



City of Chattanooga
PUBLIC WORKS DEPARTMENT
DEVELOPMENT RESOURCE CENTER
TRANSPORTATION DIVISION
1250 MARKET STREET, SUITE 3030
Chattanooga, Tennessee 37402-2713

ADDENDUM FOUR

City Project Number: T-15-010
TDOT Project Number: 123398.00

Manufacturers Hamm Gateway

(Extend the Riverwalk along Manufacturers Road from SR-29 to Hamm Road and Hamm Road from Manufacturers Road to Moccasin Bend Road)
City of Chattanooga, Tennessee

The following change has been made to the schedule of this project.

- 1.) Question and Answer dates have been added.
- 2.) **Question:** What it couldn't find the liquidated damages on this one to make note of that.
Answer: Supplemental Specifications Section 100SS has been added. 108.09 has been explains liquidated damages.
- 3.) A link to all Supplemental Specifications has been added.
- 4.) **Question:** It states that railroad flagging services are required. folks There's a allocation for TDOT to pay for 30 of those days. Will that be arranged or is that something that's on the contractor to arrange for that through Norfolk Southern or are you all handling that?
Answer: The contractor will coordinate with the railroad. Exhibit B from the Norfolk Southern/City of Chattanooga has been added. Section 7 outlines flagging operations. Also see page 26 of the TDOT Proposal Contract provided by Purchasing.
- 5.) **Question:** Is there a maintenance of stone item that will be added to the bid to cover any incidental stone needed to get these people in and out of businesses?
Answer: Line item 303.01 will be used.
- 6.) **Question:** Will plantings fall within the planting period during the project timeline.
Answer: At that point, the project will be 95% complete. A substantial completion will be issued.
- 7.) 1-00201 contractor's identification TDOT-LRD has been added.
- 8.) Prebid meeting attendees have been added.
- 9.) The attachments to this addendum are bookmarked. In Adobe, on the left are bookmarks that act as quick links to the page listed.



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Bonnie Mumpower	bmumpower@chattanooga.gov
Carmen Harvey	charvey1@chattanooga.gov
Debbie Talley	bidinfo@purchasing.gov
Gina Reed	greed@chattanooga.gov
Jason Rogers	jrogers@adamscontractingky.com
Melanie Anderkin	melanie@adamscontractingky.com
Patrick J. Fiveash	patrick.fiveash@greshamsmith.com
Shane Sewell	
Sterling Phillips	
Tony Madewell	tmadewell@chattanooga.gov

Shawn Starling, P.E.
Senior Engineer Public Improvements
Norfolk Southern Railway Company
Engineering - Design & Construction
650 West Peachtree Street NW - Box 45
Atlanta, GA 30308
States Covered: PA, NY, NJ, TN
Phone (470) 463-6721

<https://www.tn.gov/tdot/tdot-construction-division/transportation-construction-division-resources/2021-standard-specifications.html>

August 20, 2024

/s/ Carmen Harvey, City Transportation Engineer

TRANSPORTATION DIVISION
PHONE: 423-643-5955
FAX: 423-643-5951

August 2024

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20 Pre-Bid	21	22	23	24
25	26	27 Questions Due	28	29	30	31

September 2024

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3 Answers Due	4	5	6	7
8	9	10 Bid Open	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	1	2	3	4	5

October 2024

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
29	30	1 Council	2	3	4	5
6	7	8	9 NOA	10	11	12
13	14	15	16 NTP	17	18	19
20	21	22	23 Pre-Con	24	25	26
27	28	29	30	31	1	2

S T A T E

O F

T E N N E S S E E

(Rev. 9-7-21)

(Rev. 12-15-21)

(Rev. 12-19-22)

(Rev. 6-1-23)

(Rev. 8-21-23)

(Rev. 12-27-23)

(Rev. 5-30-24)

January 1, 2021

Supplemental Specifications – 100SS

of the

Standard Specifications for Road and Bridge Construction

January 1, 2021

Subsection 101.03, (pg. 5), 8-21-23; **Terms**; Revise:

Change Directive. A written document issued by the Department that provides the Contractor with additional compensation, time, or both as determined to be fair and reasonable by the Department and that does not require the consent or signature of the Contractor or Surety. The Change Directive becomes a part of the Contract when properly executed and approved by the Department.

Subsection 102.09, (pg. 17), 12-19-22; **Rejection of Proposals**; Revise No. 10:

10. The apparent low bidder fails to complete and submit the Department form “Certification Regarding Subcontractor Bid Quotes” (Bidders List) electronically before the close of business (4:30 PM Central Time) within five (5) calendar days after the date on which bids are required to be submitted.

Subsection 104.03.B & C, (pg. 23-24), 9-7-21; **Contract Change Notification; B & C**; Revise subsections:

B. Written Acknowledgement by Engineer

The Engineer will provide written acknowledgement of the Contractor’s written notice within ten (10) calendar days.

C. Written Response by Engineer

The Engineer will provide a written response within the specified number of calendar days based on the requested contract change:

1. For requested changes to the contract time in excess of one hundred eighty (180) days or requested changes that alter the original contract amount by more than \$200,000, the Engineer will respond within thirty (30) days of receiving the Contractor's written notice.
2. For requested changes to the contract time in excess of ninety (90) days but less than or equal to one hundred eighty (180) days, or requested changes that alter the original contract amount by more than \$100,000 but less than or equal to \$200,000, or by more than ten percent (10%) of the original contract, whichever is less, the Engineer will respond within twenty-one (21) days of receiving the Contractor's written notice.
3. For all other requested changes to the contract, the Engineer will respond within fourteen (14) calendar days of receiving the Contractor's written notice.

The written response to the Contractor's written notice will include one of the following:

1. Confirmation that a change is necessary in accordance with **104.02**, and direction on how the Work will proceed.
2. A denial of the request for a change, which will include references to the Contract as to why the condition does not represent a change.
3. A request for additional information stating the specific information needed and the date by which it must be received. The Engineer will respond to the additional information provided within fourteen (14) calendar days.

When a change is necessary, the Engineer will make appropriate adjustments to the Contract price and time, if warranted, in accordance with **108.07**, **109.04**, **109.05.A**, and **109.06**. If the Contractor disagrees with the Engineer's decision or does not agree with the Contract adjustments, the Contractor may pursue the issue as a claim in accordance with **105.16**.

Subsection 104.03.C, (pg. 24,25), 8-21-23; **Written Response by Engineer**; Add 3rd Paragraph and Revise 4th Paragraph:

The Contractor will, upon request, have an opportunity to discuss the Contract change by informal meeting with the Department's Regional representatives associated with the change prior to the issuance of the Engineer's written response. If such a meeting is held, the Contractor shall use the opportunity to present relevant information and respond to any information provided by the Engineer or other Department officials with knowledge of the Work.

When a change is necessary, the Engineer will make appropriate adjustments to the Contract price and time, if warranted, in accordance with **108.07**, **109.04**, **109.05.A**, and **109.06**. If the Contractor disagrees with the Engineer's decision or does not agree with the Contract adjustments, the Contractor may pursue the issue as a Request for Equitable Adjustment in accordance with **105.16**. At this time, the Department may issue a Change Directive even if the Contractor does not pursue a Request for Equitable Adjustment.

Subsection 104.04, (pg. 25-26), 12-27-23; **Maintenance of Traffic**; Revise 2nd and 5th Paragraph:

The Department will pay for materials used at the direction of the Engineer to construct and maintain approaches, crossings, intersections, and other features at contract unit prices unless the Contractor is responsible for the damage. Open cuts of roadways and streets shall be safely maintained for traffic during the Work. This includes, but is not limited to, placing and compacting a bituminous mix in the open cuts or placing metal plates over the open cuts, where allowed, before returning traffic to the roadway. Tie-ins for sideroads shall be safely maintained for traffic by paving to the binder course, striping, and placing temporary or permanent signs as needed, at minimum, unless otherwise directed by the Engineer. Maintenance of traffic control features, mowing, and pothole patching (cold mix) are incidental to the work and the responsibility of the Contractor.

Do not close lanes or restrict traffic on the following days without the Engineer's written consent:

- Easter: After 6:00 pm on the Thursday preceding Good Friday through Easter Sunday until the following Monday at 6 am.
- Memorial Day: After 12:00 noon on the preceding Friday through Memorial Day until the following Tuesday at 6 am.
- Independence Day:
 - a. Monday: After 12:00 noon on the preceding Friday through Independence Day until the following Tuesday at 6 am.
 - b. Tuesday: After 12:00 noon on the preceding Friday through Independence Day until the following Wednesday at 6 am.
 - c. Wednesday: After 12:00 noon on the preceding Tuesday through Independence Day until the following Thursday at 6 am.
 - d. Thursday: After 12:00 noon on the preceding Wednesday through Independence Day until the following Monday at 6 am.
 - e. Friday: After 12:00 noon on the preceding Thursday through Independence Day until the following Monday at 6 am.
 - f. Saturday: After 12:00 noon on the preceding Thursday through Independence Day until the following Monday at 6 am.
 - g. Sunday: After 12:00 noon on the preceding Friday through Independence Day until the following Tuesday at 6 am.
- Labor Day: After 12:00 noon on the preceding Friday through Labor Day until the following Tuesday at 6 am.
- Thanksgiving: After 12:00 noon on Wednesday before Thanksgiving through Sunday following Thanksgiving until the following Monday at 6 am.
- Christmas/New Year's Day: December 24 through January 1 and any preceding and/or following days that fall on a weekend.

Subsection 105.16, (pg. 49-55), 8-21-23; **Claims for Adjustment and Disputes**; Revise Subsection:

105.16 Request for Equitable Adjustment (REA) and Disputes

This subsection details the optional REA process for receiving, reviewing, and deciding on REAs submitted to the Department. If such REAs cannot be successfully negotiated or resolved within this process, the Contractor has the right to submit a formal claim through the Tennessee Claims Commission as acknowledged in this subsection.

All events or conditions that have a potential or anticipated effect on the Project's progress or schedule and that may result in a REA by the Contractor shall be documented contemporaneously with the event or discovery of the pertinent condition(s), or immediately thereafter. REAs that are submitted without proper documentation will not be reviewed by the Department.

