT. / 0.23 AC. +/-**  
**EXISTING CROSSING AREA: 4,578 SQ.FT. / 0.11 AC. +/-**

**LEGEND:**

- CROSSING AREA ..... 
- EXISTING CROSSING AREA ..... 
- UPRRCO. R/W OUTLINED ..... 

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

**UNION PACIFIC RAILROAD COMPANY**  
 SPOKANE, SPOKANE COUNTY, WA  
 M.P. 12.99 - SPOKANE SUB.

SIRR/WA/V-1/7  
 SCALE: 1" = 50'

OFFICE OF REAL ESTATE  
 OMAHA, NEBRASKA DATE: 4-13-2020  
 DSK FILE: 3034-86

CADD FILENAME	0303486
SCAN FILENAME	AERIAL PRINT

**EXHIBIT B**  
**TO**  
**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

**Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.**

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least thirty (30) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

**Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED**

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be

freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (whether recorded or unrecorded and including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

**Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.**

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroads tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

**Section 4. LIENS.**

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

**Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.**

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, Contractor shall indemnify, defend and hold Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of Contractor, its agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (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 Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

**Section 6. PERMITS - COMPLIANCE WITH LAWS.**

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

**Section 7.     SAFETY.**

A.     Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Contractor shall at a minimum comply with Railroad's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by Railroad's own forces. As a part of Contractor's safety responsibilities, Contractor shall notify Railroad if Contractor determines that any of Railroad's safety standards are contrary to good safety practices. Contractor shall furnish copies of **Exhibit D** to each of its employees before they enter the job site.

B.     Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C.     Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D.     If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

**Section 8.     INDEMNITY.**

A.     To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless Railroad, its affiliates, and its and their officers, agents and employees (individually an "Indemnified Party" or collectively "Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this Agreement by Contractor.

B.     The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

**C.     Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Indemnified Parties under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.**

D.     No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by Contractor in any attempt to assert liability against any Indemnified Party.

E. The provisions of this Section 8 shall survive the completion of any work performed by Contractor or the termination or expiration of this Agreement. In no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

**Section 9. RESTORATION OF PROPERTY.**

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

**Section 10. WAIVER OF DEFAULT.**

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

**Section 11. MODIFICATION - ENTIRE AGREEMENT.**

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

**Section 12. ASSIGNMENT - SUBCONTRACTING.**

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors. Before Contractor commences any work, the Contractor shall, except to the extent prohibited by law; (1) require each of its subcontractors to include the Contractor as "Additional Insured" in the subcontractor's Commercial General Liability policy and Business Automobile policies with respect to all liabilities arising out of the subcontractor's performance of work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage; (2) require each of its subcontractors to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each of its subcontractors to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.

**EXHIBIT C**  
**TO**  
**CONTRACTOR'S**  
**RIGHT OF ENTRY AGREEMENT**

**Union Pacific Railroad Company**  
**Insurance Provisions For**  
**Contractor's Right of Entry Agreement**

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

- A. Commercial General Liability insurance.** Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.
- Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

- B. Business Automobile Coverage insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$5,000,000 for each accident and coverage must include liability arising out of any auto (including owned, hired and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

- C. Workers' Compensation and Employers' Liability insurance.** Coverage must include but not be limited to:
- Contractor's statutory liability under the workers' compensation laws of the state where the work is being performed.
  - Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

- D. Railroad Protective Liability insurance.** Contractor must maintain "Railroad Protective Liability" (RPL) insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to



this Agreement and shall describe all WORK or OPERATIONS performed under this agreement. Contractor shall provide this Agreement to Contractor's insurance agent(s) and/or broker(s) and Contractor shall instruct such agent(s) and/or broker(s) to procure the insurance coverage required by this Agreement. A BINDER STATING THE POLICY IS IN PLACE MUST BE SUBMITTED TO RAILROAD BEFORE THE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD.

- E. Umbrella or Excess insurance.** If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
- F. Pollution Liability insurance.** Pollution liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Contractors CGL or RPL. Any form coverage must be equivalent to that provided in ISO form CG 24 15 "Limited Pollution Liability Extension Endorsement" or CG 28 31 "Pollution Exclusion Amendment" with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

### **Other Requirements**

- G.** All policy(ies) required above (except worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Contractor's liability under the indemnity provisions of this Agreement.
- H.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.
- I.** Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.
- J.** Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.
- K.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the work is being performed.
- L.** The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.

