

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RECEIVED
STATE OF COLORADO
PUBLIC UTILITIES COMM.

2004 FEB -3 AM 10:18
for filed 2-3-04

IN THE MATTER OF THE APPLICATION OF)
THE TOWN OF CASTLE ROCK, 4175 N.)
CASTLETON COURT, CASTLE ROCK,)
COLORADO, 80109; FOR AUTHORITY TO)
CONSTRUCT FRONT STREET AS A)
GRADE SEPARATION AT THE CROSSING)
OF THE ROADWAY WITH THE UNION)
PACIFIC RAILROAD COMPANY; IN)
DOUGLAS COUNTY, STATE OF)
COLORADO)
-----)

**DOCKET NO. 03A-463R
STIPULATION AND PARTIAL
SETTLEMENT AGREEMENT**



Applicant Town of Castle Rock, Intervenor Union Pacific Railroad Company, Intervenor The Burlington Northern and Santa Fe Railway Company, and Intervenor Staff of the Public Utilities Commission, through their respective counsel, enter into this Stipulation and Partial Settlement Agreement ("Stipulation") and agree to all of the terms and conditions set forth herein.

1. The application commencing this action was filed with the Colorado Public Utilities Commission by the Town of Castle Rock ("Town") on or about October 17, 2003.
2. On November 4, 2003 the Commission issued its Notice of Application Filed in this docket.
3. On November 4, 2003 the Staff of the Commission ("Staff") entered its appearance in this docket.
4. On November 10, 2003 The Burlington Northern and Santa Fe Railway Company ("BNSF") filed its Entry of Appearance and Notice of Intervention in this docket.

5. On December 2, 2003, Union Pacific Railroad Company ("UPRR") filed its Entry of Appearance and Notice of Intervention objecting to the Application in this docket.
6. By Order dated December 30, 2003 the Commission set this matter for hearing on March 16, 2004.
7. In its Application, the Town proposed a grade separation over the tracks of UPRR at a location to the North of the Fifth Street at-grade crossing in the Town of Castle Rock. The proposed grade separation structure would consist of an extension of Front Street to match and connect with Perry Street at a location also to the North of Fifth Street. Although the Town did not propose the closure of an at-grade crossing in the area in conjunction with this proposed grade separation, the Town is designing safety improvements to the at-grade crossing at Fifth Street which will be the subject of a separate PUC Application.
8. In its Intervention, UPRR indicated that it had no objection to the proposed overpass, but does object to the expenditure of a large sum of money for a grade separation structure without the closing of an at-grade crossing in the same general area, in addition to improvements to the at-grade crossing at 5th Street that are reasonably acceptable to UPRR and BNSF. UPRR therefore objected to any allocation of funds requested by the Town.
9. In a pre-hearing meeting attended by three of the four parties to this action, (Town, UPRR and Staff), it was agreed that this Stipulation would be filed with the Commission along with a Motion requesting bifurcation of the hearing in this matter to separate the issues of construction and cost allocation.


10. Attached hereto is a current revised estimate of the cost of construction of the grade separation. The parties have reviewed this cost estimate and have no objections thereto.
11. Although not present at the meeting of January 22, 2004, BNSF agrees with the position taken by UPRR and therefore joins in this Stipulation as indicated by the signature of its attorney below.
12. As a result of this Stipulation and Agreement, UPRR hereby withdraws any objection it had pertaining to the actual construction of the grade separation proposed in the Town's Application in this matter. UPRR continues to object to any cost allocation requested by the Town.
13. All parties in this matter therefore request that the Commission enter an Order approving the project for construction as set forth in the Application and the plans attached thereto.
14. The parties also request that the Commission vacate the current hearing date of March 16, 2004 and re-set a hearing on the issue of allocation of funds at a convenient time at least 90 days in the future. This will provide the parties additional time within which to consider the issues involved in allocation of funds, and to explore a settlement thereof.
15. Before the cost allocation hearing is held, the Town and UPRR agree to work towards the completion of a "Public Highway Crossing Agreement" providing for the grade separation proposed herein. The resulting agreement will be filed as a late-filed exhibit.

