

County Counterpart ³²

UP Real Estate Folder No.: 2724-86
Agreement Number _____

PUBLIC HIGHWAY OVERPASS AGREEMENT

SH-99 (Grand Parkway) Overpass - DOT No. 440-717F
Railroad Mile Post 27.79 - Glidden Subdivision
Sugar Land, Fort Bend County, Texas

THIS AGREEMENT ("Agreement") is made and entered into as of the 28th
day of August, 2012 ("Effective Date"), by and between **UNION PACIFIC
RAILROAD COMPANY**, a Delaware corporation ("Railroad"); **FORT BEND GRAND
PARKWAY TOLL ROAD AUTHORITY** ("Authority") and **COUNTY OF FORT BEND**
("County"), each a "Party" and collectively, the "Parties".

RECITALS:

A. On May 12, 2011, the State of Texas, Texas Department of Transportation (the "State") and the Authority entered into a Right of Use Agreement for a Local Toll Project Entity's Use of State Highway Right of Way agreement (the "State/Authority Agreement") providing for the Authority to design, construct, operate and maintain the SH 99/Grand Parkway, Segment D highway mainline structure on behalf of the State.

B. Pursuant to the State/Authority Agreement described in Paragraph A above, the Authority desires to undertake as its project (the "Project") the construction of a new grade separated toll road crossing overpass structure (the "Structure") that will carry vehicular traffic traversing on SH-99 (Grand Parkway) over Railroad's tracks and property at Railroad Mile Post 27.79 (DOT No. 440-717F), on the Railroad's Glidden Subdivision at Sugar Land, Fort Bend County, Texas (the "Crossing Area"). The location of the Crossing Area is shown on the Railroad's print marked **Exhibit A**, attached hereto and made a part hereof.

C. The Railroad and the Authority are entering into this Agreement to cover the above.

10/3/12 3 originals returned to Donna at County Judge

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

Section 1. EXHIBIT B

The general terms and conditions marked **Exhibit B** are attached hereto and hereby made a part hereof.

Section 2. REAL ESTATE DOCUMENTS

Within fifteen (15) days after both parties approve surveys and legal descriptions to be prepared by the Authority, at its expense, (i) the Railroad shall execute and deliver a Grant of Aerial Easement to the Authority in the form marked **Exhibit D**, attached hereto and hereby made a part hereof, and (ii) the Authority shall execute and deliver to the Railroad the Encroachment Agreement marked **Exhibit E**, attached hereto and hereby made a part hereof.

Section 3. DEFINITION OF CONTRACTOR

For purposes of this Agreement the term "Contractor" shall mean the contractor or contractors hired by the Authority to perform any Project work on any portion of the Railroad's property and shall also include the Contractor's subcontractors and the Contractor's and subcontractor's respective employees, officers and agents, and others acting under its or their authority.

Section 4. CONTRACTOR'S RIGHT OF ENTRY AGREEMENT - INSURANCE

A. Prior to Contractor performing any work within the Crossing Area involving the Project, and any subsequent maintenance or repair work, the Authority shall require the Contractor to:

- execute the Railroad's then current Contractor's Right of Entry Agreement
- obtain the then current insurance required in the Contractor's Right of Entry Agreement; and
- provide such insurance policies, certificates, binders and/or endorsements to the Railroad.

B. The Railroad's current Contractor's Right of Entry Agreement is marked **Exhibit C**, attached hereto and hereby made a part hereof. The Authority confirms that it will inform its Contractor that it is required to execute such form of agreement and obtain the required insurance before commencing any work on any Railroad property. Under no circumstances will the Contractor be allowed on the Railroad's property without first executing the Railroad's Contractor's Right of Entry Agreement and obtaining the insurance

set forth therein and also providing to the Railroad the insurance policies, binders, certificates and/or endorsements described therein.

C. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Senior Manager - Contracts
Union Pacific Railroad Company
Real Estate Department
1400 Douglas Street, Mail Stop 1690
Omaha, NE 68179-1690
UP File Folder No. 2724-86

D. If the Authority is self insured, the Railroad confirms that it may self insure all risks involving the Authority's own employees entering the Railroad's property in connection with this Project.

Section 5. FEDERAL AID POLICY GUIDE

If the Authority will be receiving any federal funding for the Project the current rules, regulations and provisions of the Federal Aid Policy Guide as contained in 23 CFR 140, Subpart I and 23 CFR 646, Subparts A and B are incorporated into this Agreement by reference.

Section 6. NO PROJECT EXPENSES TO BE BORNE BY RAILROAD

Except as set forth in Section 7, the Authority agrees that no Project costs and expenses are to be borne by the Railroad. In addition, the Railroad is not required to contribute any funding for the Project except as provided in the Joint Project Agreement defined below.

Section 7. WORK TO BE PERFORMED BY RAILROAD; BILLING TO AUTHORITY; AUTHORITY'S PAYMENT OF BILLING

A. The Railroad, at its expense, shall provide engineering design review and inspection services involving the construction of the highway overpass Structure.

B. The Railroad, at Authority's expense, shall provide flagging that is needed for the construction of the highway overpass Structure.

C. The Railroad's Estimate is dated August 16, 2012, and marked **Exhibit F**, attached hereto and hereby made a part hereof. The Authority confirms that Railroad's flagging estimate is based on an estimated number of flagging days as provided by the Authority and that the Railroad's billing for flagging shall be the actual flagging costs incurred by the Railroad for this highway overpass Project. The Authority also confirms that the Railroad's daily flagging rate may change during the course of the Project.

D. The Railroad shall send progressive billing to the Authority during the Project and final billing to the Authority within one hundred eighty (180) days after receiving written notice from the Authority that all Project work affecting the Railroad's property has been completed.

E. The Authority agrees to reimburse the Railroad within thirty (30) days of its receipt of billing from the Railroad for one hundred percent (100%) of all actual costs incurred by the Railroad involving flagging for this highway overpass Project including Railroad's standard additive rates.

Section 8. PLANS

A. The Authority, at its expense, shall prepare, or cause to be prepared by others the final detailed plans and specifications for the Project and the Structure and shall submit such plans and specifications to the Railroad's Assistant Vice President Engineering Design, or his authorized representative, for prior review and approval. The plans and specifications shall include all appurtenances, associated drainage, shoring, sheeting and excavations for bents and/or abutments next to or adjacent to the Railroad's tracks.

