

INFORMATION HANDOUT

For Contract No. 06-0Q8804

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Identified by

Project ID 0614000101

RAILROAD RELATIONS

Railroad Relations and Insurance Requirements

EXHIBIT "C"

RAILROAD RELATIONS AND INSURANCE REQUIREMENTS

1.01 GENERAL

The term "Railroad" shall mean the Union Pacific Railroad Company.

It is expected that the Railroad will cooperate with the Contractor to the end that the work may be handled in an efficient manner. However, except for the additional compensation provided for hereinafter for delays in completion of specific unit of work to be performed by the Railroad, and except as provided in Public Contracts Code Section 7102, the Contractor shall have no claim for damages, extension of time, or extra compensation in the event his work is held up by the railroad train operations or other work performed by the Railroad.

The Contractor must understand the Contractor's right to enter Railroad's property is subject to the absolute right of Railroad to cause the Contractor's work on Railroad's property to cease if, in the opinion of Railroad, Contractor's activities create a hazard to Railroad's property, employees, and operations.

The Contractor acknowledges its receipt from the State of a copy of the Contractor's Right of Entry Agreement that has been executed by the Railroad and the State. The Contractor agrees to execute and deliver to the Railroad the Contractor's Endorsement that is attached hereto as Appendix 1 and to provide to the State and/or the Railroad all insurance policies, binders, certificates or endorsements that are set forth in Exhibit B of the Contractor's Right of Entry Agreement.

1.02 RAILROAD REQUIREMENTS

The Contractor shall notify Ms. Peggy J. Ygbuhay, Manager Industry and Public Projects, 9451 Atkinson Street, Roseville, CA 95747, Telephone (916) 789-5152, and the Engineer, in writing, at least 10 working days before performing any work on, or adjacent to the property or tracks of the Railroad.

The Contractor shall cooperate with the Railroad where work is over or under the tracks, or within the limits of Railroad property, to expedite the work and avoid interference with the operation of railroad equipment.

The Contractor shall comply with the rules and regulations of Railroad or the instructions of its representatives in relation to protecting the tracks and property of Railroad and the traffic moving on such tracks, as well as the wires, signals and other property of Railroad, its tenants or licensees, at and in the vicinity of the work during the period of construction. The responsibility of the

Contractor for safe conduct and adequate policing and supervision of its work at the job site shall not be lessened or otherwise affected by the presence at the work site of Railroad representatives, or by the Contractor's compliance with any requests or recommendations made by Railroad representatives.

The Contractor shall perform work to not endanger or interfere with the safe operation of the tracks and property of Railroad and traffic moving on such tracks, as well as wires, signals and other property of Railroad, its tenants or licensees, at or in the vicinity of the work.

The Contractor shall take protective measures to keep railroad facilities, including track ballast, free of sand or debris resulting from his operations. Damage to railroad facilities resulting from Contractor's operations will be repaired or replaced by Railroad and the cost of such repairs or replacement shall be deducted from the Contractor's progress and final pay estimates.

The Contractor shall contact the Railroad's "Call Before You Dig" at least 48 hours prior to commencing work, at 1-800-336-9193 during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays – also a 24 hour, 7-day number for emergency calls) to determine location of fiber optics. If a telecommunications system is buried anywhere on or near railroad property, the Contractor will coordinate with the Railroad and the Telecommunication Company(ies) to arrange for relocation or other protection of the system prior to beginning any work on or near Railroad Property.

The Contractor shall not pile or store any materials nor park any equipment closer than 7.62-meter (25'-0") to the centerline of the nearest track, unless directed by Railroad's representative.

The Contractor shall also abide by the following temporary clearances during the course of construction:

- 3.66-meter (12'-0") horizontally from centerline of track
- 6.40-meter (21'-0") vertically above top of rail

The temporary vertical construction clearance above provided will not be permitted until authorized by the Public Utilities Commission. It is anticipated that authorization will be received not later than fifteen (15) days after the approval of the contract by the Attorney General. In the event authorization is not received by the time specified, and, if in the opinion of the Engineer, the Contractor's operations are delayed or interfered with by reason of authorization not being received by the said time, the Licensee will compensate the Contractor for such delay to the extent provided in Section 8-1.07, "Right of Way Delays," of the 2010 Standard Specifications and not otherwise.

Walkways with railing shall be constructed by Contractor over open excavation areas when in close proximity of tracks, and railings shall not be closer than

2.60-meter (8'-6") horizontally from centerline of the nearest track, if tangent, or 2.90-meter (9'-6") if curved.

Infringement on the above temporary construction clearances by the Contractor's operations shall be submitted to the Railroad by the Engineer, and shall not be undertaken until approved by the Railroad, and until the Engineer has obtained any necessary authorization from any governmental body or bodies having jurisdiction thereover. No extension of time or extra compensation will be allowed in the event the Contractor's work is delayed pending Railroad approval and governmental authorization.