A. Notice of Intent to File a REA

If the Contractor has followed the process under **104.03** to request additional compensation, time, or both under **104.02** or **108.07** and the Contractor disagrees with the Engineer's decision or the Contract adjustments made by the Department, the Contractor may provide notice of intent to file a REA. The Contractor shall provide such notice in writing within thirty (30) calendar days of receiving the Engineer's decision as provided in **104.03**.

After submitting the notice of intent to file a REA, if the subject work is not yet complete, the Contractor shall maintain adequate records related to the REA, including records of the disputed labor, equipment and materials, and schedule updates per **108.03** showing compensable delays to the completion date. If applicable, update and disclose this information to the Department monthly. The Department may audit REA records at any time. Unless the Engineer suspends in writing the affected work, the Contractor shall continue to perform the disputed work. If such notice to file a REA is not given, or if the Engineer is not given sufficient opportunity for keeping strict account of the Contractor's actual Work, then the Contractor waives any claim for additional compensation under the REA process. Such notice by the Contractor and the Engineer's accounting of the cost shall not, in any way, prove or substantiate the validity of the REA. Nothing in this Subsection shall be construed as establishing any REA contrary to the terms of **104.02** or **108.07**.

B. Submission of REA

Within sixty (60) calendar days after submitting the notice of intent to file a REA, or within sixty (60) calendar days after completion of the disputed Work, whichever is later, or within such time agreed upon by the parties in writing, the Contractor shall submit a complete REA package. The REA package shall include all documents supporting the REA and provide sufficient detail to enable the Department to ascertain the basis and amount of the REA. If requested by the Contractor, the Department may extend the sixty (60) calendar day period in writing. As a minimum, the following information shall be submitted with each REA:

1. A REA certification containing the language shown in Figure 105.16-1; this figure can be found on the Department's Construction Division website.
2. A detailed factual statement of the REA for additional compensation, time, or both, providing all necessary dates, locations, and items of work affected by the REA, including:

- a) Each aspect of the Project affected by matters related to the REA.
 - b) The specific Project locations where Project work has been so affected;
 - c) The number of people working on the affected aspects of the Project at the pertinent time(s);
 - d) The types and number of pieces of equipment working on the affected aspects of the Project at the pertinent time(s); and
 - e) If applicable, any other request for relief that the Contractor intends to file or has reason to believe that it may file against the Department that would be impacted by the matters related to the REA.
3. The specific provisions of the Contract that support the REA and a statement of the reasons why such provisions support the REA;
 4. If an extension of contract time is sought, a schedule analysis as required by **108.07**;
 5. If additional compensation is sought, the amount and specifics of the compensation in accordance with the following:
 - a) Compensable Items: Must be compensable under **109.04**,
 - b) Compensable Delay related costs: Must be compensable under **109.06**; and
 - c) Non-Recoverable Costs: Per **109.07**, non-recoverable costs shall not be considered in a REA.
 6. Any worksheets used to prepare the REA, which indicate the cost components of each item of the REA, including but not limited to the pertinent costs of labor, benefits and insurance, materials, equipment, and compensable subcontractor costs, as well as all documents which establish the relevant time periods, individuals involved, and the Project hours and the rates for the individuals.

The Contractor and its subcontractors and suppliers involved with the REA shall cooperate with any inquiries or requests by the Department for clarification and data supporting the submitted documentation.

C. REA Informal Meeting

Within thirty (30) calendar days of receiving the Contractor's REA submittal, the Department will contact the Contractor in writing to schedule a meeting to afford the Contractor an opportunity to discuss the disputed matters informally with the Department. If the Contractor elects to participate in a meeting, the Contractor shall use this opportunity to present relevant information and respond to any information provided by the Engineer or other Department officials with knowledge of the Work. Proceedings in any REA meeting are compromise negotiations and are not admissible in litigation in accordance with Tennessee Rule of Evidence 408.

D. Department Decision

When the Contractor properly files a REA and allows for reasonable and timely access to the Contractor's relevant books and records, the Department will review the REA and render a written decision to the Contractor to either affirm or deny the REA package, in whole or in part, within sixty (60) calendar days after receipt of the REA package or after the informal meeting. If more time is

needed for review, the Department will notify the Contractor in writing of the additional time required.

The Department will assemble and maintain the REA record consisting of the REA and all other information considered by the Department in reaching a decision. Once the Department assembles the REA record, the submission and consideration of additional information or data, other than for clarification and support of previously submitted documentation, will not be permitted. The Department will provide a copy of the REA record and the written decision to the Contractor describing the information considered by the Department in reaching a decision and the basis for that decision.

If as a result of the REA documentation or REA Informal Meeting, the Department and the Contractor reach an agreement to resolve the REA, the Department will prepare a Change Order setting forth the terms of any additional compensation or time, or both, as agreed, and the Change Order will be processed for approval in accordance with the Department's standard procedures.

If the Department agrees that the Contractor is due additional compensation, time, or both, but the Department and the Contractor cannot agree on the amount, the Department may issue a Change Directive providing for additional compensation, time, or both, as the Department determines to be fair and reasonable. The Contractor may continue to pursue a claim as acknowledged in this Subsection.

If the Department denies the REA, the Contractor may either accept the Department's decision as final or submit to the Department a written notice of intent to file a claim with the Tennessee Claims Commission to the Department. The Contractor may file a claim with the Tennessee Claims Commission in accordance with TCA § 9-8-307.

Subsection 106.06.A.1, (pg. 61), 12-15-21; **Field Laboratory, Type A**; Revise No. 1:

1. Scales of appropriate capacity and design to weigh the required samples. Scales are to be sensitive to within 0.1% of the sample to be weighed. Provide standard weights for scale calibration. Scale calibration shall be completed annually, by an independent source.

Subsection 107.13, (pg. 75), 1-9-23; **Legal Responsibilities of the Contractor**; Add New 3rd Paragraph:

The Contractor certifies that it is not currently engaged in, and covenants that it will not, for the duration of the Contract, engage in a boycott of Israel, as that term is defined in Tenn. Code Ann. § 12-4-119. This certification does not apply to a Contract with a value of less than two hundred fifty thousand dollars (\$250,000) or if the Contractor has fewer than ten (10) employees.

Subsection 107.20, (pg. 78), 12-19-22; **Certified Payrolls**; Revise Subsection:

As specified by Minimum Wage Scales for Federal-Aid and State Funded Construction contract provisions, submit and certify payrolls for each week in which any contract work is performed. All payrolls shall be submitted electronically through the website using AASHTOWare Project Civil Rights & Labor (CRL) software.

Register for payroll access and develop a method of import prior to the Preconstruction Conference. Ensure each subcontractor, including all Disadvantaged Business Enterprises (DBE), certified Small Business Enterprises (SBE), and DBE or SBE haulers, has registered in CRL for payroll access and developed their method of import prior to commencing Work.

Assume all responsibility for ensuring all payrolls and all subcontractor payrolls are submitted and certified electronically in CRL for each week in which any contract work is performed. If all payrolls are not received in this timeframe, the progress payment shall be withheld until all necessary payrolls have been received.

Once Work begins for the Contractor or subcontractor, if in any week the Contractor or subcontractor does not perform Work, check the box “No Work Until Further Notice” in CRL.

Subsection 108.01, (pg. 79, 80), 12-15-21; **Subletting of Contract**; Revise Item list:

- Item 105-01 – Construction Stakes, Lines and Grades
- Item 202-01 – Removal of Asbestos
- Item 203-40 – Rock Anchors, Anchor Blocks, Tie Back Anchors
- Item 209 – Project EPSC
- Item 411-12 - Scoring
- Item 411-33 – Stamped Asphalt
- Item 501-03 – Concrete Shoulder Rumble Strip
- Item 503-01 – Grinding Concrete Pavement
- Item 602-03 – Steel Structures
- Item 602-04 – Steel Structures
- Item 602-10.81 – Heat Straightening
- Item 603-02 – Repainting Steel Structures
- Item 603-05 – Containment and Disposal of Waste
- Item 604-04.01 – Applied Texture Finish (New Structures),
- Item 604-04.02 – Applied Texture Finish (Existing Structures)
- Item 604-04.10 – Graffiti Protection
- Item 604-04.20&.21 – Painting or Staining Concrete Surfaces
- Item 604-04.62 – Clean and Texture Finish Median Barrier
- Item 604-05.31 – Bridge Deck Grooving (Mechanical)
- Item 604.07 – Retaining Wall
- Item 604-42.01 – Underwater Divers
- Item 606-26.05 – Core Drilling for Piles (Abandoned)
- Item 617 – Bridge Deck Sealant
- Item 619 – Polymer Modified Concrete Overlay
- Item 624 – Retaining Wall
- Item 625-01.08,10,11 – Inclinator, Camera Drilled Shaft Inspections
- Item 705 – Guardrail
- Item 706 – Guardrail Adjusted, Removed and Reset
- Item 707 – Fences
- Item 712 – Temporary Traffic Control
- Item 713 – Highway Signing
- Item 714 – Roadway and Structure Lighting
- Item 716 – Pavement Markings
- Item 721 – Landscape and Irrigation
- Item 724 – Landscape Lighting
- Item 725 – ITS items
- Item 730 – Traffic Signals
- Item 740 – Geosynthetics
- Item 79* – Utilities
- Item 801 – Seeding

Item 802 – Landscape Plantings
Item 803 – Sodding
Item 805 – Erosion Control
Item 806 – Project Mowing

Subsection 108.01, (pg. 79, 80), 12-19-22; **Subletting of Contract**; Add to & Revise Item list:

Item 108-03 – CPM Project Schedule
Item 203-11 – Scaling and Trimming
Item 203-40 – Anchors
Item 406 – High Friction Surface Treatment
Item 617 – Bridge Deck Sealant and Thin Epoxy Overlay

Subsection 108.03.A, B, & C, (pg. 81,82,85,87,88), 9-7-21; **Contract Change Notification; A & B**; Revise Heading,
C.1.c; Add new No.vi, **C.3**; Revise last paragraph, **C.4**; Revise last paragraph & add sentence:

A. Project Durations Less Than 9 Months

B. Project Durations 9 Months to 24 Months

C.1.c Narrative report in PDF file format fit to 8.5x11 inch paper and including:...