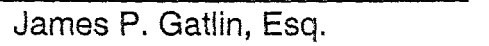
16. Also, during that time period, the Town agrees to file a separate PUC Application seeking agreed-upon improvements of the at-grade crossing at Fifth Street.
17. UPRR agrees to provide a license for the grade separation structure at the point where it will cross UPRR tracks, for a consideration to be determined in future negotiations or a future hearing regarding cost allocation.
18. This Stipulation may be enforced only by the parties hereto or their successors.
19. The Commission shall retain jurisdiction for the purpose of enabling any of the parties to this Stipulation to apply to the Commission for such further orders and directions that may be necessary and appropriate for the enforcement of or compliance with this Stipulation. This Stipulation constitutes a settlement of disputed and compromised claims regarding the proposed grade separation and is made for settlement purposes only. It does not constitute a settlement of the issues of cost allocation. Each party also agrees that except as expressly provided in this Stipulation, it will take no action in any administrative or judicial proceeding which would have the effect, directly or indirectly of contravening the provisions of this Stipulation. Except as otherwise provided herein, nothing in this Stipulation shall constitute a waiver by any party with respect to any matter not specifically addressed in this Stipulation.
20. This Stipulation shall not become effective until the Commission issues an order approving the Stipulation, which order does not contain any modification of the terms and conditions of this Stipulation that is unacceptable to any of the parties to the Stipulation. In the event the Commission modifies this Stipulation in a manner unacceptable to any party hereto, that party may withdraw from the

Stipulation and shall so notify the Commission and the other parties to the Stipulation in writing within 10 days of the date of the final Commission order. In the event a party exercises its right to withdraw from the Stipulation, the Stipulation shall be null and void and have no effect.

21. In the event this Stipulation becomes null and void, or in the event the Commission does not approve this Stipulation, this Stipulation as well as the negotiations undertaken in conjunction with this Stipulation shall not be admissible into evidence in any proceeding.
22. The parties state that they have reached this Stipulation by means of a negotiated process that is in the public interest and that the results reflected in this Stipulation are just, reasonable and in the public interest.
23. This Stipulation may be executed in separate counterparts, including facsimile. The counterparts taken together shall constitute the Stipulation.
24. The Stipulation shall be governed by and construed in accordance with the laws of the State of Colorado.

Respectfully submitted this 2nd day of February, 2004.


Deanne Durfee, Esq.
Attorney for
Town of Castle Rock
100 North Wilcox
Castle Rock, CO 80104


James P. Gatlin, Esq.
Attorney for
Union Pacific Railroad Company
1331 Seventeenth St., Suite 406
Denver, CO 80202

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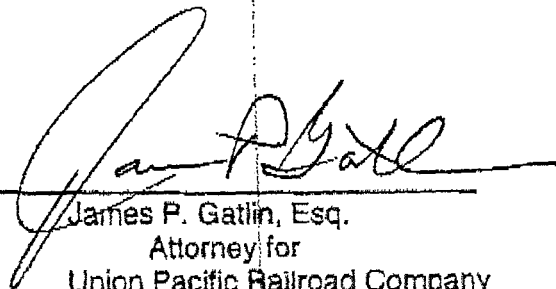
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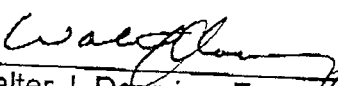
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Respectfully submitted this ____ day of _____, 2004.

Deanne Durfee, Esq.
Attorney for
Town of Castle Rock
100 North Wilcox
Castle Rock, CO 80104



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1580 Logan Street
Denver, CO 80203

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FROM-SOC PUBLIC UTILITIES COMMISSION

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Walter J. Downing, Esq.
Attorney for
The Burlington Northern Santa Fe
Railway Company
1125 Seventeenth St., Suite 600
Denver, CO 80202

Jack Baier

Jack Baier
Staff for
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1580 Logan Street
Denver, CO 80203