B. The Authority submitted to the Railroad the final one hundred percent (100%) completed plans and specifications for the Project and the Structure. The front page of the final plans, the index sheets and the general profile sheets of the northbound and southbound portions of the Structure and the Railroad Requirements for Bridge Construction are marked **Exhibit G**, attached hereto and hereby made a part hereof. As noted on the Exhibit G prints, the plan prints have been prepared by LJA Engineering, Inc. and approved by Tanya Fox Linquist, P.E. for LJA Engineering, Inc. on May 25, 2012, and show the concurrence of the Texas Department of Transportation on June 13, 2012 and June 14, 2012, and the concurrence of the Authority on July 10, 2012. The Railroad has provided its written approval of such final plans to the Authority and such final plans are referred to in this Agreement as the "Plans" and the Plans are hereby made a part of this Agreement by reference.

C. No changes in the Plans shall be made unless the Railroad has consented to such changes in writing.

D. Upon completion of the Structure, the Authority, at its expense, shall furnish to the Railroad two (2) sets of reproducible "as constructed" Plans of the Structure.

E. The Railroad's review and approval of the Plans in no way relieves the Authority or the Contractor from their responsibilities, obligations and/or liabilities under this Agreement, and will be given with the understanding that the Railroad makes no representations or warranty as to the validity, accuracy, legal compliance or completeness of the Plans and that any reliance by the Authority or Contractor on the Plans is at the risk of the Authority and Contractor.

Section 9. NON-RAILROAD IMPROVEMENTS

A. Plans and specifications for protecting, encasing, reinforcing, relocation, replacing, removing and abandoning in place all non-railroad owned facilities (the "Non Railroad Facilities") affected by the Project including, without limitation, utilities, fiber optics, pipelines, wirelines, communication lines and fences shall comply with Railroad's standard specifications and requirements, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines. Railroad has no obligation to supply additional land for any Non Railroad Facilities and does not waive its right to assert preemption defenses, challenge the right-to-take, or pursue compensation in any condemnation action, regardless if the submitted Non Railroad Facilities plans and specifications comply with Railroad's standard specifications and requirements. Railroad has no obligation to permit any Non Railroad Facilities to be abandoned in place or relocated on Railroad's property.

B. Upon Railroad's approval of submitted Non Railroad Facilities plans and specifications, Railroad will attempt to incorporate them into new agreements or supplements of existing agreements with Non Railroad Facilities owners or operators. Railroad may use its standard terms and conditions, including, without limitation, its standard license fee and administrative charges when requiring supplements or new agreements for Non Railroad Facilities. Non Railroad Facilities work shall not commence before a supplement or new agreement has been fully executed by Railroad and the Non Railroad Facilities owner or operator, or before Railroad and Authority mutually agree in writing that such plans are acceptable.

Section 10. RAILROAD'S COORDINATION REQUIREMENTS

The Political Body, at its expense, shall ensure that the Contractor complies with all of the Construction Notes set forth in the Railroad's Requirements For Bridge Construction that are a part of the Exhibit A-1 Plans, hereto attached, and other special guidelines and/or requirements that the Railroad may provide to the Political Body for this Project.

Section 11. EFFECTIVE DATE; TERM; TERMINATION

A. This Agreement is effective as of the Effective Date first herein written and shall continue in full force and effect for as long as the Structure remains on the Railroad's property.

B. The Railroad, if it so elects, may terminate this Agreement effective upon delivery of written notice to the Authority in the event the Authority does not commence construction on the portion of the Project located on the Railroad's property within twelve (12) months from the Effective Date.

C. If the Agreement is terminated as provided above, or for any other reason, the Authority shall pay to the Railroad all actual costs for services provided by the Railroad to the Authority in connection with the Project up to the date of termination, including, without limitation, all actual costs incurred by the Railroad in connection with reviewing any preliminary or final Project Plans.

**Section 12. CONDITIONS TO BE MET BEFORE
AUTHORITY CAN COMMENCE WORK**

Neither the Authority nor the Contractor may commence any work within the Crossing Area or on any other Railroad property until:

- (i) The Railroad and the Authority have executed this Agreement.
- (ii) The Railroad and the Authority have executed the Joint Project Agreement Covering New Railroad Bridge as Part of SH 99 / Grand Parkway Project ("Joint Agreement").
- (iii) The Railroad and the Authority shall have executed and delivered the real estate documents described in Section 2 (i) and (ii) above, including as to the document described in Section 2(ii), obtaining the written consent of the Texas Department of Transportation.
- (iv) The Railroad has provided to the Authority the Railroad's written approval of the Plans.
- (v) The New Railroad Bridge, to be located adjacent to the existing railroad bridge, that will be constructed by the Authority's Contractor, must be constructed and completed in compliance with the Railroad Bridge plans.
- (vi) The Authority shall have caused its contractor to complete performance of the construction of the Minimum Scope pursuant to the Joint Agreement referenced in Section 12 (ii) above prior to commencement of construction of that portion of the Structure located above the Railroad's tracks and property (including both the existing bridge and the New Railroad Bridge).
- (vii) Each Contractor has executed Railroad's Contractor's Right of Entry Agreement and has obtained and/or provided to the Railroad the insurance policies, certificates, binders, and/or endorsements required under the Contractor's Right of Entry Agreement.
- (viii) Each Contractor has given the advance notice(s) required under the Contractor's Right of Entry Agreement to the Railroad Representative named in the Contractor's Right of Entry Agreement.

Section 13. FUTURE PROJECTS

Future projects involving substantial maintenance, repair, reconstruction, renewal and/or demolition of the Structure shall not commence until Railroad and the Authority agree on the plans for such future projects, cost allocations, right of entry terms and conditions and temporary construction rights, terms and conditions.

Section 14. COUNTY'S RIGHT AND OBLIGATIONS

Upon any failure by the Authority to properly maintain, repair and renew the Structure, or upon either the termination or expiration of the State/Authority Agreement, the County confirms that the County, at its sole expense, shall be responsible for all of the Authority's rights and obligations under this Agreement, including, without limitation, the obligation to maintain, repair and renew the Structure as provided in Section 4 of Exhibit B of this Agreement. Upon any termination or expiration of the State/Authority Agreement, the Authority shall provide written documentation to the Railroad that it has assumed all rights and obligations of the Authority under this Agreement.