- vi. The quantity and estimated daily production rate for controlling activities;
- vii. Description of the calendars including identification of workdays per week, holidays, number of shifts per day, and number of hours per shift;
- viii. Description of how the schedule accommodates adverse weather days for each month; and
- ix. Description of execution plan, including number and type of crews, a list of subcontractors' crews, and expected equipment, but not limited to large equipment transport and delivery, transportation permits for oversized/overweight loads, and availability.

3. Baseline CPM Schedule.

The Engineer and Contractor will review the draft baseline CPM schedule at a meeting specific for the review of the schedule. The Engineer will accept the draft baseline CPM schedule, provide review comments, or request additional information. Make appropriate adjustments or provide additional information within 14 calendar days. The Engineer's acceptance is based solely on whether the baseline schedule meets the requirements of **108.03**. Review comments made by the Engineer on the initial schedule will not relieve the Contractor from compliance with the Contract. The Contractor is responsible for scheduling, sequencing, and prosecuting the Work to comply with the Contract requirements.

4. Schedule Updates.

Submit the updated schedule electronically to the Engineer in accordance with the requirements of this subsection. The Engineer reserves the right to reject any schedule updates because of changes in relationships between activities on the critical path, inadequate or inaccurate narrative updates, or other deficiencies in the schedule updates as required in this subsection.

The Department will measure and pay for CPM Project Schedule in accordance with **108.11** and **108.12** respectively.

Subsection 108.03.C, (pg. 84, 87-88), 6-1-23; **Prosecution of Construction, Project Durations Greater Than 24 Months or When Required By Contract**; Revise 1st Paragraph, **C.4**; Revise 1st and Relocate last Paragraph:

Develop a Critical Path Method (CPM) project execution schedule and subsequent updates as required or as specifically requested by the Engineer. Generate the CPM schedule using Primavera Project Management (P6) scheduling software. The Department will measure and pay for CPM Project Schedule in accordance with **108.11** and **108.12** respectively.

C.4. Schedule Updates. Update the CPM schedule on a quarterly (3 months) basis to show current progress. Include the following with each update:

~~The Department will measure and pay for CPM Project Schedule in accordance with **108.11** and **108.12** respectively.~~

Subsection 108.03.D, (pg. 88-89), 6-1-23; **Schedule Revisions**; Revise 1st Paragraph and Revise No. 2:

The Engineer will determine the progress of the Contract by either the time versus money straight line method or the schedule updates submitted by the Contractor. If actual construction falls behind the plan of operations or schedule by more than 15% or 60 calendar days, whichever is less, submit for approval a revised schedule that reflects timely completion. The Engineer may request a revision of the schedule at any time if a critical circumstance regarding the scheduling, sequencing, or prosecution has changed with planning or progress of the Work. Circumstances that may lead to such a request include the following:

2. A difference of 60 calendar days between the actual sequence or duration of work and that depicted in the schedule; or

Subsection 108.09, (pg. 95), 12-19-22; **Failure to Complete Work on Time**; Revise Table 108.09-1:

Table 108.09-1: Liquidated Damages for Failure to Complete the Work on Time

Original Contract Amount (\$)		Daily Charge (\$/day)
0	to 500,000	500.00
> 500,000	to 1,000,000	600.00
> 1,000,000	to 2,000,000	800.00
> 2,000,000	to 10,000,000	1,000.00
>10,000,000	to 20,000,000	1,600.00
>20,000,000		2,500.00

Subsection 108.11, (pg. 99), 9-7-21; **Method of Measurement**; Add subsection 108.11:

108.11 Method of Measurement

The Department will measure construction CPM Project Schedule as a percentage of the lump sum price bid for the completion of the work specified in **108.03.C** and partial payment will be made according to the schedule in Table 108.11-1.

Table 108.11-1: Payment Schedule for CPM Project Schedule

Estimate Number or Percent of Total Contract Amount of Previous Estimate	Total Percent of CPM Project Schedule Lump Sum Bid Item
Estimate # 1	20%
Estimate # 3	40%
20%	50%
40%	60%
60%	70%
80%	80%
95%	100%

Subsection 108.11, (pg. 99), 6-1-23; **Method of Measurement**; Revise Table 108.11-1:

Table 108.11-1: Payment Schedule for CPM Project Schedule

Requirement or Percent of Total Contract Amount of Previous Estimate	Total Percent of CPM Project Schedule Lump Sum Bid Item
Initial Project Schedule	10%
Baseline CPM Schedule	40%
20%	50%
40%	60%
60%	70%
80%	80%
95%	100%

Subsection 108.12, (pg. 99), 9-7-21; **Basis of Payment**; Add subsection 108.12:

108.12 Basis of Payment

The Department will make partial payments for CPM Project Schedule on the basis of a percentage of the lump sum price bid in accordance with the schedule shown in Table 108.11-1.

If the Contractor fails to provide monthly schedule updates or address the Engineer’s comments regarding the monthly schedule update, within 10 calendar days following the progress estimate pay period cutoff date, the Engineer will withhold payment for CPM Project Schedule and may withhold up to an additional 5% of the monthly estimate payment, until such time as an acceptable update has been provided.

No additional payments will be made for schedule revisions as requested per **108.03.D**.

Such payment is full compensation for meeting all requirements of **108.03.C** and **D**.

Subsection 108.12, (pg. 99), 6-1-23; **Basis of Payment**; Add new 2nd Paragraph and Revise existing 2nd and 3rd Paragraphs:

If the Contractor fails to provide an Initial Project Schedule or a Baseline CPM schedule, or address the Engineer’s comments regarding the Initial Project Schedule or Baseline CPM schedule, within 10 calendar days following the progress estimate pay period cutoff date, the Engineer will withhold payment for CPM Project Schedule and may withhold up to an additional 10% of that month’s estimate payment, until such time as an acceptable Initial Project Schedule or Baseline CPM schedule has been provided and accepted.

If the Contractor fails to provide quarterly CPM schedule updates, or address the Engineer’s comments regarding the quarterly schedule update, within 10 calendar days following the progress estimate pay

period cutoff date, the Engineer will withhold payment for CPM Project Schedule and may withhold up to an additional 5% of that month’s estimate payment, until such time as an acceptable update has been provided and accepted.

No additional payments will be made for Engineer requested schedule revisions as requested per **108.03.D**.

Subsection 109.02, (pg. 105-106), **5-30-24; Scope of Payment**; Revise & Relocate Paragraph 5 to Paragraph 4 and Revise Paragraphs 6 & 8:

Ensure each subcontractor, including all certified Disadvantaged Business Enterprises (DBE), certified Small Business Enterprises (SBE), and DBE or SBE haulers or material suppliers, has registered for AASHTOWare Project Civil Rights & Labor (CRL) prior to commencing Work.

The Department requires...

~~Ensure each subcontractor, including all Disadvantaged Business Enterprises (DBE), certified Small Business Enterprises (SBE), and DBE or SBE haulers or material suppliers, has registered for AASHTOWare Project Civil Rights & Labor (CRL) prior to commencing Work.~~

Document within CRL the actual amount paid to all subcontractors, material suppliers, and haulers during the monthly estimate period for which the certification is being made. All subcontractors, DBE or SBE material suppliers, and DBE or SBE haulers shall acknowledge payment entry in AASHTOWare Project Civil Rights & Labor (CRL) within fourteen (14) calendar days from the date of posting. The Department will withhold estimate payments if the required information is not submitted or if subcontractors, at any tier, material suppliers, or haulers are not paid after the thirty (30) calendar day time period. Any delay or postponement of payment beyond the thirty (30) calendar day timeframe will be subject to terms listed in TCA §12-4-707(b).

The eContractor, subcontractors, at any tier, material suppliers, or haulers shall not withhold any retainage from progress payments made to their subcontractors. The Contractor, subcontractors at any tier, material suppliers, or haulers shall not withhold progress payments due to subcontractors at any tier, material suppliers, or haulers for work or services performed under the Contract to offset any amounts that may be owed with respect to any agreement other than the Contract.

Subsection 109.06, (pg. 116), 8-21-23; **Compensable Delay Costs**; Revise 2nd Paragraph:

Compensable delay costs will not be paid unless the compensable delay causes completion of the Work to exceed the original or previously adjusted Contract completion date. Compensable delay costs will not be considered for previously negotiated Change Orders or for costs that have already been included in bid items, negotiated prices, or force account payments described in **109.04**; no additional consideration will be given for home office overhead and/or field office overhead. The Department will not pay for delay costs incurred by subcontractors.

Subsection 109.06.D, (pg. 117), 8-21-23; **Extended Field Overhead**; Revise 3rd Paragraph:

Compute these costs on a calendar day basis using actual costs incurred due to the delay to provide project specific general supervision, field office facilities and supplies, maintenance of field operations, traffic control maintenance, and extended erosion control inspection. If the Contractor and the Department cannot agree on additional field overhead costs, the Department may consider, at its sole discretion, calculating a daily extended field overhead rate as a percentage (in accordance with Table 109.06-1) of the original Contract amount divided by the Contract duration.

Subsection 109.07, (pg. 118,119), 8-21-23; **Non-Recoverable Costs**; Revise No. 5 & 6 and Add No. 7 & 8:

5. Attorney fees, claim preparation expenses, and cost of litigation;
6. Consequential and/or incidental damages, including but not limited to, interest of monies in dispute, loss of bonding capacity, any indirect costs or expenses, interest on investment or any resultant insolvency;
7. Loss of bidding opportunities; and
8. Reduction of bidding capacity.

Special Provisions for Protection of Railway Interests

1. AUTHORITY OF RAILROAD ENGINEER AND SPONSOR ENGINEER:

Norfolk Southern Railway Company, hereinafter referred to as "Railroad", and their authorized representative shall have final authority in all matters affecting the safe maintenance of railroad traffic including the adequacy of the foundations and structures supporting the railroad tracks. For Public Projects impacting the Railroad, the Railroad's Public Projects Engineer, hereinafter referred to as "Railroad Engineer", will serve as the authorized representative of the Railroad.

The authorized representative of the Project Sponsor ("Sponsor"), hereinafter referred to as the "Sponsor's Engineer", shall have authority over all other matters as prescribed herein and in the Project Specifications.

The Sponsor's Prime Contractor, hereinafter referred to as "Contractor" shall be responsible for completing any and all work in accordance with the terms prescribed herein and in the Project Specifications. These terms and conditions are subject to change without notice, from time to time in the sole discretion of the Railroad. Contractor must request from Railroad and follow the latest version of these provisions prior to commencing work.