EXHIBIT D
THEORETICAL AND ENGINEER'S ESTIMATE

FHU PROJECT CODE: 03083
TOWN OF CASTLE ROCK PROJECT NUMBER:
PROJECT NAME: FRONT STREET / UNION PACIFIC GRADE SEPARATION

THEORETICAL ESTIMATE (length of project 1400')					ACTUAL (ENGINEER'S) ESTIMATE (length of project 3000')			
ITEM DESCRIPTION	ESTIMATED QUANTITY	ITEM UNIT	UNIT PRICE*	AMOUNT	ESTIMATED QUANTITY	ITEM UNIT	UNIT PRICE	AMOUNT
ROADWAY								
201-00000 CLEARING AND GRUBBING	0.6	AC	2,000.00	1,200.00	5	AC	2,000.00	10,000.00
202-00019 REMOVAL OF INLET	-	EA	500.00	-	1	EA	500.00	500.00
202-00035 REMOVAL OF PIPE	-	LF	11.49	-	32	LF	11.49	367.68
202-00204 REMOVAL OF CURB, GUTTER AND SIDEWALK	-	LF	6.98	-	360	LF	6.98	2,512.80
202-00220 REMOVAL OF ASPHALT MAT	-	SY	2.57	-	10,000	SY	2.57	25,700.00
202-00240 REMOVAL OF ASPHALT MAT (PLANING)	-	SY	1.03	-	84	SY	1.03	86.52
202-00810 REMOVAL OF GROUND SIGN	-	EA	17.11	-	5	EA	17.11	85.55
203-00060 EMBANKMENT MATERIAL (CIP)	-	CY	4.94	-	23,083	CY	4.94	114,030.02
207-00205 TOPSOIL	250	CY	4.56	1,140.00	2,050	CY	4.56	9,348.00
208-00011 EROSION BALES	-	EA	12.39	-	50	EA	12.39	619.50
208-00020 SILT FENCE	420	LF	1.52	638.40	2,480	LF	1.52	3,769.60
208-00050 STORM DRAIN INLET PROTECTION	7	EA	284.21	1,989.47	16	EA	284.21	4,547.36
208-00070 STABILIZED CONSTRUCTION ENTRANCE	1	EA	1,050.68	1,050.68	3	EA	1,050.68	3,152.04
208-00100 SEDIMENT REMOVAL AND DISPOSAL	8.0	CY	9.75	78.00	46	CY	9.75	448.50
208-00200 EROSION CONTROL SUPERVISOR	40.0	HR	62.30	2,492.00	400	HR	62.30	24,920.00
210-00050 RESET FIRE HYDRANT	-	EA	1,598.20	-	1	EA	1,598.20	1,598.20
210-00750 RESET LIGHT STANDARD	-	EA	2,268.68	-	4	EA	2,268.68	9,074.73
210-00810 RESET GROUND SIGN	-	EA	168.97	-	5	EA	168.97	844.85
210-01000 RESET FENCE	-	LF	5.71	-	3,100	LF	5.71	17,701.00
210-04015 MODIFY MANHOLE	-	EA	883.21	-	1	EA	883.21	883.21
210-04010 ADJUST MANHOLE	-	EA	296.67	-	2	EA	296.67	593.34
210-04050 ADJUST VALVE BOX	-	EA	184.79	-	8	EA	184.79	1,478.32
212-00006 SEEDING (NATIVE)	0.5	AC	490.90	245.45	1	AC	490.90	490.90
213-00002 MULCHING (WEED FREE HAY)	0.5	AC	388.22	194.11	1	AC	388.22	388.22
214-XXXXX LANDSCAPING (TO BE FINALIZED)	-	SF	1.00	-	110,000	SF	1.00	110,000.00
216-00041 SOIL RETENTION BLANKET (STRAW/COCONUT)	-	SY	1.46	-	810	SY	1.46	1,182.60
403-33841 HOT BITUMINOUS PAVEMENT (GRADING S) (ASPHALT)	2,050	TON	35.49	72,754.50	9,850	TON	35.49	349,576.50
411-10255 EMULSIFIED ASPHALT (SLOW SETTING)	675	GAL	1.02	688.50	3,150	SY	1.02	3,213.00
507-00100 CONCRETE SLOPE AND DITCH PAVING	4	CY	232.70	930.80	4	CY	232.70	930.80
603-01180 18 INCH REINFORCED CONCRETE PIPE	121	LF	30.72	3,717.12	198.5	LF	30.72	6,097.92
603-01240 24 INCH REINFORCED CONCRETE PIPE	509	LF	40.87	20,802.83	796.5	LF	40.87	32,552.96
603-01300 30 INCH REINFORCED CONCRETE PIPE	117.5	LF	54.57	6,411.98	159	LF	54.57	8,676.63
603-01480 48 INCH REINFORCED CONCRETE PIPE	-	LF	95.18	-	22	LF	95.18	2,093.96
603-05018 18 INCH REINFORCED CONCRETE END SECTION	-	EA	473.92	-	2	EA	473.92	947.84
603-05024 24 INCH REINFORCED CONCRETE END SECTION	-	EA	562.55	-	7	EA	562.55	3,937.85
603-05030 30 INCH REINFORCED CONCRETE END SECTION	1.0	EA	663.62	663.62	2	EA	663.62	1,327.24
603-05048 48 INCH REINFORCED CONCRETE END SECTION	-	EA	951.62	-	1	EA	951.62	951.62
603-50015 15 INCH PLASTIC PIPE	60.0	LF	50.98	3,058.80	60	LF	50.98	3,058.80
603-00305 INLET TYPE C (5 FOOT)	3	EA	1,984.65	5,953.95	5	EA	1,984.65	9,923.25
604-00310 INLET TYPE C (10 FOOT)	-	EA	2,684.45	-	1	EA	2,684.45	2,684.45
604-00350 INLET TYPE C (SPECIAL)	1	EA	2,442.35	2,442.35	1	EA	2,442.35	2,442.35
604-16005 INLET TYPE 16 (5 FOOT)	-	EA	2,027.18	-	1	EA	2,027.18	2,027.18