Section 15. ASSIGNMENT; SUCCESSORS AND ASSIGNS

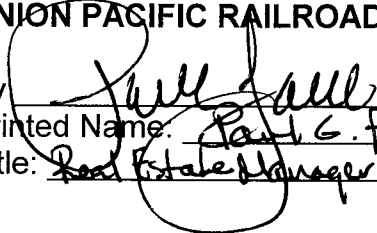
A. The Authority shall not assign this Agreement without the prior written consent of Railroad; provided, however, that the Authority may assign this Agreement to the County as set forth in Section 14 above.

B. Subject to the provisions of Paragraph A above, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Railroad and the Authority.

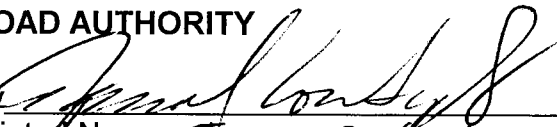
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IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the Effective Date first herein written.

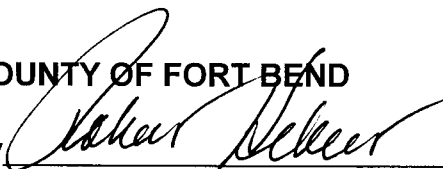
UNION PACIFIC RAILROAD COMPANY

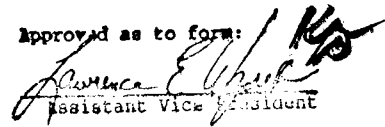
By: 
Printed Name: Paul G. Farrell
Title: Road Estate Manager - Contracts

FORT BEND GRAND PARKWAY TOLL ROAD AUTHORITY

By: 
Printed Name: James D. Condrey, DAS
Title: Chairman, Board of Directors

COUNTY OF FORT BEND

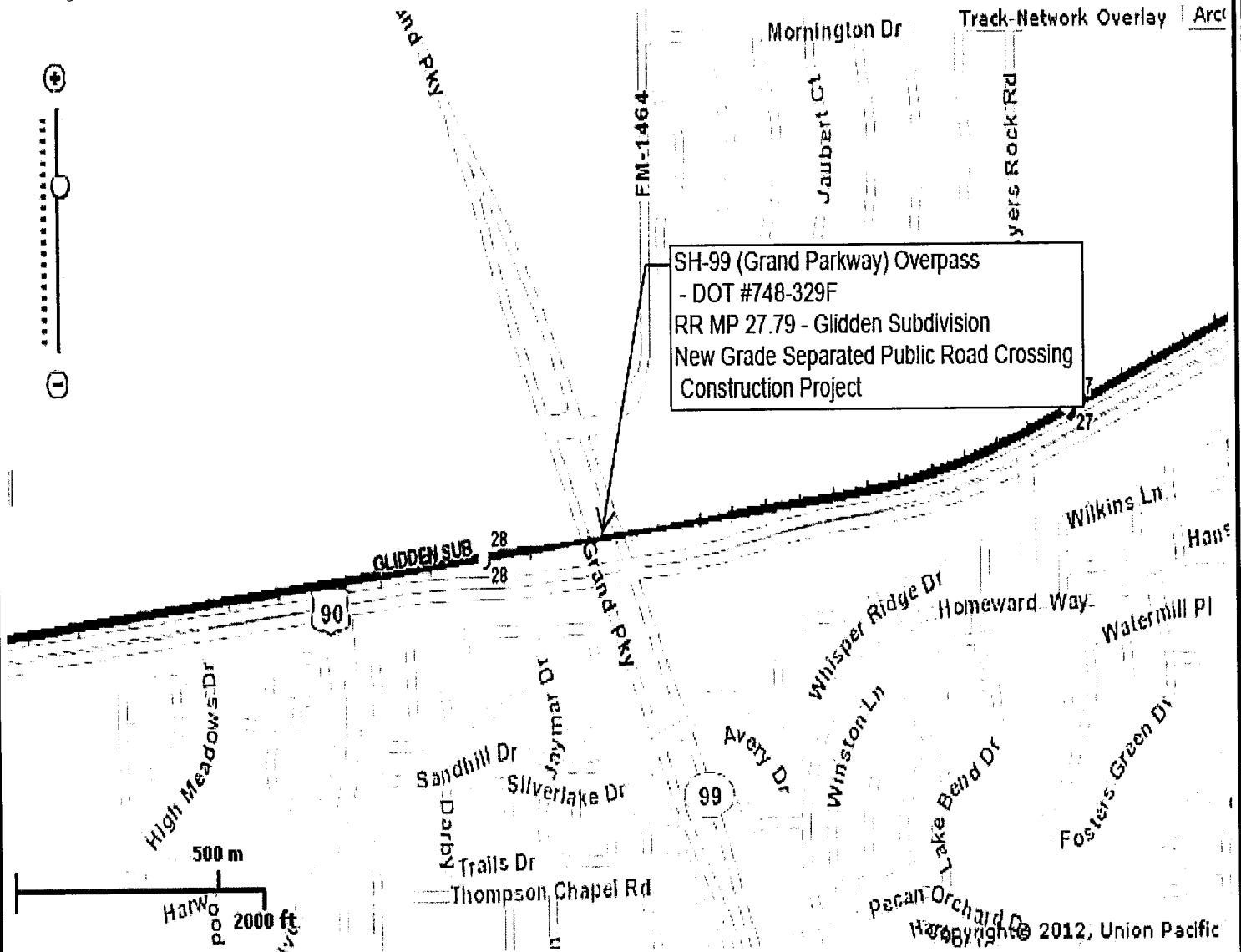
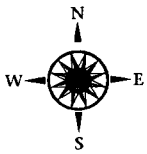
By: 
Printed Name: Robert E. Hebert
Title: County Judge
9-25-2012

Approved as to form: 
Assistant Vice President

**EXHIBIT A
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

Exhibit A will be a print showing the Crossing Area (see Recitals)

RAILROAD LOCATION PRINT OF A NEW GRADE SEPARATED PUBLIC ROAD CROSSING CONSTRUCTION PROJECT



RAILROAD WORK TO BE PERFORMED:

1. Engineering Design Review & Flagging.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

GLIDDEN SUBDIVISION
RAILROAD MILE POST 27.79
GPS: N 29° 36.1310', W 95° 41.0843'
SUGAR LAND, FORT BEND CO., TX.