2. NOTICE OF STARTING WORK:

A. The Contractor shall not commence any work on railroad rights-of-way until he has complied with the following conditions:

1. Signed and received a fully executed copy of the required Norfolk Southern Contractor Right of Entry Agreement.
2. Given the Railroad written notice in electronic format to the Railroad Engineer, with copy to the Sponsor's Engineer who has been designated to be in charge of the work, at least ten days in advance of the date he proposes to begin work on Railroad rights-of-way.
3. Obtained written approval from the Railroad of Railroad Protective Liability Insurance coverage as required by paragraph 14 herein. It should be noted that the Railroad does not accept notation of Railroad Protective insurance on a certificate of liability insurance form or Binders as Railroad must have the full original countersigned policy. Further, please note that mere receipt of the policy is not the only issue but review for compliance. Due to the number of projects system-wide, it typically takes a minimum of 30-45 days for the Railroad to review.
4. Obtained Railroad's Flagging Services as required by paragraph 7 herein.
5. Obtained written authorization from the Railroad to begin work on Railroad's rights-of-way, such authorization to include an outline of specific conditions with which he must comply.
6. Furnished a schedule for all work within the Railroad's rights-of-way as required by paragraph 7.B.1.

B. The Railroad's written authorization to proceed with the work shall include the names, addresses, and telephone numbers of the Railroad's representatives who are to be

notified as hereinafter required. Where more than one representative is designated, the area of responsibility of each representative shall be specified.

3. INTERFERENCE WITH RAILROAD OPERATIONS:

- A. The Contractor shall so arrange and conduct his work that there will be no interference with Railroad's operations, including train, signal, telephone and telegraphic services, or damage to the property of the Railroad or to poles, wires, and other facilities of tenants on the rights-of-way of the Railroad. Whenever work is liable to affect the operations or safety of trains, the method of doing such work shall first be submitted to the Railroad Engineer for approval, but such approval shall not relieve the Contractor from liability. Any work to be performed by the Contractor which requires flagging service or inspection service shall be deferred by the Contractor until the flagging service or inspection service required by the Railroad is available at the job site.
- B. Whenever work within Railroad's rights-of-way is of such a nature that impediment to Railroad's operations such as use of runaround tracks or necessity for reduced speed is unavoidable, the Contractor shall schedule and conduct his operations so that such impediment is reduced to the absolute minimum.
- C. Should conditions arising from, or in connection with the work, require that immediate and unusual provisions be made to protect operations and property of the Railroad, the Contractor shall make such provisions. If in the judgment of the Railroad Engineer, or in his absence, the Railroad's Division Engineer, such provisions is insufficient, either may require or provide such provisions as he deems necessary. In any event, such unusual provisions shall be at the Contractor's expense and without cost to the Railroad or the Sponsor.
- D. "One Call" Services do not locate buried Railroad utilities. The contractor shall contact the Railroad's representative 2 days in advance of work at those places where excavation, pile driving, or heavy loads may damage the Railroad's underground facilities. Upon request from the Contractor or Sponsor, Railroad forces will locate and paint mark or flag the Railroad's underground facilities. The Contractor shall avoid excavation or other disturbances of these facilities. If disturbance or excavation is required near a buried Railroad facility, the contractor shall coordinate with the Railroad to have the facility potholed manually with careful hand excavation. The facility shall be protected by the Contractor during the course of the disturbance under the supervision and direction of the Railroad's representative.

4. TRACK CLEARANCES:

- A. The minimum track clearances to be maintained by the Contractor during construction are shown on the Project Plans. If temporary clearances are not shown on the project plans, the following criteria shall govern the use of falsework and formwork above or adjacent to operated tracks.
 - 1. A minimum vertical clearance of 22'-0" above top of highest rail shall be maintained at all times.
 - 2. A minimum horizontal clearance of 13'-0" from centerline of tangent track or 14'-0" from centerline of curved track shall be maintained at all times. Additional horizontal clearance may be required in special cases to be safe for operating conditions. This additional clearance will be as determined by the Railroad Engineer.

3. All proposed temporary clearances which are less than those listed above must be submitted to Railroad Engineer for approval prior to construction and must also be authorized by the regulatory body of the State if less than the legally prescribed clearances.
 4. The temporary clearance requirements noted above shall also apply to all other physical obstructions including, but not limited to: stockpiled materials, parked equipment, placement or driving of piles, and bracing or other construction supports.
- B. Before undertaking any work within Railroad right-of-way, and before placing any obstruction over any track, the Contractor shall:
1. Notify the Railroad's representative at least 72 hours in advance of the work.
 2. Receive assurance from the Railroad's representative that arrangements have been made for flagging service as may be necessary.
 3. Receive permission from the Railroad's representative to proceed with the work.
 4. Ascertain that the Sponsor's Engineer has received copies of notice to the Railroad and of the Railroad's response thereto.
5. CONSTRUCTION PROCEDURES:
- A. General:
1. Construction work and operations by the Contractor on Railroad property shall be:
 - a. Subject to the inspection and approval of the Railroad Engineer or their designated Construction Engineering Representative.
 - b. In accordance with the Railroad's written outline of specific conditions.
 - c. In accordance with the Railroad's general rules, regulations and requirements including those relating to safety, fall protection and personal protective equipment.
 - d. In accordance with these Special Provisions.
 2. Submittal Requirements
 - a. The Contractor shall submit all construction related correspondence and submittals electronically to the Railroad Engineer.
 - b. The Contractor shall allow for 30 days for the Railroad's review and response.
 - c. All work in the vicinity of the Railroad's property that has the potential to affect the Railroad's train operations or disturb the Railroad's Property must be submitted and approved by the Railroad prior to work being performed.
 - d. All submittals and calculations must be signed and sealed by a registered engineer licensed in the state of the project work.

- e. All submittals shall first be approved by the Sponsor's Engineer and the Railroad Engineer, but such approval shall not relieve the Contractor from liability.
- f. For all construction projects, the following submittals, but not limited to those listed below, shall be provided for review and approval when applicable:
 - (1) General Means and Methods
 - (2) Ballast Protection
 - (3) Construction Excavation & Shoring
 - (4) Pipe, Culvert, & Tunnel Installations
 - (5) Demolition Procedure
 - (6) Erection & Hoisting Procedure
 - (7) Debris Shielding or Containment
 - (8) Blasting
 - (9) Formwork for the bridge deck, diaphragms, overhang brackets, and protective platforms
 - (10) Bent Cap Falsework. A lift plan will be required if the contractor want to move the falsework over the tracks.
- g. For Undergrade Bridges (Bridges carrying the Railroad) the following submittals in addition to those listed above shall be provided for review and approval:
 - (1) Shop Drawings
 - (2) Bearing Shop Drawings and Material Certifications
 - (3) Concrete Mix Design
 - (4) Structural Steel, Rebar, and/or Strand Certifications
 - (5) 28 day Cylinder Test for Concrete Strength
 - (6) Waterproofing Material Certification
 - (7) Test Reports for Fracture Critical Members
 - (8) Foundation Construction Reports

Fabrication may not begin until the Railroad has approved the required shop drawings.

- h. The Contractor shall include in all submissions a detailed narrative indicating the progression of work with the anticipated timeframe to complete each task. Work will not be permitted to commence until the Contractor has provided the Railroad with a satisfactory plan that the project will be undertaken without scheduling, performance or safety related issues. Submission shall also provide a listing of the anticipated equipment to be used, the location of all equipment to be used and insure a contingency plan of action is in place should a primary piece of equipment malfunction.

B. Ballast Protection

- 1. The Contractor shall submit the proposed ballast protection system detailing the specific filter fabric and anchorage system to be used during all construction activities.

2. The ballast protection is to extend 25' beyond the proposed limit of work, be installed at the start of the project and be continuously maintained to prevent all contaminants from entering the ballast section of all tracks for the entire duration of the project.
- C. Excavation:
1. The subgrade of an operated track shall be maintained with edge of berm at least 10'-0" from centerline of track and not more than 24-inches below top of rail. Contractor will not be required to make existing section meet this specification if substandard, in which case existing section will be maintained.
 2. Additionally, the Railroad will require the installation of an OSHA approved handrail and orange construction safety fencing for all excavations of the Railroad right-of-way.
- D. Excavation for Structures and Shoring Protection:
1. The Contractor will be required to take special precaution and care in connection with excavating and shoring pits, and in driving piles or sheeting for footings adjacent to tracks to provide adequate lateral support for the tracks and the loads which they carry, without disturbance of track alignment and surface, and to avoid obstructing track clearances with working equipment, tools or other material.
 2. All plans and calculations for shoring shall be prepared, signed, and sealed by a Registered Professional Engineer licensed in the state of the proposed project, in accordance with Norfolk Southern's Overhead Grade Separation Design Criteria, subsection H.1.6.E-Construction Excavation (Refer to Norfolk Southern Public Projects Manual Appendix H). The Registered Professional Engineer will be responsible for the accuracy for all controlling dimensions as well as the selection of soil design values which will accurately reflect the actual field conditions.
 3. The Contractor shall provide a detailed installation and removal plan of the shoring components. Any component that will be installed via the use of a crane or any other lifting device shall be subject to the guidelines outlined in section 5.G of these provisions.
 4. The Contractor shall be required to survey the track(s) and Railroad embankment and provide a cross section of the proposed excavation in relation to the tracks.
 5. Calculations for the proposed shoring should include deflection calculations. The maximum deflection for excavations within 18'-0" of the centerline of the nearest track shall be 3/8". For all other cases, the max deflection shall not exceed 1/2".
 6. Additionally, the Railroad will require the installation of an OSHA approved handrail and orange construction safety fencing for all excavations of the Railroad right-of-way.
 7. The front face of shoring located to the closest NS track for all shoring set-ups located in Zone 2 as shown on NS Typical Drawing No. 4 – Shoring Requirements (Appendix I) shall remain in place and be cut off 2'-0" below the final ground elevation. The remaining shoring in Zone 2 and all shoring in Zone 1 may be removed and all voids must be backfilled with flowable fill.
- E. Pipe, Culvert, & Tunnel Installations

1. Pipe, Culvert, & Tunnel Installations shall be in accordance with the appropriate Norfolk Southern Design Specification as noted below:
 - a. For Open Cut Method refer to Norfolk Southern Public Projects Manual Appendix H.4.6.
 - b. For Jack and Bore Method refer to Norfolk Southern Public Projects Manual Appendix H.4.7.
 - c. For Tunneling Method refer to Norfolk Southern Public Projects Manual Appendix H.4.8.
2. The installation methods provided are for pipes carrying storm water or open flow run-off. All other closed pipeline systems shall be installed in accordance Norfolk Southern's Pipe and Wire Program and the NSCE-8

F. Demolition Procedures

1. General

- a. Demolition plans are required for all spans over the track(s), for all spans adjacent to the track(s), if located on (or partially on) Railroad right-of-way; and in all situations where cranes will be situated on, over, or adjacent to Railroad right-of-way and within a distance of the boom length plus 15'-0" from the centerline of track.
- b. Railroad tracks and other Railroad property must be protected from damage during the procedure.
- c. A pre-demolition meeting shall be conducted with the Sponsor, the Railroad Engineer or their representative, and the key Contractor's personnel prior to the start of the demolition procedure.
- d. The Railroad Engineer or his designated representative must be present at the site during the entire demolition procedure period.
- e. Existing, obsolete, bridge piers shall be removed to a sufficient depth below grade to enable restoration of the existing/proposed track ditch, but in no case less than 2'-0" below final grade.