When the temporary vertical clearance is less than 6.86-meter (22'-6") above top of rail, Railroad shall have the option of installing tell-tales or other protective devices Railroad deems necessary for protection of Railroad trainmen or rail traffic.

Four (4) sets of plans, in 279mm x 432mm (11" x 17") format, and two (2) sets of calculations showing details of construction affecting Railroad's tracks and property not included in the contract plans, including but not limited to shoring and falsework, shall be submitted to the Engineer for review prior to submittal to Railroad for final approval. Falsework shall comply with railroad guidelines. Demolition of existing structures shall comply with Railroad guidelines. Shoring shall be designed in accordance with Railroad's shoring requirement of drawing No. 106613 and guidelines for shoring and falsework, latest edition, issued by Railroad's Office of Chief Engineer. Shoring and falsework plans and calculations shall be prepared and signed by a professional civil engineer registered in the State of California. This work shall not be undertaken until such time as the Railroad has given such approval, review by Railroad may take up to six (6) weeks after receipt of all necessary information.

The Contractor shall notify the Engineer in writing, at least twenty-five (25) calendar days but not more than forty (40) days in advance of the starting date of installing temporary work with less than permanent clearance at each structure site. The Contractor shall not be permitted to proceed with work across railroad tracks until this requirement has been met. No extension of time or extra compensation will be allowed if the Contractor's work is delayed due to failure to comply with the requirements in this paragraph.

Blasting will be permitted only when approved by the Railroad.

The Contractor shall, upon completion of the work covered by this contract to be performed by the Contractor upon the premises or over or beneath the tracks of Railroad, promptly remove from the premises of Railroad, Contractor's tools, implements and other materials, whether brought upon said premises by said Contractor or any subcontractor, employee or agent of said Contractor, and cause said premises to be left in a clean and presentable condition.

Under-track pipeline installations shall be constructed in accordance with Railroad's current standards which may be obtained from Railroad. The general guidelines are as follows:

Edges of jacking or boring pit excavations shall be a minimum of 6.10-meter (20 feet) from the centerline of the nearest track.

If the pipe to be installed under the track is 100 mm (4 inches) in diameter or less, the top of the pipe shall be at least 1.067-meter (42 inches) below base of rail.

If the pipe diameter is greater than 100 mm (4 inches) in diameter, it shall be encased and the top of the steel pipe casing shall be at least 1.60-meter (66 inches) below base of rail.

Installation of pipe or conduit under Railroad's tracks shall be done by dry bore and jack method.

Hydraulic jacking or boring will not be permitted.

Safety of personnel, property, rail operations and the public is of paramount importance. As reinforcement and in furtherance of overall safety measures to be observed by the Contractor (and not by way of limitation), the following special safety rules shall be followed:

- (a) The 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. The Contractor shall have prompt first aid supplies available on the job site so that prompt first aid services can be provided to any person that may be injured on the job site. The Contractor shall promptly notify the Railroad of any U.S. Occupational Safety and Health administration reportable injuries occurring to any person that may arise during the work performed on the job site. The Contractor shall have a non-delegable duty to control its employees while they are on the job site or any other property of the Railroad to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug, narcotic or other substance that may inhibit the safe performance of work by the employee.
- (b) The employees of the Contractor shall be suitably dressed to perform their duties safely and in the manner that will not interfere with their vision, hearing or free use of their hands or feet. Only waist length shirts with sleeves and trousers that cover the entire leg are to be worn. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching. The employees should wear sturdy and protective work boots and at least the following protective equipment:

- (1) Protective head gear that meets American National Standard Z89.1-latest revision. It is suggested that all hardhats be affixed with the Contractor's or the subcontractor's company logo or name.
 - (2) Eye protection that meets American National Standard 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, burning, etc.; and
 - (3) Hearing protection which affords enough attenuation to give protection from noise levels that will be occurring on the job site.
- (c) All heavy equipment provided or leased by the Contractor shall be equipped with audible back-up warning devices. If in the opinion of the Railroad Representative any of the Contractor's or the subcontractor's equipment is unsafe for use on the Railroad's right-of-way, the Contractor, at the request of the Railroad representative, shall remove such equipment from the Railroad's right-of-way.

1.03 PROTECTION OF RAILROAD FACILITIES

Upon advance notification of not less than 10 working days by the Contractor, Railroad representatives, conductors, flagmen or watchmen will be provided by Railroad to protect its facilities, property and movements of its trains or engines. Notice shall be made to Peggy J. Ygbuhay of Railroad at (916) 789-5152. At the time of notification, the Contractor shall provide Railroad with a schedule of dates that flagging services will be needed, as well as times, if outside normal working hours. Subsequent deviation from the schedule shall require 10 working days advance notice from the first affected date. The Railroad will furnish such personnel or other protective devices:

- (a) When equipment is standing or being operated within 25 feet, measured horizontally, from centerline of any track on which trains may operate, or when any erection or construction activities are in progress within such limits, regardless of elevation above or below track.
- (b) For any excavation below elevation of track subgrade if, in the opinion of Railroad's representative, track or other Railroad facilities may be subject to settlement or movement.
- (c) During any clearing, grubbing, grading or blasting in proximity to Railroad which, in the opinion of Railroad's representative, may endanger Railroad facilities or operations.

