

## AGREEMENT

THIS AGREEMENT, made and entered into this 14th day of December, 1939, by and between Wilson McCarthy and Henry Swan as Trustees of The Denver & Rio Grande Western Railroad Company, a corporation of the State of Delaware (hereinafter called the "Railroad Company"), party of the first part, and the STATE ROAD COMMISSION OF UTAH (hereinafter called "Road Commission"), party of the second part, WITNESSETH:

### RECITALS:

The Road Commission, with the aid of funds supplied by the Federal Government, desires to provide for the installation, maintenance and operation of automatic electric crossing protection signals (hereinafter called "Warning Signals") at public highway grade crossing at Railroad Mile Post 708.19 of the Denver to Salt Lake Main Line of the Railroad Company in Utah County, Utah, as hereinafter provided, and designated as Federal Aid Grade Crossing Project No. F.A.G.S. 164-A(1)

To set out the terms and conditions under which the said warning signals shall be installed, maintained and operated, this agreement is made:

### AGREEMENT:

#### 1. RAILROAD COMPANY TO MAKE INSTALLATION.

The Railroad Company hereby agrees, subject to the terms and conditions hereinafter stated, to install, or have installed, warning signals and advance warning signs at the following described public highway grade crossing:

**Situated at the intersection of the Orem-Vineyard County Road and the Denver to Salt Lake Main Line of the Railroad Company in the SE 1/4 of Section 8, T. 6 S., R. 2 E., S.L.B.&M.**

#### 2. INSTALLATION OF WARNING SIGNALS:

The Railroad Company shall, at the expense of the Road Commission, furnish all labor, materials and equipment necessary for the complete construction and installation of said warning signals and advance warning signs at the before mentioned location and at the positions indicated on the plans.

The Railroad Company shall also furnish at the expense of the Road Commission such detailed plans, specifications, lists of material and estimates of cost which may be required in addition to those prepared by the Road Commission, said plans, specifications, lists, and estimates are hereby made a part of this agreement by reference.

The position of the signals at the crossing shall be established jointly by representatives of the Road Commission and the Railroad Company, and the Salt Lake Office of the Road Commission shall be notified immediately upon commencing the installation. The Railroad Company shall keep its record in such manner that the number of hours of employment in supervisory, skilled, intermediate and common labor grades can readily be determined.

The Railroad Company shall furnish the weekly form Emp. 24-A in accordance with U. S. Bureau of Public Roads, General Administrative Memorandum No. 52.

Upon completion of the installation by the Railroad Company a joint inspection shall be made by representatives of both parties hereto and when all features are satisfactory the installation shall be finally accepted.

### 3. MATERIALS USED IN WARNING SIGNALS:

All materials used in said warning signals shall either be purchased by the Railroad Company on competitive bids or furnished by the Railroad Company from its storehouses in accordance with the provisions of U. S. Bureau of Public Roads General Administrative Memorandum No. 37, dated November 2, 1937, and any supplements or amendments thereto which are in effect prior to the execution of this agreement.

### 4. ADVANCE WARNING SIGNS:

Standard Advance Warning Signs shall be furnished and installed by the Railroad Company in locations to be designated by the Road Commission and the installation of same shall be considered a part of the signal protection at the grade crossing.

### 5. ROAD COMMISSION TO REIMBURSE RAILROAD COMPANY:

The Road Commission shall pay to the Railroad Company, within thirty (30) days after receipt of itemized bills therefor, the actual cost incurred by the Railroad Company in carrying out the work to be performed by the Railroad Company under the provisions of this agreement, and said itemized bills shall be prepared in conformity with the rules and regulations issued by the United States Bureau of Public Roads for carrying out the provisions of the Federal Highway Act and any amendatory acts, pertaining to the Elimination of Hazards to Life at Railroad Grade Crossings, and other work incidental thereto. Said itemized bills shall be submitted by the Railroad Company within sixty (60) days after the completion of the work performed by the Railroad Company. No final bills rendered by the Railroad Company shall be paid by the Road Commission until such bills shall have been audited and received the approval of the United States Bureau of Public Roads. Progress or monthly payments shall be made to the Railroad Company on bills rendered by the Railroad Company from time to time during the progress of the work, subject to a retent comparable to that withheld by the Road Commission from the amounts due contractors employed on work. Items not properly submitted by the Railroad Company or which may appear questionable shall be suspended from the progress payments in addition to the retent.