To accompany an agreement with the
**FORT BEND GRAND PARKWAY TOLL ROAD
AUTHORITY**

covering a new grade separated public road crossing construction project.

Folder No. 2724-86

Date: February 27, 2012

WARNING

IN ALL OCCASIONS, U.P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE
OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE.
PHONE: 1-(800) 336-9193

**EXHIBIT B
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

SECTION 1 - CONDITIONS AND COVENANTS

A. The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Authority shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Authority shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad's property by or under authority of the Authority for the purpose of conveying electric power or communications incidental to the Authority's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Authority to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.

B. The Railroad reserves the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes.

C. The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded, and also to any renewals thereof. The Authority shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Railroad's property, unless the Authority at its own expense settles with and obtains releases from such nonparties.

D. The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property and the right to cross the Crossing Area with all kinds of equipment. The Railroad further reserves the right to attach signal, communication or power lines to the Structure, provided that such attachments shall comply with Authority's specifications and will not interfere with the Authority's use of the Crossing Area.

E. So far as it lawfully may do so, the Authority will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating property.

F. If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the Structure and its appurtenances, or for the performance of any work in connection with the Project, the Authority will acquire all such other property and rights at its own expense and without expense to the Railroad.

SECTION 2 - CONSTRUCTION OF STRUCTURE

A. The Authority, at its expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.

B. Except as may be otherwise specifically provided herein, the Authority, at its expense, will furnish all necessary labor, material and equipment, and shall construct and complete the Structure and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper drainage facilities, guard rails or barriers, and right of way fences between the Structure and the railroad tracks. Upon completion of the Project, the Authority shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.

C. All construction work of the Authority upon the Railroad's property (including, but not limited to, construction of the Structure and all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Assistant Vice President Engineering-Design of the Railroad or his authorized representative and in compliance with the Plans and other guidelines furnished by the Railroad.

D. All construction work of the Authority shall be performed diligently and completed within a reasonable time. No part of the Project shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Authority. The Authority hereby assumes the risk of any such delays and agrees that no claims for damages on account of any delay shall be made against the Railroad by the Authority and/or the Contractor.

SECTION 3 - INJURY AND DAMAGE TO PROPERTY

If the Authority, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Authority is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Authority at the Authority's own expense, or by the Railroad at the expense of the Authority, and to the satisfaction of the Railroad's Assistant Vice President Engineering-Design.

SECTION 4 - MAINTENANCE AND REPAIRS

A. The Authority, at its expense, shall maintain, repair and renew, or cause to be maintained, repaired and renewed, the entire Structure, including, but not limited to, the superstructure, substructure, piers, abutments, walls, approaches and all backfill, grading and drainage required by reason of the Structure, as well as all graffiti removal or overpainting involving the Structure.

B. The Railroad, at its expense, will maintain, repair and renew, or cause to be maintained, repaired and renewed, the rails, ties, ballast and communication and signal facilities owned by the Railroad beneath the Structure.

SECTION 5 - SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Authority that the work will be performed in a safe manner and in conformity with the following standards:

A. **Definitions.** All references in this Agreement to the Authority shall also include the Contractor and their respective officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Authority shall include work both within and outside of the Railroad's property.

B. **Entry on to Railroad's Property by Authority.** If the Authority's employees need to enter Railroad's property in order to perform an inspection of the Structure, minor maintenance or other activities, the Authority shall first provide at least ten (10) working days advance notice to the Railroad Representative. **WITH RESPECT TO SUCH ENTRY ON TO RAILROAD'S PROPERTY, THE AUTHORITY, TO THE EXTENT PERMITTED BY LAW, AGREES TO RELEASE, DEFEND AND INDEMNIFY THE RAILROAD FROM AND AGAINST ANY LOSS, DAMAGE, INJURY, LIABILITY, CLAIM, COST OR EXPENSE INCURRED BY ANY PERSON, INCLUDING, WITHOUT LIMITATION, THE AUTHORITY'S EMPLOYEES, OR DAMAGE TO ANY PROPERTY INCLUDING, WITHOUT LIMITATION, THE AUTHORITY'S PROPERTY OR EQUIPMENT (COLLECTIVELY THE "LOSS") THAT ARISES FROM THE PRESENCE OR ACTIVITIES OF AUTHORITY'S EMPLOYEES ON RAILROAD'S PROPERTY, EXCEPT TO THE EXTENT THAT ANY LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF RAILROAD.**

C. **Flagging.**

(i) If the Authority's employees need to enter Railroad's property as provided in Paragraph B above, the Authority agrees to notify the Railroad Representative at least thirty (30) working days in advance of proposed performance of any work by Authority in

which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30) day notice, the Railroad Representative will determine and inform Authority whether a flagman need be present and whether Authority needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Authority for such expenses incurred by Railroad. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Authority agrees that Authority is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

(ii) The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Authority shall pay on the basis of the new rates and charges.

(iii) Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Authority may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Authority must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Authority will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty

(30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

D. **Compliance With Laws**. The Authority shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Authority shall use only such methods as are consistent with safety, both as concerns the Authority, the Authority's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Authority (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's premises.

E. **No Interference or Delays**. The Authority shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

F. **Supervision**. The Authority, at its own expense, shall adequately police and supervise all work to be performed by the Authority, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Authority for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Authority with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Authority will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

G. **Suspension of Work**. If at any time the Authority's engineers or the Vice President-Engineering Services of the Railroad or their respective representatives shall be of the opinion that any work of the Authority is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Authority shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

H. **Removal of Debris**. The Authority shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Authority at the Authority's own expense or by the Railroad at the expense of the Authority. The Authority shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

I. **Explosives**. The Authority shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate.

J. **Excavation**. The Authority shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Authority shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Authority, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Authority in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Assistant Vice President Engineering-Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

K. **Drainage**. The Authority, at the Authority's own expense, shall provide and maintain suitable facilities for draining the Structure and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The Authority, at the Authority's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Authority, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Authority shall not obstruct or interfere with existing ditches or drainage facilities.