**EXHIBIT D**  
**TO**  
**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

**MINIMUM SAFETY REQUIREMENTS**

The term "employees" as used herein refer to all employees of Contractor as well as all employees of any subcontractor or agent of Contractor.

**I. Clothing**

- A. All employees of Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
  - (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
  - (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.
- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.
- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

**II. Personal Protective Equipment**

Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Contractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
  - 100 feet of a locomotive or roadway/work equipment
  - 15 feet of power operated tools
  - 150 feet of jet blowers or pile drivers
  - 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
  -
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

**III. On Track Safety**

Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractor must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Contractor will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

#### **IV. Equipment**

- A. It is the responsibility of Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Contractor's equipment is unsafe for use, Contractor shall remove such equipment from Railroad's property. In addition, Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
  - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
  - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
  - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

#### **V. General Safety Requirements**

- A. Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
  - (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.

- (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
  - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
  - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
  - (v) Before stepping over or crossing tracks, look in both directions first.
  - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.

**EXHIBIT E  
TO  
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

Exhibit E will be signal design schematic

TO BNSF CONNECTION

PRIME WARNING TIME = 25 SECONDS

TO EASTPORT

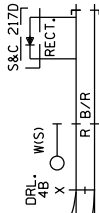
2.597' 25+5 SEC. @ 59 M.P.H.

2.597' 25+5 SEC. @ 59 M.P.H.

EUCLID AVENUE

DRIVE

FLORA ROAD APPROACH



DRL-4B W(S)

S&C-217D RECT.

R1B/R

NBS

641

156HZ NBS

SW.3

111

112

285HZ 6.3k-HZ

IR1

IR2

NBS

641

CONNECTS TO M.P. 13.04

P.S.

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51'

12'

12'

12'

14'

14'

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5'3"

5'3"

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**EXHIBIT F  
TO  
PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT**

Exhibit F will be Annual Signal Maintenance Fees

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



**BUILDING AMERICA®**

**FOR PID # 116720  
BY THE UNION PACIFIC RAILROAD**

<b>STREET</b>	<u>Barker Road</u>
<b>TOWN</b>	<u>Spokane, WA</u>
<b>MILEPOST</b>	<u>12.99</u>
<b>SUBDIVISION</b>	<u>Spokane</u>
<b>AAR/DOT NO.</b>	<u>662526C</u>
<b>WORK ORDER#</b>	<u>56786</u>

<b>DESCRIPTION</b>	<b>VALUE</b>	<b>QUANTITY</b>	<b>UNITS</b>
<b>NON-CODED TRK. CIRCUIT (Standalone AFTAC or Ring 10)</b>	2	0	0
<b>SUPERIMPOSED CIRCUIT(AFTAC) / DETECTION LOOP</b>	2	0	0
<b>HIGHWAY GRADE CROSSING SIGNAL (FRONT LIGHTS)</b>	2	5	10
<b>ADDITIONAL PAIR OF LIGHTS (OTHER THAN FRONT LIGHTS)</b>	1	6	6
<b>GATE MECHANISM, AUTOMATIC WITH ARM UP TO 26 FT</b>	8	2	16
<b>GATE MECHANISM, AUTOMATIC WITH ARM OVER 26 FT</b>	10	0	0
<b>GCP/HXP (constant warning device, per track circuit)</b>	15	1	15
<b>EXIT GATE MANAGEMENT SYSTEM RACK*</b>	10	0	0
<b>MOVEMENT DETECTOR (PMD)</b>	6	0	0
<b>MOVEMENT DETECTOR (STANDBY UNIT)</b>	3	0	0
<b>RADIO DATA LINK, PER UNIT</b>	1	0	0
<b>PREEMPTION CIRCUIT</b>	2	0	0
<b>DATA RECORDER</b>	1	0	0
<b>REMOTE MONITORING DEVICE (SEAR, ETC)*</b>	2	1	2
<b>BONDED RAIL JOINTS (per mile, each rail, single bonded)</b>	1	0	0
<b>BATTERY AND CHARGER (per set)</b>	1	2	2
<b>TOTAL UNIT COUNT</b>			<b>51</b>
<b>PAVEMENT RESTORATION COSTS</b>			<b>(Actual)</b>
	Annual Maintenance Cost at \$170/Unit		<b>\$8,670</b>

\*UP supplied Unit Value

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