

1 (September 8, 2020)

2 ***Relations With Railroad***

3 The term Railroad Company, as used in these specifications shall be applicable to each
4 of the following railroad companies:

5 *** \$1\$\$ ***
6

7
8 **Protection of Railroad Property**

9 The Contractor shall exercise care in all operations and shall, at the Contractor's
10 expense, protect the property of the Railroad Company and the Company's
11 appurtenances, property in its custody, or persons lawfully upon its right of way,
12 from damage, destruction, interference or injury caused by the Contractor's
13 operations. The Contractor shall prosecute the work to not interfere with the
14 Railroad Company or its appurtenances, or any of the Railroad Company's trains or
15 facilities, and shall complete the work to a condition that shall not interfere with or
16 menace the integrity or safe and successful operations of the Railroad Company or
17 its appurtenances, or any of the Railroad Company's trains or facilities.

18
19 The Contractor shall not transport equipment, machinery, or materials across the
20 Railroad Company's tracks, except at a public crossing, without the written consent
21 of the Railroad Company.

22
23 The Contractor shall keep the right of way and ditches of the Railroad Company
24 open and clean from any deposits or debris resulting from its operations. The
25 Contractor shall be responsible for the cost to clean and restore ballast of the
26 Railroad Company which is disturbed or becomes fouled with dirt or materials when
27 such deposits or damage result from the Contractor's operations, except as
28 provided elsewhere.

29
30 The Contractor's work shall be conducted in such a manner that there will be a
31 minimum of interference with the operation of the railroad. For Class 1 Railroads
32 (BNSF and UPRR) the Railroad Company will specify what periods will be available
33 to the Contractor for executing any part of the work in which the Railroad
34 Company's tracks will be obstructed or made unsafe for operation of the railroad.
35 No interference with Class 1 Railroad Company operations will be permitted
36 between October 1 and December 31. The Railroad Company may change these
37 requirements to be more or less restrictive. Requests for extensions of time due to
38 additional Railroad restrictions shall be in accordance with Section 1-08.8.
39 Additional Railroad restrictions will not be eligible for a cost adjustment.

40
41 In the event that an emergency occurs in connection with the work specified, the
42 Railroad Company reserves the right to do any and all work that may be necessary
43 to maintain railroad traffic. If the emergency is caused by the Contractor, the
44 Contractor shall be responsible for all Railroad Company costs associated with the
45 emergency response.

46
47 Protective services to protect the Railroad Company's facilities, property, and
48 movement of its trains or engines, including railroad flagging and other devices,
49 may be required by the Railroad Company as a result of the Contractor's
50 operations.
51

1 The nature and extent of protective services, personnel and other measures
2 required will in all cases be determined by the Railroad Company. Nothing in these
3 specifications will limit the Railroad Company's right to determine and assign the
4 number of personnel, the classes of personnel for protective services, nor other
5 protective measures it deems necessary.
6

7 When, in the opinion of the Railroad Company, the services of flaggers or
8 inspectors are necessary for the protection of the Railroad Company's facilities by
9 reason of the Contractor's operations, the Railroad Company will furnish such
10 flaggers or inspectors as may be required. The Contractor shall notify the Railroad
11 Company a minimum of *** \$2\$\$ *** in advance of whenever the Contractor is
12 about to perform work within Railroad Company property or within 25 feet of the
13 tracks to enable the Railroad Company to provide flagging or other protective
14 services.
15

16 The Railroad Company's contact to schedule flagging or other protective
17 services is:

18 *** \$3\$\$ ***
19
20

21 No act of the Railroad Company in supervising or approving any work shall reduce
22 or in any way affect the liability of the Contractor for damages, expense, or cost
23 which may result to the Railroad Company from the construction of this Contract.
24

25 Unless otherwise provided, all personnel assigned by the Railroad Company, other
26 than those engaged in performing work by the Railroad Company as listed under
27 Construction Work by Railroad Company, will be considered protective personnel.
28

29 In general, the Railroad Company will furnish protective services whenever any of
30 the Contractor's operations take place within or near railroad right of way and, in
31 the opinion of the Railroad Company's representative, could endanger railroad
32 facilities or create a hazard to railroad operations.
33