L. **Notice**. Before commencing any work, the Authority shall provide the advance notice that is required under the Contractor's Right of Entry Agreement.

M. **Fiber Optic Cables**. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Authority shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Authority. If it is, Authority

will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

SECTION 6 - INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Authority, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Authority shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the construction or reconstruction of the Structure has been completed.

SECTION 7 - OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

SECTION 8 - BOOKS AND RECORDS

The books, papers, records and accounts of Railroad, so far as they relate to the items of expense for the materials to be provided by Railroad under this Project, or are associated with the work to be performed by Railroad under this Project, shall be open to inspection and audit at Railroad's offices in Omaha, Nebraska, during normal business hours by the agents and authorized representatives of Authority for a period of three (3) years following the date of Railroad's last billing sent to Authority.

SECTION 9 - REMEDIES FOR BREACH OR NONUSE

A. If the Authority shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the Structure and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Authority will reimburse the Railroad for the expenses thereof.

B. Nonuse by the Authority of the Crossing Area for public highway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Authority hereunder.

C. The Authority will surrender peaceable possession of the Crossing Area and Structure upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the Parties, accrued or otherwise, which may have arisen prior to termination.

SECTION 10 - MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this Agreement shall be of any force or effect unless made in writing, signed by the Authority and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Authority shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Authority and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

EXHIBIT C
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT

CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of the _____ day of _____, 20____, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Railroad"); and _____, a _____ corporation ("Contractor").

RECITALS:

Contractor has been hired by _____ to perform work relating to _____ (the "work"), with all or a portion of such work to be performed on property of Railroad in the vicinity of Railroad's Milepost _____ on Railroad's _____ [Subdivision] [Branch] [at or near DOT No. _____] located at or near _____, in _____ County, State of Texas, as such location is in the general location shown on the print marked **Exhibit A**, attached hereto and hereby made a part hereof. The work is the subject of a contract dated _____ between Railroad and _____.

Railroad is willing to permit Contractor to perform the work described above at the location described above subject to the terms and conditions contained in this Agreement

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between Railroad and Contractor, as follows:

ARTICLE 1 - DEFINITION OF CONTRACTOR.

For purposes of this Agreement, all references in this agreement to Contractor shall include Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

ARTICLE 2 - RIGHT GRANTED; PURPOSE.

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property described in the Recitals for the purpose of performing the work described in the Recitals above. The right herein granted to Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad Representative named in Article 4.

ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B, C AND D.

The terms and conditions contained in **Exhibit B**, **Exhibit C** and **Exhibit D**, attached hereto, are hereby made a part of this Agreement.

ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of **Exhibit B**. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

ARTICLE 5 - SCHEDULE OF WORK ON A MONTHLY BASIS.

The Contractor, at its expense, shall provide on a monthly basis a detailed schedule of work to the Railroad Representative named in Article 4B above. The reports shall start at the execution of this Agreement and continue until this Agreement is terminated as provided in this Agreement or until the Contractor has completed all work on Railroad's property.

ARTICLE 6 - TERM; TERMINATION.

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue until _____, unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 7 - CERTIFICATE OF INSURANCE.

A. Before commencing any work, Contractor will provide Railroad with (i) the insurance binders, policies, certificates and endorsements set forth in **Exhibit C** of this Agreement, and (ii) the insurance endorsements obtained by each subcontractor as required under Section 12 of **Exhibit B** of this Agreement.

B. All insurance correspondence, binders, policies, certificates and/or endorsements shall be sent to:

Union Pacific Railroad Company

[Insert mailing address]

Attn: _____

UP Folder No. _____

ARTICLE 8 - DISMISSAL OF CONTRACTOR'S EMPLOYEE.

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

ARTICLE 9 - ADMINISTRATIVE FEE.

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad _____ Dollars (\$_____) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

ARTICLE 10 - CROSSINGS; COMPLIANCE WITH MUTCD AND FRA GUIDELINES.

A. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

B. Any permanent or temporary changes, including temporary traffic control, to crossings must conform to the Manual of Uniform Traffic Control Devices (MUTCD) and any applicable Federal Railroad Administration rules, regulations and guidelines, and must be reviewed by the Railroad prior to any changes being implemented. In the event the Railroad is found to be out of compliance with federal safety regulations due to the Contractor's modifications, negligence, or any other reason arising from the Contractor's presence on the Railroad's property, the Contractor agrees to assume liability for any civil penalties imposed upon the Railroad for such noncompliance.

ARTICLE 11 - EXPLOSIVES.

Explosives or other highly flammable substances shall not be stored or used on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: _____

Title: _____

(Name of Contractor)

By: _____

Title: _____

**EXHIBIT A
TO
CONTACTOR'S RIGHT OF ENTRY AGREEMENT**

Exhibit A will be a print showing the general location of the right of entry area.

EXHIBIT B
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least thirty (30) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroads tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

Section 4. LIENS.

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. **CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS RAILROAD FROM AND AGAINST ANY AND ALL LIENS, CLAIMS, DEMANDS, COSTS OR EXPENSES OF WHATSOEVER NATURE IN ANY WAY CONNECTED WITH OR GROWING OUT OF SUCH WORK DONE, LABOR PERFORMED, OR MATERIALS FURNISHED. IF CONTRACTOR FAILS TO PROMPTLY CAUSE ANY LIEN TO BE RELEASED OF RECORD, RAILROAD MAY, AT ITS ELECTION, DISCHARGE THE LIEN OR CLAIM OF LIEN AT CONTRACTOR'S EXPENSE.**