- (d) During any of Contractor's operations when, in the opinion of Railroad's representatives, the Railroad facilities, including, but not limited to, tracks, buildings, signals, wire lines or pipe lines, may be endangered.

The cost of flagging and inspection provided by Railroad during the period of constructing that portion of the project located on or near Railroad property, as deemed necessary for the protection of Railroad's facilities and trains, will be borne by the State. The Railroad has indicated that its estimated flagging rate will be around One Thousand, Five Hundred Dollars (\$1,500.00) per day. The State shall pay the Railroad for all actual flagging costs incurred by the Railroad under this Project.

1.04 WORK BY RAILROAD

The following work by Railroad will be performed by Railroad forces and is not a part of the work under this contract.

- (a) The Railroad will perform preliminary engineering and inspection (if any) and flagging as specified in Section 1.03, "Protection of Railroad Facilities," of these special provisions.
- (b) Underground railroad communication line in vicinity of proposed Structure.
- (c) Remove advertising signboards and signboard appurtenances.
- (d) Temporary crossings at grade over tracks of Railroad for the purpose of hauling earth, rock, paving or other materials will not be permitted. If the Contractor, for the purpose of constructing highway-railway grade separation structures, including construction ramps thereto, desires to move equipment or materials across Railroad's tracks, the Contractor shall first obtain permission from the Railroad via the State Engineer. Should Railroad approve the temporary crossing, State shall execute a Service Contract with Railroad for Railroad to construct the temporary crossing. Under the Service Contract, State shall bear the cost of the crossing surface, warning devices and other components that might be required. Notwithstanding State's Service Contract with Railroad, the Contractor is required to execute Railroad's form of Contractor's Haul Road Crossing Agreement. Railroad, at State's expense, shall provide flagmen to control movements of vehicles across the temporary crossing. State and its Contractor shall prevent the use of such temporary crossing by unauthorized persons and vehicles.

1.05 DELAYS DUE TO WORK BY RAILROAD

If delays due to work by the Railroad occur, and the Contractor sustains loss which, in the opinion of the Engineer, could not have been avoided by the judicious handling of forces, equipment and plant, the amount of said loss shall be determined as provided in Section 8-1.07, "Delays," of the 2010 Standard Specifications.

If a delay due to work by Railroad occurs, an extension of time determined pursuant to the provisions in Section 8-1.10, "Liquidated Damages," of the Standard Specifications will be granted.

1.06 LEGAL RELATIONS

The provisions of Section 1, "Relations with Railroad Company," and the provisions of Section 2, "Railroad Protective Insurance," of these special provisions shall inure directly to the benefit of Railroad.

2.0 RAILROAD PROTECTIVE INSURANCE

In addition to any other form of insurance or bonds required under the terms of the contract and specifications, the Contractor will be required to carry insurance of the kinds and in the amounts hereinafter specified.

Such insurance shall be approved by the Railroad before any work is performed on Railroad's property and shall be carried until all work required to be performed on or adjacent to the Railroad's property under the terms of the contract is satisfactorily completed as determined by the Engineer, and thereafter until all tools, equipment and materials have been removed from Railroad's property and such property is left in a clean and presentable condition.

Full compensation for all premiums which the Contractor is required to pay on all the insurance described hereinafter shall be considered as included in the prices paid for the various items of work to be performed under the contract, and no additional allowance will be made therefor or for additional premiums which may be required by extensions of the policies of insurance.

The following insurance coverage will be required:

- A. **Commercial General Liability** insurance. This insurance shall contain a single limit of at least \$5,000,000 each occurrence or claim and an aggregate limit of at least \$10,000,000 and include broad form contractual

liability coverage. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability
- Products and completed operations

The policy shall contain the following endorsements **which shall be indicated on the certificate of insurance**:

- The worker's compensation and employee related exclusions in the above policy apply only to the Contractor's employees.
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including, but not limited to, tracks, bridges, trestles, roadbeds, terminals, underpasses or crossing), and explosion, collapse and underground hazard shall be removed.
- Coverage for the Contractor's employees shall not be excluded.
- Waiver of subrogation.

If the Contractor will be using, storing and/or handling hazardous materials, the Contractor, in addition to the other endorsements to be obtained by the Contractor as provided in this exhibit, must also ensure that the Commercial General Liability Insurance policy contains a Designated Premises Pollution Coverage (CG00-39) endorsement. Evidence of the endorsement must also be indicated on the certificate of insurance that is provided to the Railroad.