2. Submittal Requirements

- a. In addition to the submittal requirements outlined in Section 5.A.2 of these provisions, the Contractor shall submit the following for approval by the Railroad Engineer:
 - (1) A plan showing the location of cranes, horizontally and vertically, operating radii, with delivery or disposal locations shown. The location of all tracks and other Railroad facilities as well as all obstructions such as wire lines, poles, adjacent structures, etc. must also be shown.

- (2) Rating sheets showing cranes or lifting devices to be adequate for 150% of the actual weight of the pick, including all rigging components. A complete set of crane charts, including crane, counterweight, and boom nomenclature is to be submitted. Safety factors that may have been "built-in" to the crane charts are not to be considered when determining the 150% factor of safety.
- (3) Plans and computations showing the weight of the pick must be submitted. Calculations shall be made from plans of the existing structure showing complete and sufficient details with supporting data for the demolition the structure. If plans do not exist, lifting weights must be calculated from field measurements. The field measurements are to be made under the supervision of the Registered Professional Engineer submitting the procedure and calculations.
- (4) The Contractor shall provide a sketch of all rigging components from the crane's hook block to the beam. Catalog cuts or information sheets of all rigging components with their lifting capacities shall be provided. All rigging must be adequate for 150% of the actual weight of the pick. Safety factors that may have been "built-in" to the rating charts are not to be considered when determining the 150% factor of safety. All rigging components shall be clearly identified and tagged with their rated lifting capacities. The position of the rigging in the field shall not differ from what is shown on the final plan without prior review from the Sponsor and the Railroad.
- (5) A complete demolition procedure, including the order of lifts, time required for each lift, and any repositioning or re-hitching of the crane or cranes.
- (6) Design and supporting calculations for the temporary support of components, including but not limited to the stability of the superstructure during the temporary condition, temporary girder tie-downs and falsework.

3. Overhead Demolition Debris Shield

- a. The demolition debris shield shall be installed prior to the demolition of the bridge deck or other relevant portions of the superstructure over the track area to catch all falling debris.
- b. The demolition debris shield shall provide a minimum vertical clearance as specified in Section 4.A.1 of these provisions or maintain the existing vertical clearance if the existing clearance is less than that specified in Section 4.A.1.
- c. The Contractor shall include the demolition debris shield installation/removal means and methods as part of the proposed Demolition procedure submission.
- d. The Contractor shall submit the demolition debris shield design and supporting calculations for approval by the Railroad Engineer.

- e. The demolition debris shield shall have a minimum design load of 50 pounds per square foot plus the weight of the equipment, debris, personnel, and other loads to be carried.
- f. The Contractor shall include the proposed bridge deck removal procedure in its demolition means and methods and shall verify that the size and quantity of the demolition debris generated by the procedure does not exceed the shield design loads.
- g. The Contractor shall clean the demolition debris shield daily or more frequently as dictated either by the approved design parameters or as directed by the Railroad Engineer.

4. Vertical Demolition Debris Shield

- a. A vertical demolition debris shield may be required for substructure removals in close proximity to the Railroad's track and other facilities, as determined by the Railroad Engineer.

G. Erection & Hoisting Procedures

1. General

- a. Erection plans are required for all spans over the track(s), for all spans adjacent to the track(s), if located on (or partially on) Railroad right-of-way; and in all situations where cranes will be situated on, over, or adjacent to Railroad right-of-way and within a distance of the boom length plus 15'-0" from the centerline of track.
- b. Railroad tracks and other Railroad property must be protected from damage during the erection procedure.
- c. A pre-erection meeting shall be conducted with the Sponsor, the Railroad Engineer or their representative, and the key Contractor's personnel prior to the start of the erection procedure.
- d. The Railroad Engineer or his designated representative must be present at the site during the entire erection procedure period.
- e. For field splices located over Railroad property, a minimum of 50% of the holes for each connection shall be filled with bolts or pins prior to releasing the crane. A minimum of 50% of the holes filled shall be filled with bolts. All bolts must be appropriately tightened. Any changes to previously approved field splice locations must be submitted to the Railroad for review and approval. Refer to Norfolk Southern's Overhead Grade Separation Design Criteria for additional splice details (Norfolk Southern Public Projects Manual Appendix H.1, Section 4.A.3.).

2. Submittal Requirements

- a. In addition the submittal requirements outlined in Section 5.A.2 of these provisions, the Contractor shall submit the following for approval by the Railroad Engineer:
- (1) As-built beam seat elevations - All as-built bridge seats and top of rail elevations shall be furnished to the Railroad Engineer for review and verification at least 30 days in advance of the erection, to ensure that minimum vertical clearances as approved in the plans will be achieved.
 - (2) A plan showing the location of cranes, horizontally and vertically, operating radii, with delivery or staging locations shown. The location of all tracks and other Railroad facilities as well as all obstructions such as wire lines, poles, adjacent structures, etc. must also be shown.
 - (3) Rating sheets showing cranes or lifting devices to be adequate for 150% of the actual weight of the pick, including all rigging components. A complete set of crane charts, including crane, counterweight, and boom nomenclature is to be submitted. Safety factors that may have been "built-in" to the crane charts are not to be considered when determining the 150% factor of safety.
 - (4) Plans and computations showing the weight of the pick must be submitted. Calculations shall be made from plans of the proposed structure showing complete and sufficient details with supporting data for the erection of the structure. If plans do not exist, lifting weights must be calculated from field measurements. The field measurements are to be made under the supervision of the Registered Professional Engineer submitting the procedure and calculations.
 - (5) The Contractor shall provide a sketch of all rigging components from the crane's hook block to the beam. Catalog cuts or information sheets of all rigging components with their lifting capacities shall be provided. All rigging must be adequate for 150% of the actual weight of the pick. Safety factors that may have been "built-in" to the rating charts are not to be considered when determining the 150% factor of safety. All rigging components shall be clearly identified and tagged with their rated lifting capacities. The position of the rigging in the field shall not differ from what is shown on the final plan without prior review from the Sponsor and the Railroad.
 - (6) A complete erection procedure, including the order of lifts, time required for each lift, and any repositioning or re-hitching of the crane or cranes.
 - (7) Design and supporting calculations for the temporary support of components, including but not limited to temporary girder tie-downs and falsework.

H. Blasting:

1. The Contractor shall obtain advance approval of the Railroad Engineer and the Sponsor Engineer for use of explosives on or adjacent to Railroad property. The request for permission to use explosives shall include a detailed blasting plan. If permission for use of explosives is granted, the Contractor will be required to comply with the following:
 - a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of the Contractor and a licensed blaster.
 - b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way radios.
 - c. No blasting shall be done without the presence of the Railroad Engineer or his authorized representative. At least 72 hours advance notice to the person designated in the Railroad's notice of authorization to proceed (see paragraph 2.B) will be required to arrange for the presence of an authorized Railroad representative and such flagging as the Railroad may require.
 - d. Have at the job site adequate equipment, labor and materials and allow sufficient time to clean up debris resulting from the blasting without delay to trains, as well as correcting at his expense any track misalignment or other damage to Railroad property resulting from the blasting as directed by the Railway's authorized representative. If his actions result in delay of trains, the Contractor shall bear the entire cost thereof.
 - e. The blasting Contractor shall have a copy of the approved blasting plan on hand while on the site.
 - f. Explosive materials or loaded holes shall not be left unattended at the blast site.
 - g. A seismograph shall be placed on the track shoulder adjacent to each blast which will govern the peak particle velocity of two inches per second. Measurement shall also be taken on the ground adjacent to structures as designated by a qualified and independent blasting consultant. The Railroad reserves the option to direct the placement of additional seismographs at structures or other locations of concern, without regard to scaled distance.
 - h. After each blast, the blasting Contractor shall provide a copy of their drill log and blast report, which includes number of holes, depth of holes, number of decks, type and pounds of explosives used per deck.
 - i. The Railroad may require top of rail elevations and track centers taken before, during and after the blasting and excavation operation to check for any track misalignment resulting from the Contractor's activities.

2. The Railroad representative will:
 - a. Determine approximate location of trains and advise the Contractor the appropriate amount of time available for the blasting operation and clean up.
 - b. Have the authority to order discontinuance of blasting if, in his opinion, blasting is too hazardous or is not in accord with these special provisions.
3. The Contractor must hire, at no expense to the Railroad, a qualified and independent blasting consultant to oversee the use of explosives. The blasting consultant will:
 - a. Review the Contractor's proposed drilling and loading patterns, and with the blasting consultant's personnel and instruments, monitor the blasting operations.
 - b. Confirm that the minimum amounts of explosives are used to remove the rock.
 - c. Be empowered to intercede if he concludes that the Contractor's blasting operations are endangering the Railway.
 - d. Submit a letter acknowledging that he has been engaged to oversee the entire blasting operation and that he approves of the blasting plan.
 - e. Furnish copies of all vibration readings to the Railroad representative immediately after each blast. The representative will sign and date the seismograph tapes after each shot to verify the readings are for that specific shot.
 - f. Advise the Railroad representative as to the safety of the operation and notify him of any modifications to the blasting operation as the work progresses.
4. The request for permission to use explosives on the Railroad's Right-of-Way shall include a blasting proposal providing the following details:
 - a. A drawing which shows the proposed blasting area, location of nearest hole and distance to Railway structures, all with reference to the centerline of track.
 - b. Hole diameter.
 - c. Hole spacing and pattern.
 - d. Maximum depth of hole.
 - e. Maximum number of decks per hole.
 - f. Maximum pounds of explosives per hole.
 - g. Maximum pounds of explosives per delay.
 - h. Maximum number of holes per detonation.