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604-16010	INLET TYPE 16 (10 FOOT)	1	EA	2,554.48	2,554.48	1	EA	2,554.48	2,554.48	
604-16305	INLET TYPE 16 DOUBLE (5 FOOT)	1	EA	3,363.59	3,363.59	2	EA	3,363.59	6,727.18	
604-16605	INLET TYPE 16 TRIPLE (5 FOOT)	1	EA	4,700.00	4,700.00	3	EA	4,700.00	14,100.00	
604-16610	INLET TYPE 16 TRIPLE (10 FOOT)	-	EA	5,300.00	-	2	EA	5,300.00	10,600.00	
604-00000	MANHOLE SLAB BASE (SPECIAL)	1	EA	4,800.00	4,800.00	1	EA	4,800.00	4,800.00	
604-30005	MANHOLE (SLAB BASE)(5 FOOT)	1	EA	2,043.89	2,043.89	1	EA	2,043.89	2,043.89	
604-30010	MANHOLE (SLAB BASE)(10 FOOT)	1	EA	2,729.02	2,729.02	1	EA	2,729.02	2,729.02	
608-00006	CONCRETE SIDEWALK (6 INCH)	650	SY	32.44	21,086.00	2,100	SY	32.44	68,124.00	
608-00010	CONCRETE CURB RAMP	60	SY	56.60	3,396.00	84	SY	56.60	4,754.40	
609-21010	CURB AND GUTTER TYPE 2 (SECTION IB)	-	LF	8.70	-	170	LF	8.70	1,479.00	
609-21020	CURB AND GUTTER TYPE 2 (SECTION IIB)	1,025	LF	11.48	11,767.00	4,400	LF	11.48	50,512.00	
610-00020	MEDIAN COVER MATERIAL (PATTERNED CONCRETE)	-	SF	5.01	-	1,050	SF	5.01	5,260.50	
612-00041	DELINEATOR (FLEXIBLE) (TYPE 1)	5	EA	26.73	133.65	20	EA	26.73	534.60	
613-01200	2 INCH ELECTRICAL CONDUIT (PLASTIC)	-	LF	8.81	-	200	LF	8.81	1,762.00	
613-05000	DIRECT BURIAL CABLE	-	LF	9.02	-	2,200	LF	9.02	19,844.00	
613-10000	WIRING	-	LS	7,500.00	-	1	LS	7,500.00	7,500.00	
613-32250	LIGHT STANDARD STEEL (25 FOOT)	-	EA	1,500.00	-	24	EA	1,500.00	36,000.00	
613-40000	CONCRETE FOUNDATION PAD	-	EA	706.77	-	8	EA	706.77	5,654.16	
613-70250	LUMINAIRE HIGH PRESSURE SODIUM (250 WATT)	-	EA	428.00	-	24	EA	428.00	10,272.00	
613-72150	LUMINAIRE HIGH PRESSURE SODIUM (WALL) (150W)	-	EA	677.91	-	14	EA	677.91	9,490.74	
614-00011	SIGN PANEL (CLASS 1)	120	SF	10.96	1,315.20	200	SF	10.96	2,192.00	
614-01502	STEEL SIGN POST (2 INCH ROUND)	192	LF	7.23	1,388.16	320	LF	7.23	2,313.60	
614-01552	STEEL SIGN POST (2.5 INCH ROUND) (SLIPBASE)	18	LF	22.70	408.60	30	LF	22.70	681.00	
620-00002	FIELD OFFICE (CLASS 2)	0.6	EA	15,867.51	9,520.51	1	EA	15,867.51	15,867.51	
620-00012	FIELD LABORATORY (CLASS 2)	0.6	EA	12,753.52	7,652.11	1	EA	12,753.52	12,753.52	
620-00020	SANITARY FACILITY	0.6	EA	1,030.31	618.19	1	EA	1,030.31	1,030.31	
625-00000	CONSTRUCTION SURVEYING	0.8	LS	25,000.00	20,000.00	1	LS	25,000.00	25,000.00	
626-00000	MOBILIZATION	1.0	LS	329,974.65	329,974.65	1	LS	500,000.00	500,000.00	
626-01000	PUBLIC INFORMATION SERVICES	-	LS	5,000.00	-	1	LS	5,000.00	5,000.00	
627-00060	PREFORMED PLASTIC PAVEMENT MARKING (60 MIL)	3,050	SF	10.00	30,500.00	7,100	SF	10.00	71,000.00	
627-30305	PREFORMED PLASTIC PAVEMENT MARKING (60 MIL) (WORD SYMBOL)	30	SF	14.63	438.90	30	SF	14.63	438.90	
627-30410	PREFORMED PLASTIC PAVEMENT MARKING (60 MIL) (XWALK-STOP LINE)	85	SF	8.05	684.25	175	SF	8.05	1,408.75	
630-00000	FLAGGING	240	HR	21.99	5,277.60	400	HR	21.99	8,796.00	
630-00007	TRAFFIC CONTROL INSPECTION	180	DAY	100.09	18,016.20	300	DAY	100.09	30,027.00	
630-80341	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE A)	18	EA	61.79	1,112.22	30	EA	61.79	1,853.70	
630-80359	PORTABLE MESSAGE SIGN PANEL	36	DAY	105.64	3,803.04	60	DAY	105.64	6,338.40	
630-80360	DRUM CHANNELIZING DEVICE	60	EA	41.15	2,469.00	100	EA	41.15	4,115.00	
630-80380	TRAFFIC CONE	60	EA	11.61	696.60	100	EA	11.61	1,161.00	
700-70010	F/A MINOR CONTRACT REVISIONS	-	EA	-	-	1	EA	-	-	
700-70010	F/A RAILROAD FLAGGING	1	FA	30,000.00	30,000.00	1	FA	30,000.00	30,000.00	
ROADWAY TOTAL					\$ 646,901.41	\$ 1,758,890.61				