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. IN ADDITION TO OTHER INDEMNITY PROVISIONS IN THIS AGREEMENT, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD RAILROAD HARMLESS FROM AND AGAINST ALL COSTS, LIABILITY AND EXPENSE WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS AND EXPENSES) ARISING OUT OF ANY ACT OR OMISSION OF CONTRACTOR, ITS AGENTS AND/OR EMPLOYEES, THAT CAUSES OR CONTRIBUTES TO (1) ANY DAMAGE TO OR DESTRUCTION OF ANY TELECOMMUNICATIONS SYSTEM ON RAILROAD'S PROPERTY, AND/OR (2) ANY INJURY TO OR DEATH OF ANY PERSON EMPLOYED BY OR ON BEHALF OF ANY TELECOMMUNICATIONS COMPANY, AND/OR ITS CONTRACTOR, AGENTS AND/OR EMPLOYEES, ON RAILROAD'S PROPERTY. CONTRACTOR SHALL NOT HAVE OR SEEK RECOURSE AGAINST RAILROAD FOR ANY CLAIM OR CAUSE OF ACTION FOR ALLEGED LOSS OF PROFITS OR REVENUE OR LOSS OF SERVICE OR OTHER CONSEQUENTIAL DAMAGE TO A TELECOMMUNICATION COMPANY USING RAILROAD'S PROPERTY OR A CUSTOMER OR USER OF SERVICES OF THE FIBER OPTIC CABLE ON RAILROAD'S PROPERTY.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Contractor shall at a minimum comply with Railroad's safety standards listed in **Exhibit D**, hereto attached, to ensure uniformity with the safety standards followed by Railroad's own forces. As a part of Contractor's safety responsibilities, Contractor shall notify Railroad if Contractor determines that any of Railroad's safety standards are contrary to good safety practices. Contractor shall furnish copies of **Exhibit D** to each of its employees before they enter the job site.

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

Section 8. INDEMNITY.

A. TO THE EXTENT NOT PROHIBITED BY APPLICABLE STATUTE, CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS RAILROAD, ITS AFFILIATES, AND ITS AND THEIR OFFICERS, AGENTS AND EMPLOYEES ("INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, INJURY, LIABILITY, CLAIM, DEMAND, COST OR EXPENSE (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S, CONSULTANT'S AND EXPERT'S FEES, AND COURT COSTS), FINE OR PENALTY (COLLECTIVELY, "LOSS") INCURRED BY ANY PERSON (INCLUDING, WITHOUT LIMITATION, ANY INDEMNIFIED PARTY, CONTRACTOR, OR ANY EMPLOYEE OF CONTRACTOR OR OF ANY INDEMNIFIED PARTY) ARISING OUT OF OR IN ANY MANNER CONNECTED WITH (I) ANY WORK PERFORMED BY CONTRACTOR, OR (II) ANY ACT OR OMISSION OF CONTRACTOR, ITS OFFICERS, AGENTS OR EMPLOYEES, OR (III) ANY BREACH OF THIS AGREEMENT BY CONTRACTOR.

B. THE RIGHT TO INDEMNITY UNDER THIS SECTION 8 SHALL ACCRUE UPON OCCURRENCE OF THE EVENT GIVING RISE TO THE LOSS, AND SHALL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF ANY INDEMNIFIED PARTY, EXCEPT WHERE THE LOSS IS CAUSED BY THE SOLE ACTIVE NEGLIGENCE OF AN INDEMNIFIED PARTY AS ESTABLISHED BY THE FINAL JUDGMENT OF A COURT OF COMPETENT JURISDICTION. THE SOLE ACTIVE NEGLIGENCE OF ANY INDEMNIFIED PARTY SHALL NOT BAR THE RECOVERY OF ANY OTHER INDEMNIFIED PARTY.

C. CONTRACTOR EXPRESSLY AND SPECIFICALLY ASSUMES POTENTIAL LIABILITY UNDER THIS SECTION 8 FOR CLAIMS OR ACTIONS BROUGHT BY CONTRACTOR'S OWN EMPLOYEES. CONTRACTOR WAIVES ANY IMMUNITY IT MAY HAVE UNDER WORKER'S COMPENSATION OR INDUSTRIAL INSURANCE ACTS TO INDEMNIFY RAILROAD UNDER THIS SECTION 8. CONTRACTOR ACKNOWLEDGES THAT THIS WAIVER WAS MUTUALLY NEGOTIATED BY THE PARTIES HERETO.

D. NO COURT OR JURY FINDINGS IN ANY EMPLOYEE'S SUIT PURSUANT TO ANY WORKER'S COMPENSATION ACT OR THE FEDERAL EMPLOYERS' LIABILITY ACT AGAINST A PARTY TO THIS AGREEMENT MAY BE RELIED UPON OR USED BY CONTRACTOR IN ANY ATTEMPT TO ASSERT LIABILITY AGAINST RAILROAD.

E. THE PROVISIONS OF THIS SECTION 8 SHALL SURVIVE THE COMPLETION OF ANY WORK PERFORMED BY CONTRACTOR OR THE TERMINATION OR EXPIRATION OF THIS AGREEMENT. IN NO EVENT SHALL THIS SECTION 8 OR ANY OTHER PROVISION OF THIS AGREEMENT BE DEEMED TO LIMIT ANY LIABILITY CONTRACTOR MAY HAVE TO ANY INDEMNIFIED PARTY BY STATUTE OR UNDER COMMON LAW.

Section 9. RESTORATION OF PROPERTY.

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors. Before Contractor commences any work, the Contractor shall, except to the extent prohibited by law; (1) require each of its subcontractors to include the Contractor as "Additional Insured" in the subcontractor's Commercial General Liability policy and Business Automobile policies with respect to all liabilities arising out of the subcontractor's performance of work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage); (2) require each of its subcontractors to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each of its subcontractors to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.

EXHIBIT C
TO
CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company
Insurance Provisions For
Contractor's Right of Entry Agreement

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

- A. Commercial General Liability insurance.** Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.
- Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

- B. Business Automobile Coverage insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$5,000,000 for each accident and coverage must include liability arising out of any auto (including owned, hired and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

- C. Workers' Compensation and Employers' Liability insurance.** Coverage must include but not be limited to:
- Contractor's statutory liability under the workers' compensation laws of the State of Texas.
 - Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing Railroad in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

- D. Railroad Protective Liability insurance.** Contractor must maintain "Railroad Protective Liability" (RPL) insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Contractor shall provide this Agreement to Contractor's insurance agent(s) and/or broker(s) and Contractor shall instruct such agent(s) and/or broker(s) to procure the insurance coverage required by this Agreement. A BINDER STATING THE POLICY IS IN PLACE MUST

BE SUBMITTED TO RAILROAD BEFORE THE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD.