- i. Type of detonator and explosives to be used. (Electronic detonating devices will not be permitted). Diameter of explosives if different from hole diameter.
- j. Approximate dates and time of day when the explosives are to be detonated.
- k. Type of flyrock protection.
- l. Type and patterns of audible warning and all clear signals to be used before and after each blast.
- m. A copy of the blasting license and qualifications of the person directly in charge of the blasting operation, including their name, address and telephone number.
- n. A copy of the Authority's permit granting permission to blast on the site.
- o. A letter from the blasting consultant acknowledging that he has been engaged to oversee the entire blasting operation and that he approves of the blasting plan.
- p. In addition to the insurance requirements outlined in Paragraph 14 of these Provisions, A certificate of insurance from the Contractor's insurer stating the amount of coverage for XCU (Explosive Collapse and Underground Hazard) insurance and that XCU Insurance is in force for this project.
- q. A copy of the borings and Geotechnical information or report.

I. Track Monitoring

- 1. At the direction of the Railroad Engineer, any activity that has the potential to disturb the Railroad track structure may require the Contractor to submit a detailed track monitoring program for approval by the Railroad Engineer.
- 2. The program shall specify the survey locations, the distance between the location points, and frequency of monitoring before, during, and after construction. Railroad reserves the right to modify the survey locations and monitoring frequency as necessary during the project.
- 3. The survey data shall be collected in accordance with the approved frequency and immediately furnished to the Railroad Engineer for analysis.
- 4. If any movement has occurred as determined by the Railroad Engineer, the Railroad will be immediately notified. Railroad, at its sole discretion, shall have the right to immediately require all Contractor operations to be ceased and determine what corrective action is required. Any corrective action required by the Railroad or performed by the Railroad including the monitoring of corrective action of the Contractor will be at project expense.

J. Maintenance of Railroad Facilities:

- 1. The Contractor will be required to maintain all ditches and drainage structures free of silt or other obstructions which may result from his operations and provide and maintain any erosion control measures as required. The Contractor will promptly

repair eroded areas within Railroad rights-of-way and repair any other damage to the property of the Railroad or its tenants.

2. If, in the course of construction, it may be necessary to block a ditch, pipe or other drainage facility, temporary pipes, ditches or other drainage facilities shall be installed to maintain adequate drainage, as approved by the Railroad Engineer. Upon completion of the work, the temporary facilities shall be removed and the permanent facilities restored.
3. All such maintenance and repair of damages due to the Contractor's operations shall be done at the Contractor's expense.

K. Storage of Materials and Equipment:

1. Materials and equipment shall not be stored where they will interfere with Railroad operations, nor on the rights-of-way of the Railroad without first having obtained permission from the Railroad Engineer, and such permission will be with the understanding that the Railroad will not be liable for damage to such material and equipment from any cause and that the Railroad Engineer may move or require the Contractor to move, at the Contractor's expense, such material and equipment.
2. All grading or construction machinery that is left parked near the track unattended by a watchman shall be effectively immobilized so that it cannot be moved by unauthorized persons. The Contractor shall protect, defend, indemnify and save Railroad, and any associated, controlled or affiliated corporation, harmless from and against all losses, costs, expenses, claim or liability for loss or damage to property or the loss of life or personal injury, arising out of or incident to the Contractor's failure to immobilize grading or construction machinery.

L. Cleanup:

1. Upon completion of the work, the Contractor shall remove from within the limits of the Railroad rights-of-way, all machinery, equipment, surplus materials, falsework, rubbish or temporary buildings of the Contractor, and leave said rights-of-way in a neat condition satisfactory to the Railroad Engineer or his authorized representative.

6. DAMAGES:

- A. The Contractor shall assume all liability for any and all damages to his work, employees, servants, equipment and materials caused by Railroad traffic.
- B. Any cost incurred by the Railroad for repairing damages to its property or to property of its tenants, caused by or resulting from the operations of the Contractor, shall be paid directly to the Railroad by the Contractor.

7. FLAGGING SERVICES:

A. Requirements:

1. Flagging services will not be provided until the Contractor's insurance has been reviewed & approved by the Railroad.

2. Under the terms of the agreement between the Sponsor and the Railroad, the Railroad has sole authority to determine the need for flagging required to protect its operations. In general, the requirements of such services will be whenever the Contractor's personnel or equipment are or are likely to be, working on the Railroad's right-of-way, or across, over, adjacent to, or under a track, or when such work has disturbed or is likely to disturb a Railroad structure or the Railroad roadbed or surface and alignment of any track to such extent that the movement of trains must be controlled by flagging.
3. Normally, the Railroad will assign one flagman to a project; but in some cases, more than one may be necessary, such as yard limits where three (3) flagmen may be required. However, if the Contractor works within distances that violate instructions given by the Railroad's authorized representative or performs work that has not been scheduled with the Railroad's authorized representative, a flagman or flagmen may be required full time until the project has been completed.
4. For Projects exceeding 30 days of construction, Contractor shall provide the flagmen a small work area with a desk/counter and chair within the field/site trailer, including the use of bathroom facilities, where the flagman can check in/out with the Project, as well as to the flagman's home terminal. The work area should provide access to two (2) electrical outlets for recharging radio(s), and a laptop computer; and have the ability to print off needed documentation and orders as needed at the field/site trailer. This should aid in maximizing the flagman's time and efficiency on the Project.

B. Scheduling and Notification:

1. The Contractor's work requiring Railroad flagging should be scheduled to limit the presence of a flagman at the site to a maximum of 50 hours per week. The Contractor shall receive Railroad approval of work schedules requiring a flagman's presence in excess of 40 hours per week.
2. Not later than the time that approval is initially requested to begin work on Railroad right-of-way, Contractor shall furnish to the Railroad and the Sponsor a schedule for all work required to complete the portion of the project within Railroad right-of-way and arrange for a job site meeting between the Contractor, the Sponsor, and the Railroad's authorized representative. Flagman or Flagmen may not be provided until the job site meeting has been conducted and the Contractor's work scheduled.
3. The Contractor will be required to give the Railroad representative at least 10 working days of advance written notice of intent to begin work within Railroad right-of-way in accordance with this special provision. Once begun, when such work is then suspended at any time, or for any reason, the Contractor will be required to give the Railroad representative at least 3 working days of advance notice before resuming work on Railroad right-of-way. Such notices shall include sufficient details of the proposed work to enable the Railroad representative to determine if flagging will be required. If such notice is in writing, the Contractor shall furnish the Engineer a copy; if notice is given verbally, it shall be confirmed in writing with copy to the Engineer. If flagging is required, no work shall be undertaken until the flagman, or flagmen are present at the job site. It may take up to 30 days to obtain flagging initially from the Railroad. When flagging begins, the flagman is usually assigned by the Railroad to work at the project site on a continual basis until no longer

needed and cannot be called for on a spot basis. If flagging becomes unnecessary and is suspended, it may take up to 30 days to again obtain from the Railroad. Due to Railroad labor agreements, it is necessary to give 5 working days notice before flagging service may be discontinued and responsibility for payment stopped.

4. If, after the flagman is assigned to the project site, an emergency arises that requires the flagman's presence elsewhere, then the Contractor shall delay work on Railroad right-of-way until such time as the flagman is again available. Any additional costs resulting from such delay shall be borne by the Contractor and not the Sponsor or Railroad.

C. Payment:

1. The Sponsor will be responsible for paying the Railroad directly for any and all costs of flagging which may be required to accomplish the construction.
2. The estimated cost of flagging is the current rate per day based on a 10-hour work day. This cost includes the base pay for the flagman, overhead, and includes a per diem charge for travel expenses, meals and lodging. The charge to the Sponsor by the Railroad will be the actual cost based on the rate of pay for the Railroad's employees who are available for flagging service at the time the service is required.
3. Work by a flagman in excess of 8 hours per day or 40 hours per week, but not more than 12 hours a day will result in overtime pay at 1 and 1/2 times the appropriate rate. Work by a flagman in excess of 12 hours per day will result in overtime at 2 times the appropriate rate. If work is performed on a holiday, the flagging rate is 2 and 1/2 times the normal rate.
4. Railroad work involved in preparing and handling bills will also be charged to the Sponsor. Charges to the Sponsor by the Railroad shall be in accordance with applicable provisions of Subchapter B, Part 140, Subpart I and Subchapter G, Part 646, Subpart B of the Federal-Aid Policy Guide issued by the Federal Highway Administration on December 9, 1991, including all current amendments. Flagging costs are subject to change. The above estimates of flagging costs are provided for information only and are not binding in any way.

D. Verification:

1. Railroad's flagman will electronically enter flagging time via Railroad's electronic billing system. Any complaints concerning flagging must be resolved in a timely manner. If the need for flagging is questioned, please contact the Railroad Engineer. All verbal complaints will be confirmed in writing by the Contractor within 5 working days with a copy to the Sponsor's Engineer. Address all written correspondence electronically to Railroad Engineer.
2. The Railroad flagman assigned to the project will be responsible for notifying the Sponsor Engineer upon arrival at the job site on the first day (or as soon thereafter as possible) that flagging services begin and on the last day that he performs such services for each separate period that services are provided. The Sponsor's Engineer will document such notification in the project records. When requested, the Sponsor's Engineer will also sign the flagman's diary showing daily time spent and activity at the project site.