34 The Railroad Company's policy for assignment of railroad flaggers requires that the
35 flagging position is established for fixed work days and times. Any railroad flagging
36 performed outside of these parameters may be subject to overtime costs. The
37 Contractor shall verify with the Railroad Company what categories of railroad
38 flagging constitute overtime work, and obtain prior authorization from the Engineer
39 before coordinating with the Railroad Company for flagging requiring overtime
40 payments.
41

42 The Contractor shall submit to the Railroad Company and the Engineer, in writing,
43 an itinerary of work within the Railroad Company's right of way or otherwise
44 requiring a Railroad Company flagger for the following week. If such work spans
45 multiple weeks, the itinerary shall be provided in advance of each work week.
46

47 There will be no cost to the Contractor for the railroad protective services, unless:

- 48
49 • Such services result from the Contractor's failure to comply with the terms
50 and conditions of its contract with the Contracting Agency or with its
51 Contractor's Right of Entry Agreements with the Railroad Company.
52

- The Contractor fails to obtain authorization from the Engineer prior to coordinating with the Railroad Company for any flagging requiring overtime payments.
- The Contractor arranges for assignment of a railroad flagger and alters Project work so that a flagger is no longer needed, and adequate advance notice is not provided to the Railroad Company of such change in the need for a flagger (*i.e.* causing the Railroad Company to dispatch a flagger billable to the Project when one is not required).
- The Contractor causes an emergency, as discussed above.

Construction Work by Railroad Company

The work by the Railroad Company as described below will be performed by the Railroad Company with its own forces at no cost to the Contractor:

*** \$4\$ \$***

All work which is performed by the Railroad Company at the Contractor's request and which is for the Contractor's benefit or convenience shall be at the Contractor's expense and the Contractor shall reimburse the Railroad Company for all costs for such work.

The Contractor shall cooperate with the Railroad Company and so conduct operations that the necessary reconstruction of its facilities and the removal of existing facilities can be accomplished without interruption of service.

Contractor's Right of Entry Agreement

For all matters regarding the Contractor's Right of Entry Agreement, the Contractor shall contact:

*** \$5\$ \$***

No work shall be commenced within the Railroad Company's Property until the Contractor has executed, delivered, and received in return the fully executed Contractor's Right-of-Entry Agreement from the Railroad Company, and has obtained all of the insurance required by the Railroad Company as specified therein. All work within the Railroad Company's right of way or within 25 feet of a public railroad grade crossing shall be in accordance with Railroad's Contractor Requirements and the Contractor's Right of Entry Agreement. The Contracting Agency has furnished a draft Contractor's Right of Entry Agreement in Appendix *** \$6\$ \$***. The draft Contractor's Right of Entry Agreement represents the Contracting Agency's assessment of the likely terms and conditions prior to Advertisement for Bids. The final terms and conditions will be determined by the Railroad Company after Contract Execution.

The Contractor, its subcontractors or agents, shall at its own expense, obtain and maintain in force all insurance required by Railroad until the completion date of the contract as described in Section 1-08.5 except as stated herein.

When all the work involving construction activities within or immediately adjacent to the railroad right of way is completed, the Contractor may make a written request to

1 the Engineer to be relieved of the responsibility to continue all or part of the
2 insurance specified above. If the Engineer deems the portion of the work in that
3 area is complete, the Engineer may approve the Contractor's request. However, if
4 for any reason the Contractor resumes or starts any new work in that area
5 (including being ordered to do so by the Engineer), the insurance shall be
6 reinstated by the Contractor before the work is started. If the insurance must be
7 reinstated because of the Contractor's operations or failure of the Contractor to
8 perform all the contract requirements, the costs shall be the responsibility of the
9 Contractor. If the insurance must be reinstated because of changes to the contract,
10 the costs will be considered in accordance with Section 1-04.4.

11 **Submittals and Working Drawings**

12 Unless specified elsewhere in the Contract, all submittals and Working Drawings
13 prepared by the Contractor for review by the Railroad Company shall be Type 3 or
14 3E Working Drawings. The Contractor shall submit Working Drawings to the Project
15 Engineer. The Contracting Agency will coordinate Working Drawing review with the
16 Railroad Company. The Contractor shall develop a progress schedule that
17 includes Working Drawing reviews by the Railroad Company.
18