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206-00000 STRUCTURE EXCAVATION	1,050	CY	4.94	5,187.00	1,050	CY	4.94	5,187.00
206-00065 STRUCTURE BACKFILL (SPECIAL)	800	CY	48.00	38,400.00	800	CY	48.00	38,400.00
206-00200 STUCTURE BACKFILL (CLASS 2)	600	CY	8.83	5,298.00	600	CY	8.83	5,298.00
403-33352 HOT BITUMINOUS PAVEMENT (GRADING S) (ASPHALT) (100) (PG 68-28)	600	TON	35.49	21,294.00	600	TON	35.49	21,294.00
503-00030 DRILLED CAISSON (30 INCH)	350	LF	97.21	34,023.50	350	LF	97.21	34,023.50
503-00060 DRILLED CAISSON (60 INCH)	580	LF	210.63	122,165.40	580	LF	210.63	122,165.40
505-00078 DRILLED CAISSON (78 INCH)	90	LF	268.38	24,154.20	90	LF	268.38	24,154.20
515-00120 WATERPROOFING MEMBRANE	3,600	SY	9.26	33,336.00	3,600	SY	9.26	33,336.00
518-01004 BRIDGE EXPANSION DEVICE (0-4 INCH)	115	LF	124.38	14,303.70	115	LF	124.38	14,303.70
601-03040 CONCRETE CLASS D (BRIDGE)	2,900	CY	284.72	825,688.00	2,900	CY	284.72	825,688.00
602-00000 REINFORCING STEEL (BLACK)	134,250	LB	0.46	61,755.00	134,250	LB	0.46	61,755.00
602-00020 REINFORCING STEEL (EPOXY COATED)	580,000	LB	0.53	307,400.00	580,000	LB	0.53	307,400.00
606-00705 BRIDGE RAIL TYPE 7 (SPECIAL)	1,600	LF	95.65	153,040.00	1,600	LF	95.65	153,040.00
607-53005 FENCE CHAIN LINK (SPECIAL)	1,600	LF	19.85	31,760.00	1,600	LF	19.85	31,760.00
618-00002 PRESTRESSING STEEL WIRE OR STRAND	533	LF	35.07	18,692.31	533	LF	35.07	18,692.31
618-00184 PRESTRESSED CONCRETE I (BT 84)	4,386	LF	128.08	561,758.88	4,386	LF	128.08	561,758.88
STRUCTURE TOTAL				2,258,255.99	2,258,255.99			
RETAINING WALLS								
206-00000 STRUCTURE EXCAVATION	9,471	CY	4.94	46,786.74	11,513	CY	4.94	56,874.22
206-00065 STRUCTURE BACKFILL (CLASS 1)	14,834	CY	12.50	185,425.00	18,264	CY	12.50	228,300.00
206-00360 MECHANICAL REINFORCEMENT OF SOIL	7,540	CY	9.41	70,951.40	9,176	CY	9.41	86,346.16
504-04420 PRECAST PANEL FACING	14,270	SF	15.00	214,050.00	18,844	SF	15.00	282,660.00
601-03050 CONCRETE CLASS D (WALL)	387	CY	293.14	113,562.44	570	CY	293.14	166,943.23
602-00000 REINFORCING STEEL (BLACK)	48,426	LB	0.46	22,275.96	71,189	LB	0.46	32,746.94
606-11000 BRIDGE RAIL TYPE 10	969	LF	73.80	71,512.20	1,424	LF	73.80	105,091.20
RETAINING WALLS TOTAL				724,563.74	958,961.75			
UTILITIES								
700-70200 F/A POWER LINES	-	FA	-	-	1	FA	-	-