B. Business Automobile Coverage insurance. This insurance shall contain a combined single limit of at least \$5,000,000 per occurrence or claim, including but not limited to coverage for the following:

- Bodily injury and property damage
- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance**:

- The worker's compensation and employee related exclusions in the above policy apply only to the Contractor's employees.
- The exclusions for railroads [except where the Job Site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossing], and explosion, collapse and underground hazard shall be removed.

C. Workers' Compensation and Employer's Liability insurance including but not limited to:

- The Contractor's statutory liability under the worker's compensation laws of the State of California
- Employer's Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee

If the State of California requires participants in a state worker's compensation fund and if Worker's Compensation insurance will not cover the liability of the Contractor in the State of California, the Contractor shall comply with such laws. If the Contractor is self-insured, evidence of state approval must be provided along with evidence of excess worker's compensation coverage. Coverage shall 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 shall also contain the following endorsement **which shall be indicated on the certificate of insurance**:

- Alternate Employer Endorsement

D. Umbrella or Excess Policies In the event the Contractor utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.

E. Railroad Protective Liability insurance naming the Railroad as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 or equivalent). A binder stating the policy is in place must be submitted to the Railroad until the original policy is forwarded to the Railroad.

Other Requirements

F. Punitive damage exclusion must be deleted, **which deletion shall be indicated on the certificate of insurance.**

G. The Contractor agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Railroad. The Contractor further waives its right of subrogation against Railroad for loss of its owned or leased property or property under its care, custody and control. The Contractor's insurance shall be primary with respect to any insurance carried by Railroad. All waivers of subrogation **shall be indicated on the certificate of insurance.**

- H. All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name the Railroad as an additional insured. The coverage provided to the Railroad as additional insured shall provide coverage for the Railroad's negligence whether sole or partial, active or passive, and shall not be limited by the Contractor's liability under the indemnity provisions of this agreement. **Severability of interest and naming the Railroad as additional insured shall be indicated on the certificate of insurance.**
- I. Prior to commencing the Work, the Contractor shall furnish to Railroad original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any cancellation or material alteration. **Upon request from the Railroad, a certified duplicate original of any required policy shall be furnished.**
- J. Any insurance policy shall be written by a reputable insurance company acceptable to the Railroad or with a current Best's Insurance Guide Rating of B and Class VII or better, and authorized to do business in the State of California.
- K. The Contractor **WARRANTS** that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement and acknowledges that the Contractor plus a 25% administration fee.
- L. If Contractor fails to procure and maintain insurance as required, the Railroad may elect to do so at the cost of Contractor plus a 25% administration fee.
- M. The fact that insurance is obtained by Contractor shall or Railroad on behalf of the Contractor shall 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 shall not be limited by the amount of the required insurance coverage.

CONTRACTOR'S ENDORSEMENT

A. As a condition to entering upon Railroad's right-of-way to perform Work pursuant to this agreement, State's contractor, _____ whose address is _____ (hereinafter "Contractor"), agrees to comply with and be bound by all the terms and provisions of this agreement relating to the Work to be performed and the insurance requirements set forth in Exhibit A-1. Contractor further acknowledges and agrees that the reference to Cal. Gov. Code §14662.5 in Sections 5.b) and 8.b) of Exhibit A to this agreement does not apply to Contractor and in no way limits the indemnities set forth in those provisions, to which Contractor agrees to be bound.

B. Before the Contractor commences any Work, the Contractor will provide the Railroad with (i) a binder of insurance for the Railroad Protective Liability Insurance described in Section 2 of the Contract Special Provision, hereto attached, and the original policy, or a certified duplicate original policy when available, and (ii) a certificate issued by its insurance carrier providing the other insurance coverage and endorsements required pursuant to Section 2 of the Contract Special Provisions.

C. All insurance correspondence, binders or originals shall be directed to:

Union Pacific Railroad Company
Attn: Real Estate Department
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179-1690
Attn: Senior Manager - Contracts

D. Please note that fiber optic cable may be buried on Railroad's property. **Prior to commencing any work, Contractor agrees to contact Railroad's Telecommunications Operation Center at 1-800-336-9193 to determine if any fiber optic cable is located on Railroad's property on or near the location where the work is to be performed.**

E. Contractor agrees to also provide to the Railroad's Manager-Track Maintenance at (402) 501-3774 advance notice in order for Railroad to coordinate the Contractor's work with Railroad's operations and to make arrangements for flagging protection (if applicable).

This endorsement shall be completed and directed to:

Peggy J. Ygbuhay
Manager Industry and Public Projects
9451 Atkinson Street
Roseville, CA 95747

CONTRACTOR (print name on above line)

By: _____

Title: _____