- E.** **Umbrella or Excess** insurance. If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
- F.** **Pollution Liability** insurance. Pollution liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Contractors CGL or RPL. Any form coverage must be equivalent to that provided in ISO form CG 24 15 "Limited Pollution Liability Extension Endorsement" or CG 28 31 "Pollution Exclusion Amendment" with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

Other Requirements

- G.** All policy(ies) required above (except worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Contractor's liability under the indemnity provisions of this Agreement.
- H.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.
- I.** Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.
- J.** Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.
- K.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the State of Texas.
- L.** The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.

EXHIBIT D
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of Contractor as well as all employees of any subcontractor or agent of Contractor.

I. Clothing

- A. All employees of Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
 - (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
 - (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.
- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.
- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

II. Personal Protective Equipment

Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Contractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
 - 100 feet of a locomotive or roadway/work equipment
 - 15 feet of power operated tools
 - 150 feet of jet blowers or pile drivers
 - 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

III. On Track Safety

Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractor must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Contractor will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

IV. Equipment

- A. It is the responsibility of Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Contractor's equipment is unsafe for use, Contractor shall remove such equipment from Railroad's property. In addition, Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
 - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
 - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
 - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

V. General Safety Requirements

- A. Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.

- D. All employees comply with the following safety procedures when working around any railroad track:
- (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
 - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
 - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment of the opening is less than one car length (50 feet).
 - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
 - (v) Before stepping over or crossing tracks, look in both directions first.
 - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.

**EXHIBIT D
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

After Recording, Mail to:

(Space Above Reserved for County Recorder's Use)

Folder No. 2724-86

GRANT OF AERIAL EASEMENT

UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant unto **FORT BEND GRAND PARKWAY TOLL ROAD AUTHORITY** (hereinafter Grantee"), its successors and assigns, an easement (the "Easement") for the construction, maintenance, operation, use, inspection, repair and reconstruction of an elevated Tolled Overpass System (hereinafter the "System") above, over and across Grantor's property, provided that any installation shall be more than twenty three feet, four inches (23' 4") above the tops of the rails located in the City of Sugar Land, County of Fort Bend, State of Texas, as such property is described in **Exhibit A**, (the "Property") hereto attached and hereby made a part hereof.

This grant is for aerial rights only and is made subject to the prior and continuing right and obligation of Grantor, its successors and assigns, to use all of the Property in the performance of its duty as a common carrier, and there is reserved to Grantor, its successors and assigns, the right to construct, reconstruct, maintain, repair, use and operate existing and future transportation, communication and pipeline facilities and appurtenances in, upon, over, under, across and along the Property. This reservation of rights to Grantor shall be paramount to this grant to Grantee.

If any utility, fiber optic or communication facilities require relocation as a result of Grantee's installation of its System, all such relocations shall be arranged with the entities owing or controlling the facilities being relocated, at the sole expense and cost of Grantee. This grant includes the right of Grantee, its successors and assigns, to install such public utility lines or communication lines that may be needed by Grantee in connection with its System, but only to the extent required for its System, subject to compliance with Grantor standard specifications and requirements, including without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines and in such manner as to not adversely affect communication or signal lines of Grantor. Other than as required for its System, Grantee shall not grant any such rights to others for public utility lines or communication lines; it being understood that for any

additional public utility lines or communication lines, separate agreements must be entered into with Grantor.

The Grantor makes no covenant or warranty of title, for quiet possession or against encumbrances. The Grantee shall not use or permit use of the Property for any purposes other than those described in this Easement. No nonparty shall be admitted by the Grantee to use or occupy any part of the Property without the Grantor's written consent. Nothing herein shall obligate the Grantor to give such consent.

This Easement is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded (including, without limitation, those in favor of Grantees and lessees of Grantor's property and others), and also to any renewals thereof and the word "grant" as used in this Easement shall not be construed as a covenant against the existence of any thereof. The Grantee shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Grantor's remaining property, unless the Grantee, at its own expense, settles with and obtains releases from such nonparties.

The Grantor reserves the right to use and to grant to others the right to use the Property in any manner and for any purpose which does not interfere with or diminish the Easement herein conveyed to Grantee, including, but not limited to, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the Property and also the right to use and cross the Property with pipelines, signals, fiber optics, communication or power lines and all kinds of equipment, all or any of which may be freely done at any time or times by the Grantor, or its lessees or Grantees, without liability to the Grantee or to any other party for compensation or damages.

The Grantee shall not assign this Easement, in whole or in part, or any rights herein granted, without the written consent of the Grantor, and it is agreed that any transfer or assignment or attempted transfer or assignment of this Easement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void; provided, however, Grantee may assign this Easement to Fort Bend County or TxDot after thirty (30) days prior notice to Grantor.

Subject to the provisions heretofore, this Easement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

This Easement is also subject to the terms, conditions, limitations and covenants contained in the separate Public Highway Overpass Agreement dated _____, 2012, which has been entered into between Grantor and Grantee covering the construction, use, maintenance repair and renewal of its System.

TO HAVE AND TO HOLD the Easement unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be duly executed as of the ____ day of _____, 200__.

GRANTOR:
UNION PACIFIC RAILROAD COMPANY

By: _____

Its: _____

GRANTEE:

By: _____

Its: _____

APPROVED AS TO FORM:

**EXHIBIT E
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

Encroachment Agreement

After Recording, Mail to:

Union Pacific Railroad Company
1400 Douglas Street – STOP 1580
Omaha, Nebraska 68179-1580
Attn: Gerry Sullivan

Space Above Reserved for County Recorder's Use
Folder No. 2724-86

ENCROACHMENT AGREEMENT

THIS AGREEMENT is made and entered into by and between **FORT BEND GRAND PARKWAY TOLL ROAD AUTHORITY** (“Grantor”), and **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (Grantee”).

WHEREAS, Grantor executed a Right of Use Agreement with the Texas Department of Transportation (“State”) dated May 12, 2011, allowing Grantor to use State highway right of way in connection with the State Highway 99 / Grand Parkway Project.

WHEREAS, Grantor and Grantee have entered into that certain “Joint Project Agreement Covering New Railroad Bridge as Part of SH 99 / Grand Parkway Project” dated _____, 2012.