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700-70220	F/A PHONE SERVICE	-	FA		-	1	FA		-
700-90130	F/A COMMUNICATION LINES	-	FA		-	1	FA		-
700-70074	F/A OBTAIN POWER SOURCE FROM IREA	-	FA		-	1	FA	5,000.00	5,000.00
TOTAL					-				5,000.00
000-00005	DESIGN	1	LS	436,330.00	436,330.00	1	LS	436,330.00	436,330.00
800-00045	RIGHT-OF-WAY (INCLUDES APPRAISAL AND ACQUISITION COSTS)	1	LS	54,000.00	54,000.00	1	LS	54,000.00	54,000.00
NOTE: THE ABOVE RIGHT-OF-WAY COSTS DO NOT INCLUDE UPRR EASEMENT COSTS									
	ROADWAY				646,901.41				1,758,890.61
	STRUCTURE				2,258,255.99				2,258,255.99
	RETAINING WALLS				724,563.74				958,961.75
	UTILITIES				-				5,000.00
	DESIGN				318,272.05				436,330.00
	RIGHT-OF-WAY				54,000.00				54,000.00
* UNIT PRICES ARE TAKEN FROM CDOT 2002 COST DATA BOOK, THE EXCEPTIONS ARE SHADED IN YELLOW		ESTIMATE TOTAL		\$	4,001,993.19			\$	5,471,438.35
		15% Contingencies		\$	600,298.98			\$	820,715.75
		15% Construction Engineering		\$	690,343.82			\$	943,823.11
				\$	5,292,635.99			\$	7,235,977.21
		UPRR Portion			2,646,317.99			\$ -	2,646,317.99 UPRR
		Town of Castle Rock Portion			2,646,317.99			\$ 1,943,341.22	\$ 4,589,659.22 TCR