Reimbursement will be made only for items fully complying with the requirements of U. S. Bureau of Public Roads General Administrative Memorandum No. 39, dated December 23, 1937, and any supplements or amendments thereto which are in effect prior to the execution of this agreement.

Reference to the Federal Aid Grade Crossing Project Number shall be indicated on all bills, correspondence, and records pertaining to the project.

### 6. MAINTENANCE AND OPERATION OF WARNING SIGNALS AND SIGNS:

Upon the completion of the warning signal installation at the said grade crossing, the Railroad Company, at its sole expense, shall thereafter operate and maintain the said signals in proper working condition, including such renewals as may be necessary thereafter.

Maintenance of advance warning signs shall be performed by the Road Commission.

### 7. MOVING AND RELOCATION:

If for public or railroad convenience the rearrangement of the warning signals is necessitated on account of improvements for either railroad or highway, or both, and before rearrangement of said warning signals is undertaken, the expense incidental thereto shall be determined by negotiation, agreement, or by competent authority.

### 8. CESSATION OF OPERATION:

If by agreement, negotiation, or by order of competent authority, warning signals at said crossing, the subject of this agreement, are rendered unnecessary, or undesirable, or improper by closing said crossing, by relocation, by separation of grades, or improvements in crossing protection, the Railroad Company shall be released from further maintenance and obligation in connection therewith.

In the event of cessation of operation of said warning signals under the above conditions, the salvagable items shall be disposed of by agreement of the parties hereto prior to said cessation of operation.

### 9. DEFINITION OF "RAILROAD COMPANY":

Whenever used in this agreement, the term "Railroad Company" shall be construed to mean the Trustees or The Denver and Rio Grande Western Railroad Company, as the context may require.

10. LIMITATION OF TRUSTEES' OBLIGATION:

Notwithstanding the above, or anything elsewhere herein contained, it is understood that the Trustees of the property of The Denver and Rio Grande Western Railroad Company, parties of the first part herein, are acting under appointment of the District Court of the United States for the District of Colorado in a proceeding for reorganization of said Railroad Company under Section 77 of the Federal Act in Relation to Bankruptcy, as amended; and it is agreed that upon termination of said Trusteeship of The Denver and Rio Grande Western Railroad Company, this agreement and all of the obligations of the Trustees hereunder, shall be terminated, unless this agreement be accepted and adopted by the party in whom the title to or possession of the railroads now in the Trustees' charge is then vested, in manner provided by order or decree of said Court, or otherwise. In any event this agreement shall not be binding or obligatory upon the Trustees after their discharge as such, or in their personal capacity.

11. SPECIAL PROVISIONS:

(a) Section No. 3, MATERIALS USED IN WARNING SIGNALS, and the second paragraph of Section No. 5, ROAD COMMISSION TO REIMBURSE RAILROAD COMPANY, are hereby modified to allow the purchase of materials in accordance with the provisions of General Administrative Memorandum No. 81, and any supplements that may be in effect prior to the date of execution of this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate by their proper officers thereunto duly authorized and their corporate seals affixed hereunto, as of the day and year first above written.

Attest:

THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY, WILSON MCCARTHY AND HENRY SWAN, Trustees.

By (Signed) Wilson McCarthy

Secretary.

(SEAL) Attest:

By (Signed) Henry Swan

STATE ROAD COMMISSION OF UTAH,

(Signed) Agnes McNeil

Secretary.

By (Signed) W. D. Hammond  
Its Chairman.

(SEAL)

Examined as to provisions and participating items of cost and recommended for approval:

Date

District Engineer,  
U. S. Bureau of Public Roads.

I hereby certify this to be a true and correct copy.

6045

Herewith agreement with the STATE ROAD COMMISSION OF UTAH, covering installation of highway grade crossing signals at Mile Post 708.19, between Lakota and Geneva, Utah, by the Railroad Company, at the expense of the Road Commission.

If satisfactory please sign approval sheet and return to me for further handling.

ARTHUR RIDGWAY  
Chief Engineer

APPROVED:

*Arthur Ridgway*

Chief Engineer

*Ed. H. ...*

General Auditor

*W. Decker*

Superintendent

*B. E. ...*

Signal Engineer

*M. P. ...*

Engineer Maintenance of Way

*Edward ...*

General Manager