



**TO:** Mayor and Councilmembers

**FROM:**

**DATE:** April 12, 2011

**SUBJECT:** Consideration and possible action authorizing the City Manager to contract with Kansas City Southern Railway in order to close the Walnut Street railroad crossing

**ACTION:** Discussion and action as deemed by the Council.

(VI- G)

**JOINT AGREEMENT FOR THE CLOSURE OF AN AT-GRADE RAILROAD  
CROSSING IN THE INTEREST OF PUBLIC SAFETY BETWEEN THE CITY OF  
FARMERSVILLE, TEXAS, THE TEXAS DEPARTMENT OF TRANSPORTATION AND  
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

This Joint Agreement for the Closure of an At-Grade Railroad Crossing ("Agreement") is entered into by and between the City of Farmersville, Texas, the Texas Department of Transportation and the Kansas City Southern Railway Company to facilitate the widening of US Highway 380 through the corporate limits of the City of Farmersville, Texas and the related reconstruction of the bridge across such roadway supporting the Kansas City Southern Railway Company railroad tracks under the following terms and conditions.

WHEREAS, the City of Farmersville ("Farmersville") is a general law municipal corporation organized and existing under the laws of the State of Texas, with offices located at 205 South Main in Farmersville, Texas; and

WHEREAS, the Texas Department of Transportation ("TxDOT") is an agency of the State of Texas, engaged in the widening of US Highway 380 through the City of Farmersville; and

WHEREAS, TxDOT is rebuilding the bridge supporting South Main Street as well as a bridge supporting a rail line crossing said highway to accommodate the widening of US Highway 380; and

WHEREAS, The Kansas City Southern Railway Company ("KCSR") owns the bridge and rail line crossing over US Highway 380 that TxDOT desires to rebuild and improve; and

WHEREAS, KCSR also owns right-of-way and track extending through Collin County generally from Greenville, TX westward through Farmersville to Wylie and Dallas, TX and is authorized to conduct common carrier railroad service on that line, which is currently crossed by the Walnut Street at-grade railroad crossing; and

WHEREAS, KCSR, a Missouri corporation, has its principal offices at 427 West 12<sup>th</sup> Street, Kansas City, MO 64105 (mailing address: P.O. Box 219335, Kansas City, MO 64121-9335); and

WHEREAS, TxDOT has determined that a temporary bridge and second rail line need to be constructed to allow for the rebuilding of KCSR's primary bridge and rail line across US Highway 380; and

WHEREAS, KCSR desires to retain the second rail line that is being constructed for continued future use as a siding to improve train traffic on the rail line passing through Farmersville; and

WHEREAS, TxDOT and KCSR have determined that the safety of the current Walnut Street at-grade railroad crossing will be compromised by the addition of the second rail

line required to accommodate the rebuilding of the railroad bridge across widened US Highway 380; and

WHEREAS, TxDOT and KCSR have requested that Farmersville consider closing the Walnut Street at-grade railroad crossing to improve the public health, safety and welfare; and

WHEREAS, Chapter 311 of the Texas Transportation Code gives Farmersville exclusive dominion, control, and jurisdiction over and under the public streets within its corporate limits including, but not limited to, the ability to reroute motor vehicle traffic upon its streets and authorize the permanent closing of the Walnut Street at-grade railroad crossing (DOT# 022128G, near railroad mile post 186.61) of the rail line and right-of-way owned by KCSR; and

WHEREAS, Farmersville, TxDOT and KCSR agree that closing the Walnut Street at-grade railroad crossing and rerouting motor vehicle traffic to existing alternate crossings will enhance public safety in and about the U.S Highway 380 expansion project;

NOW, THEREFORE, for and in consideration of the mutual promises and commitments contained herein, the parties do mutually agree as follows:

1. Farmersville will provide KCSR with a copy of the official ordinance and all supporting documents authorizing the closure of the Walnut Street at-grade railroad crossing. Farmersville will also sign and deliver to KCSR a quitclaim deed conveying to KCSR all of Farmersville's right, title and interest to the easement upon, over and across the Walnut Street at-grade railroad crossing within the limits of KCSR's right-of-way.
2. TxDOT shall, at no cost to KCSR and Farmersville, remove or cause to be removed, the Walnut Street crossing approaches outside of KCSR's right-of-way, and will install or cause to be installed a curb or barricade at the KCSR right-of-way line in accordance with KCSR standard attached herewith as exhibit to prevent traffic from entering onto KCSR property.
3. TxDOT shall also, at no cost to KCSR and Farmersville, obtain all necessary easements and rights-of-way, design and construct or cause to be designed and constructed cul-de-sacs and all required sidewalks and landscaping on both sides of the KCSR right-of-way line in conformity with Farmersville's Code of Ordinances to facilitate the turning of local traffic and emergency vehicles at the dead-ends created at or about the KCSR right-of-way line by the closure of the Walnut Street at-grade railroad crossing,
4. KCSR will, in conjunction with such work as may be required for the U.S. 380 underpass project, remove or cause to be removed the Walnut Street crossing and approaches within KCSR's right of way at no cost to Farmersville.

5. In return for the permanent closure of the Walnut Street at-grade railroad crossing, KCSR agrees to permit Farmersville to build one new at-grade crossing, if needed in the future, located south of the Walnut Street crossing across KCSR's rail line, at no cost to KCSR, designed and constructed per applicable American Association of State Highway and Transportation Officials ("AASHTO") standards and including appropriate flashers/gates traffic control devices approved by TXDOT.
6. This Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns.
7. In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained in the Agreement.
8. This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Agreement.
9. No amendment, modification or alteration of the terms of this Agreement shall be binding unless it is in writing dated subsequent to the date of this Agreement and duly executed by the parties to this Agreement.
10. The terms, covenants, agreements, provisions, conditions and limitations contained herein shall be binding upon and inure to the benefit of Licensor and Licensee and their respective successors and permitted assigns.
11. This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created by this Agreement are performable in Collin County, Texas.

EXECUTED this the \_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF FARMERSVILLE, TEXAS

TEXAS DEPARTMENT OF  
TRANSPORTATION

By: \_\_\_\_\_  
John Moran, City Manager

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

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

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

ATTEST:

\_\_\_\_\_  
Edie Sims, City Secretary

The Kansas City Southern Railway Company

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

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

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

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

STATE OF TEXAS           §  
                                      §  
COUNTY OF COLLIN       §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **John Moran, City Manager** of the City of Farmersville, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on the City's behalf.

(Notary Seal)

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires: \_\_\_\_\_

STATE OF TEXAS           §  
                                      §  
COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, personally known to me or who has produced a driver's license as identification whose name is subscribed to the foregoing instrument, and acknowledged to me that he is the \_\_\_\_\_ of the

Texas Department of Transportation and that he executed the same on behalf of and as the act of the Texas Department of Transportation.

(Notary Seal)

\_\_\_\_\_  
Notary Public, State of Texas  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, personally known to me or who has produced a driver's license as identification whose name is subscribed to the foregoing instrument, and acknowledged to me that he is the \_\_\_\_\_ of The Kansas City Southern Railway Company and that he executed the same on behalf of and as the act of The Kansas City Southern Railway Company.

(Notary Seal)

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_