8. HAUL ACROSS RAILROAD TRACK:

- A. Where the plans show or imply that materials of any nature must be hauled across Railroad's track, unless the plans clearly show that the Sponsor has included arrangements for such haul in its agreement with the Railroad, the Contractor will be required to make all necessary arrangements with the Railroad regarding means of transporting such materials across the Railroad's track. The Contractor or Sponsor will be required to bear all costs incidental to such crossings whether services are performed by his own forces or by Railroad personnel.
- B. No crossing may be established for use of the Contractor for transporting materials or equipment across the tracks of the Railroad unless specific authority for its installation, maintenance, necessary watching and flagging thereof and removal, until a temporary private crossing agreement has been executed between the Contractor and Railroad. The approval process for an agreement normally takes 90 days.

9. WORK FOR THE BENEFIT OF THE CONTRACTOR:

- A. All temporary or permanent changes in wire lines or other facilities which are considered necessary to the project are shown on the plans; included in the force account agreement between the Sponsor and the Railroad or will be covered by appropriate revisions to same which will be initiated and approved by the Sponsor and/or the Railroad.
- B. Should the Contractor desire any changes in addition to the above, then he shall make separate arrangements with the Railroad for same to be accomplished at the Contractor's expense.

10. COOPERATION AND DELAYS:

- A. It shall be the Contractor's responsibility to arrange a schedule with the Railroad for accomplishing stage construction involving work by the Railroad or tenants of the Railroad. In arranging his schedule he shall ascertain, from the Railroad, the lead time required for assembling crews and materials and shall make due allowance therefore.
- B. No charge or claim of the Contractor against either the Sponsor or the Railroad will be allowed for hindrance or delay on account of railroad traffic; any work done by the Railroad or other delay incident to or necessary for safe maintenance of railroad traffic or for any delays due to compliance with these special provisions.

11. TRAINMAN'S WALKWAYS:

- A. Along the outer side of each exterior track of multiple operated track, and on each side of single operated track, an unobstructed continuous space suitable for trainman's use in walking along trains, extending to a line not less than 10 feet from centerline of track, shall be maintained. Any temporary impediments to walkways and track drainage encroachments or obstructions allowed during work hours while Railroad's protective service is provided shall be removed before the close of each work day. If there is any excavation near the walkway, a handrail, with 10'-0" minimum clearance from centerline of track, shall be placed and must conform to AREMA and/or FRA standards.

12. GUIDELINES FOR PERSONNEL ON RAILROAD RIGHT-OF-WAY:

- A. The Contractor and/or the Sponsor's personnel authorized to perform work on Railroad's property as specified in Section 2 above are not required to complete Norfolk Southern Roadway

Worker Protection Training; However the Contractor and the Sponsor's personnel must be familiar with Norfolk Southern's standard operating rules and guidelines, should conduct themselves accordingly, and may be removed from the property for failure to follow these guidelines.

- B. All persons shall wear hard hats. Appropriate eye and hearing protection must be used. Working in shorts is prohibited. Shirts must cover shoulders, back and abdomen. Working in tennis or jogging shoes, sandals, boots with high heels, cowboy and other slip-on type boots is prohibited. Hard-sole, lace-up footwear, zippered boots or boots cinched up with straps which fit snugly about the ankle are adequate. Wearing of safety boots is strongly recommended. In the vicinity of at-grade crossings, it is strongly recommended that reflective vests be worn.
- C. No one is allowed within 25' of the centerline of track without specific authorization from the flagman.
- D. All persons working near track while train is passing are to lookout for dragging bands, chains and protruding or shifted cargo.
- E. No one is allowed to cross tracks without specific authorization from the flagman.
- F. All welders and cutting torches working within 25' of track must stop when train is passing.
- G. No steel tape or chain will be allowed to cross or touch rails without permission from the Railroad.

13. GUIDELINES FOR EQUIPMENT ON RAILROAD RIGHT-OF-WAY:

- A. No crane or boom equipment will be allowed to set up to work or park within boom distance plus 15' of centerline of track without specific permission from Railroad official and flagman.
- B. No crane or boom equipment will be allowed to foul track or lift a load over the track without flag protection and track time.
- C. All employees will stay with their machines when crane or boom equipment is pointed toward track.
- D. All cranes and boom equipment under load will stop work while train is passing (including pile driving).
- E. Swinging loads must be secured to prevent movement while train is passing.
- F. No loads will be suspended above a moving train.
- G. No equipment will be allowed within 25' of centerline of track without specific authorization of the flagman.
- H. Trucks, tractors or any equipment will not touch ballast line without specific permission from Railroad official and flagman. Orange construction fencing may be required as directed.
- I. No equipment or load movement within 25' or above a standing train or Railroad equipment without specific authorization of the flagman.

- J. All operating equipment within 25' of track must halt operations when a train is passing. All other operating equipment may be halted by the flagman if the flagman views the operation to be dangerous to the passing train.
- K. All equipment, loads and cables are prohibited from touching rails.
- L. While clearing and grubbing, no vegetation will be removed from Railroad embankment with heavy equipment without specific permission from the Railroad Engineer and flagman.
- M. No equipment or materials will be parked or stored on Railroad's property unless specific authorization is granted from the Railroad Engineer.
- N. All unattended equipment that is left parked on Railroad property shall be effectively immobilized so that it cannot be moved by unauthorized persons.
- O. All cranes and boom equipment will be turned away from track after each work day or whenever unattended by an operator.
- P. Prior to performing any crane operations, the Contractor shall establish a single point of contact for the Railroad flagman to remain in communication with at all times. Person must also be in direct contact with the individual(s) directing the crane operation(s).

14. INSURANCE:

- A. In addition to any other forms of insurance or bonds required under the terms of the contract and specifications, the Prime Contractor will be required to carry insurance of the following kinds and amounts:
 - 1. a. Commercial General Liability Insurance having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorneys' fees, arising out of bodily injury liability and property damage liability during the policy period. Said policy shall include explosion, collapse, and underground hazard (XCU) coverage, shall be endorsed to name Railroad specified in item A.2.c. below both as the certificate holder and as an additional insured, and shall include a severability of interests provision.
 - b. Automobile Liability Insurance with a combined single limit of not less than \$1,000,000 each occurrence for injury to or death of persons and damage to or loss or destruction of property. Said policy or policies shall be endorsed to name Railroad specified in item A.2.c. below both as the certificate holder and as an additional insured and shall include a severability of interests provision.
 - 2. Railroad Protective Liability Insurance having a combined single limit of not less than \$2,000,000 each occurrence and \$6,000,000 in the aggregate applying separately to each annual period. If the project involves track over which passenger trains operate, the insurance limits required are not less than a combined single limit of \$5,000,000 each occurrence and \$10,000,000 in the aggregate applying separately to each annual period. Said policy shall provide coverage for all loss, damage or expense arising from bodily injury and property damage liability, and physical damage to property attributed to acts or omissions at the job site.

The standards for the Railroad Protective Liability Insurance are as follows:

- a. The insurer must be rated A- or better by A.M. Best Company, Inc.
NOTE: NS does not accept from insurers Chartis (AIG or Affiliated Company including Lexington Insurance Company), Hudson Group or Liberty or Affiliated Company, American Contractors Insurance Company and Erie Insurance Company including Erie Insurance Exchange and Erie Indemnity Company.

- b. The policy must be written using one of the following combinations of Insurance Services Office ("ISO") Railroad Protective Liability Insurance Form Numbers:

- (1) CG 00 35 01 96 and CG 28 31 10 93; or
- (2) CG 00 35 07 98 and CG 28 31 07 98; or
- (3) CG 00 35 10 01; or
- (4) CG 00 35 12 04; or
- (5) CG 00 35 12 07; or
- (6) CG 00 35 04 13.

- c. The named insured shall read:

Norfolk Southern Corporation and its subsidiaries
Three Commercial Place
Norfolk, Virginia 23510-2191
Attn: Risk Manager

(NOTE: Railroad does not share coverage on RRPL with any other entity on this policy)

- d. The description of operations must appear on the Declarations, must match the project description in this agreement, and must include the appropriate Sponsor project and contract identification numbers.
- e. The job location must appear on the Declarations and must include the city, state, and appropriate highway name/number. **NOTE: Do not include any references to milepost, valuation station, or mile marker on the insurance policy.**
- f. The name and address of the prime Contractor must appear on the Declarations.
- g. The name and address of the Sponsor must be identified on the Declarations as the "Involved Governmental Authority or Other Contracting Party."
- h. Endorsements/forms that are required are:
- (1) Physical Damage to Property Amendment
 - (2) Terrorism Risk Insurance Act (TRIA) coverage must be included
- i. Other endorsements/forms that will be accepted are:

- (1) Broad Form Nuclear Exclusion – Form IL 00 21
- (2) 30-day Advance Notice of Non-renewal or cancellation
- (3) Required State Cancellation Endorsement
- (4) Quick Reference or Index Form CL/IL 240

- j. Endorsements/forms that are NOT acceptable are:
- (1) Any Pollution Exclusion Endorsement except CG 28 31
 - (2) Any Punitive or Exemplary Damages Exclusion
 - (3) Known injury or Damage Exclusion form CG 00 59
 - (4) Any Common Policy Conditions form
 - (5) An Endorsement that limits or excludes Professional Liability coverage
 - (6) A Non-Cumulation of Liability or Pyramiding of Limits Endorsement
 - (7) An Endorsement that excludes TRIA coverage
 - (8) A Sole Agent Endorsement
 - (9) Any type of deductible endorsement or amendment
 - (10) Any other endorsement/form not specifically authorized in item no. 2.h above.

- B. If any part of the work is sublet, similar insurance, and evidence thereof as specified in A.1 above, shall be provided by or on behalf of the subcontractor to cover its operations on Railroad's right of way.
- C. All insurance required under the preceding subsection A shall be underwritten by insurers and be of such form and content, as may be acceptable to the Company. Prior to entry on Railroad right-of-way, the original electronic Railroad Protective Liability Insurance Policy shall be submitted by the Prime Contractor to the Department at the address below for its review and transmittal to the Railroad. In addition, certificates of insurance evidencing the Prime Contractor's and any subcontractors' Commercial General Liability Insurance shall be issued to the Railroad and the Department at the addresses below, and forwarded to the Department for its review and transmittal to the Railroad. The certificates of insurance shall state that the insurance coverage will not be suspended, voided, canceled, or reduced in coverage or limits without (30) days advance written notice to Railroad and the Department. No work will be permitted by Railroad on its right-of-way until it has reviewed and approved the evidence of insurance required herein.

SPONSOR:

RAILROAD:

Risk Management
Norfolk Southern Corporation and its subsidiaries
Three Commercial Place
Norfolk, Virginia 23510-2191
NSRISK3@NSCORP.COM

- D. The insurance required herein shall in no way serve to limit the liability of Sponsor or its Contractors under the terms of this agreement.
- E. Insurance Submission Procedures
1. Railroad will only accept initial insurance submissions via email to NSRISK3@NSCORP.COM. Railroad will NOT accept initial insurance submissions via hard copies that would be sent either US Mail or Overnight carrier or faxes as only

EXHIBIT B

CONTRACTOR WORKING ON BEHALF OF PROJECT SPONSOR
COSTS REIMBURSED BY PROJECT SPONSOR
NS FILE: CX1113587

THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY
CONTRACTOR RIGHT OF ENTRY AGREEMENT

WHEREAS, _____ (“Principal”) has requested that The Cincinnati, New Orleans and Texas Pacific Railway Company (“Company”) permit Principal to be on or about Company’s premises and/or facilities at or in the vicinity of the industry track off of Company mainline at approximate milepost 0.50-M at or near Chattanooga, Hamilton County, Tennessee (the “Premises”) for the sole purpose of constructing a new trail adjacent to existing roadways and across Manufacturers Road and Hamm Road (DOT#s 736940Y & 736942M), on behalf of the City of Chattanooga, Tennessee (the “Project Sponsor”) during the period _____, 20____, to _____, 20____ (the “Right of Entry”).

WHEREAS, Company is willing to grant the Right of Entry subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereby agree as follows.

Company hereby grants Principal the Right of Entry. The Right of Entry shall extend to Principal and to subcontractors and other entities affiliated with Principal who are specifically approved for entry by authorized representatives of Company in writing, as well as to the officers and employees of the foregoing (collectively “Licensees”). The Right of Entry shall apply to those portions of the Premises, and to such equipment, machinery, rolling stock and other personal property and fixtures belonging to Company or otherwise located on the Premises, only to the extent specifically designated and approved in writing by authorized representatives of Company (collectively, “Designated Property”).

Principal agrees:

- (i) that Licensees’ access to the Premises shall be limited to the Designated Property and that Principal shall be liable and fully responsible for all actions of Licensees while on the Premises pursuant to the Right of Entry;
- (ii) that Licensees shall (a) be subject to Company’s direction when upon the Premises, and (b) be subject to Company’s removal from the Premises, in Company’s sole discretion, due to negligence, misconduct, unsafe actions, breach of this agreement or the failure to act respectfully, responsibly, professionally, and/or in a manner consistent with Company’s desire to minimize risk and maintain its property with maximum security and minimum distractions or disruptions or for any other lawful reason;
- (iii) that Licensees shall perform all work with such care, diligence and cooperation with Company personnel as to reasonably avoid accidents, damage or harm to persons or property and delays or interference with the operations of any Company’s facilities and in accordance with Company’s “Special Provisions for Protection of Railway Interest”, attached and incorporated herein.
- (iv) to give Company’s officer signing this agreement, or his or her authorized representative, advance notification of the presence of Licensees on Designated Property in accordance with Company’s “Special Provisions for Protection of Railway Interest”;
- (v) to indemnify and save harmless Company, its officers, agents and employees from and against any and all claims, demands, losses, suits, judgments, costs, expenses (including without limitation reasonable attorney’s fees) and liability resulting from (a) injury to or death of any person, including without limitation the Licensees, and damage to or loss of any property, including without limitation that belonging to or in the custody of Licensees

EXHIBIT B

CONTRACTOR WORKING ON BEHALF OF PROJECT SPONSOR
COSTS REIMBURSED BY PROJECT SPONSOR
NS FILE: CX1113587

- (the "Licensee Property"), arising or in any manner growing out of the presence of either the Licensees or the Licensee Property, or both, on or about the Premises, regardless of whether negligence on the part of Company, its officers, agents or employees caused or contributed to said loss of life, personal injury or property loss or damage in whole or in part; (b) any alleged violation of any law, statute, code, ordinance or regulation of the United States or of any state, county or municipal government (including, without limitation, those relating to air, water, noise, solid waste and other forms of environmental protection, contamination or pollution or to discrimination on any basis) that results in whole or in part, directly or indirectly, from the activities of Licensees related in any way to their presence on the Premises or from any other act or omission of Licensees contributing to such violation, regardless of whether such activities, acts or omissions are intentional or negligent, and regardless of any specification by Company without actual knowledge that it might violate any such law, statute, code, ordinance or regulation; (c) any allegation that Company is an employer or joint employer of a Licensee or is liable for related employment benefits or tax withholdings; or (d) any decision by Company to bar or exclude a Licensee from the Premises pursuant to subsection (ii)(b) above;
- (vi) to have and keep in effect the appropriate kinds of insurance as listed in the Company's "Special Provisions for Protection of Railway Interest, with insurance companies satisfactory to Company, during the entire time Licensees or Licensee Property, or both, is on the Premises: and to provide certificates of insurance showing the foregoing coverage, as well as any endorsements or other proper documentation showing and any change or cancellations in the coverage to the Company officer signing this agreement or to his or her authorized representative;
 - (vii) to reimburse Company for any costs not covered under the existing project agreement between the Company and the Project Sponsor, including any material, labor, supervisory and protective costs (including flagging) and related taxes and overhead expenses required or deemed necessary by Company because of the presence of either Licensees or Licensee Property on the Premises;
 - (viii) to exercise special care and precautions to protect the Premises and equipment, machinery, rolling stock and other personal property and fixtures belonging to Company or otherwise located on the Premises (whether or not constituting Designated Property) and to avoid interference with Company's operations;
 - (ix) to not create and not allow drainage conditions which would be adverse to the Premises or any surrounding areas;
 - (x) to refrain from the disposal or release of any trash, waste, and hazardous, dangerous or toxic waste, materials or substances on or adjacent to the Premises and to clean up or to pay Company for the cleanup of any such released trash, waste, materials or substances; and
 - (xi) to restore the Premises and surrounding areas to its original condition or to a condition satisfactory to the Company officer signing this agreement or to his or her authorized representative (ordinary wear and tear to rolling stock and equipment excepted) upon termination of Licensees' presence on the Premises.

As a part of the consideration hereof, Principal further hereby agrees that Company shall mean not only The Cincinnati, New Orleans and Texas Pacific Railway Company but also Norfolk Southern Corporation and any and all subsidiaries and affiliates of The Cincinnati, New Orleans and Texas Pacific Railway Company or Norfolk Southern Corporation, and that all of Principal's indemnity commitments in this agreement in favor of Company also shall extend to and indemnify Norfolk Southern Corporation and any subsidiaries and affiliated companies of The Cincinnati, New Orleans and Texas Pacific Railway Company or Norfolk Southern Corporation and its and/or their directors, officers, agents and employees.

EXHIBIT B

It is expressly understood that the indemnification obligations set forth herein cover claims by Principal's employees, agents, independent contractors and other representatives, and Principal expressly waives any defense to or immunity from such indemnification obligations and/or any subrogation rights available under any applicable state constitutional provision, laws, rules or regulations, including, without limitation, the workers' compensation laws of any state. Specifically, (i) in the event that all or a portion of the Premises is located in the State of Ohio, the following provision shall be applicable: "Principal, with respect to the indemnification provisions contained herein, hereby expressly waives any defense or immunity granted or afforded it pursuant to Section 35, Article II of the Ohio Constitution and Section 4123.74 of the Ohio Revised Code"; and (ii) in the event that all or a portion of the Premises is located in the Commonwealth of Pennsylvania, the following provision shall be applicable: "Principal, with respect to the indemnification provisions contained herein, hereby expressly waives any defense or immunity granted or afforded it pursuant to the Pennsylvania Workers' Compensation Act, 77 P.S. 481".

This agreement shall be governed by the internal laws of the Commonwealth of Virginia, without regard to otherwise applicable principles of conflicts of laws. If any of the foregoing provisions is held for any reason to be unlawful or unenforceable, the parties intend that only the specific words found to be unlawful or unenforceable be severed and deleted from this agreement and that the balance of this agreement remain a binding enforceable agreement to the fullest extent permitted by law.

This agreement may be amended only in a writing signed by authorized representatives of the parties.

_____	THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY
Name of Principal	
By _____	By _____
Title _____	Title _____
Date _____, 20____	Date _____, 20____

SECTION 00201

CONTRACTOR'S IDENTIFICATION
(ALL BLANKS MUST BE FILLED. USE N/A AS NECESSARY)

This form shall be attached to the sealed envelope containing the Bid. All prime contractors and contractors for electrical, plumbing, and heating, ventilation, and air conditioning contracts for bids of \$25,000 or more and/or masonry items for \$100,000 or more are required to complete this form pursuant to TCA 62-6-119. Failure to provide all of this information on the sealed envelope shall be considered a non-responsive Bid and shall not be opened or shall automatically disqualify such bid.

BIDDER:

Complete the following for all applicable Electrical, Plumbing and Heating, Ventilation, and Air Conditioning Subcontractors: Prime Contractor must fill in space below when performing Electrical, Plumbing, or Heating, Ventilation, and Air Conditioning Sub-Contractor work for any bids of \$25,000 or more and/or masonry items for \$100,000 or more:

Name: _____

Address: _____

Subcontractor: _____

If TaxID Number (TIN) issued, list below. Otherwise, list Owner's Social Security Number (SSN).

TaxID Number: _____

Subcontractor: _____

Subcontractor: _____

I acknowledge receipt of the following Addendums:

- Addendum 1
- Addendum 2
- Addendum 3
- Addendum 4
- Addendum 5

CITY OF CHATTANOOGA

SEALED BID PROPOSAL FOR :

Purchasing Department
101 E. 11th Street, Suite G13
Chattanooga, Tennessee 37402

CONTRACT NAME Lake Resort Drive - Bridge
Construction

Contract Number: T-19-005-001
TDOT PIN 129441.04

LOCATION: City Hall, Purchasing Department
101 E. 11th Street
Suite G13
Chattanooga, TN 37402

DATE: Tuesday, November 15, 2022
TIME: 2:00 p.m. (Local Time)