WHEREAS, in order to construct the New Railroad Bridge, it is necessary for Grantor to grant to Grantee rights in that certain portion of the State right of way in the City of Sugar Land, County of Fort Bend, State of Texas, as such property is described on **Exhibit A**, (“Property”) attached and hereby made a part hereof.

WHEREAS, Grantor and Grantee have entered into a Highway Overpass Agreement dated _____, 2012, providing terms and conditions for Grantor to construct an elevated “Tolled Overpass System” over the Property and adjacent property owned or controlled by Grantee.

NOW THEREFORE, for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor hereby grants Grantee permission for the construction, maintenance, operation, use, inspection, repair and reconstruction of a Railroad Bridge and all necessary piers, footings, supporting structures, signal equipment, communications systems and related appurtenances (collectively “Improvements”) upon, over, under and across the Property, provided that any installation shall be below a plane which is forty-five (45) feet above the ground elevation of the Property.

This grant is subject to the prior and continuing right and obligation of Grantor, its successors and assigns, to construct, reconstruct, maintain, repair, use and operate existing and future road systems and all necessary and related appurtenances over, under and across and along the Property, which do not interfere with or diminish the Encroachment herein conveyed to Grantee. This reservation of rights to Grantor shall be paramount to this grant to Grantee.

If any utility, fiber optic or communication facilities require relocation as a result of Grantee's Railroad Bridge, all such relocations shall be arranged with the entities owing or controlling the facilities being relocated, at the sole expense and cost of Grantee. This grant includes the right of Grantee, its successors and assigns, to install such public utility lines or communication lines that may be needed by Grantee in connection with its Railroad Bridge. Other than as required for its railroad operations, Grantee shall not grant any such rights to others for public utility lines or communication lines; it being understood that for any additional public utility lines or communication lines, separate agreements must be entered into with Grantor.

The Grantor makes no covenant or warranty of title, for quiet possession or against encumbrances. The Grantee shall not use or permit use of the Property for any purposes other than those described in this Easement. No nonparty shall be admitted by the Grantee to use or occupy any part of the Property without the Grantor's written consent. Nothing herein shall obligate the Grantor to give such consent.

This Easement is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded (including, without limitation, those in favor of Grantees and lessees of Grantor's property and others), and also to any renewals thereof and the word "grant" as used in this Easement shall not be construed as a covenant against the existence of any thereof. The Grantee shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Grantor's remaining property, unless the Grantee, at its own expense, settles with and obtains releases from such nonparties.

Grantor reserves the right to access the surface of the Property as reasonably necessary to maintain adjacent frontage roads for SH 99 and adjacent overpass piers. When exercising such access, Grantee agrees not to unreasonably interfere with Grantee's railroad operations, and shall not enter upon either rail track or bridges, without permission of Grantee.

This Encroachment Agreement will remain in effect, commencing on the date hereof, and continuing so long as the Improvements remain on the Property. In the event the Improvements are abandoned, Grantee shall restore the Property to a condition reasonably acceptable to Grantor.

Grantee agrees to comply with all applicable federal, state and local laws, statutes, ordinances, codes or regulations in connection with the operation and maintenance of the Improvements.

Grantee shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the Property for any work done or materials furnished thereon at the instance or request or on behalf of the Grantee.

The Grantee shall not assign this Encroachment Agreement, in whole or in part, or any rights herein granted, without the written consent of the Grantor, and it is agreed that any transfer or assignment or attempted transfer or assignment of this Easement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void; provided, however, Grantee may assign this Encroachment Agreement to any

successor railroad, or any entity with which Grantee is merged or consolidated, or which acquires ownership or control of all or substantially all of the assets of Grantee upon thirty (30) days written notice to Grantor.

Subject to the provisions heretofore, this Encroachment Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

TO HAVE AND TO HOLD the Easement unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor and Grantee have caused this instrument to be duly executed as of the ____ day of _____, 200__.

GRANTOR:

FORT BEND GRAND PARKWAY TOLL
ROAD AUTHORITY

By: _____

Its: _____

APPROVED AS TO FORM:

GRANTEE:

UNION PACIFIC RAILROAD COMPANY

By: _____

Its: _____

ACKNOWLEDGMENT

STATE OF)

) ss.

COUNTY OF)

On this ____ day of _____, 200__, before me, a Notary Public in and for said County and State, personally appeared _____ who is the _____ of the _____, and who is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to in the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this ____ day of _____, 200_, before me, a Notary Public in and for said County and State, personally appeared _____, _____ of Union Pacific Railroad Company, a Delaware corporation, who is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name are subscribed to in the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

**EXHIBIT F
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

Exhibit F shall be the Railroad's estimate.

AUGUST 16, 2012

EXHIBIT F

**ESTIMATE OF MATERIAL AND FORCE ACCOUNT WORK BY THE
UNION PACIFIC RAILROAD COMPANY
FOR THE STATE OF TEXAS**

DESCRIPTION OF WORK: Perform Engineering Review and flagging for construction of the main lane overpass at SH 99 on the Glidden Sub in Sugar Land, TX RRMP 27.79, DOT No. 748 329F

LOCATION: Sugar Land, TX

SERVICE UNIT: 09

STATE: Texas

DESCRIPTION	LABOR	MATERIAL	RECOLL	UPRR	TOTAL
JOB 001 - ENGINEERING					
ENGINEERING LABOR AND AND INSPECTION WITH LABOR ADDITIVES (65.43%)	\$10,000	\$0	\$0	\$10,000	\$10,000
JOB 002 - FLAGGING					
FLAGGING WITH EXPENSES & LABOR ADDITIVES (142.44%) ESTIMATED NUMBER OF DAYS: 30	53,164	\$0	\$53,164	\$0	53,164
TOTAL PROJECT:	\$63,164	\$0	\$53,164	\$10,000	\$63,164

EXISTING REUSABLE MATERIAL - NONE

EXISTING NONREUSABLE MATERIAL - NONE

RECOLLECTABLE:

\$53,164

UPRR EXPENSE:

\$10,000

TOTAL ESTIMATED COST OF PROJECT LESS CREDITS:

\$63,164

**THE ABOVE FIGURES ARE ESTIMATES ONLY AND SUBJECT TO FLUCTUATION.
IN THE EVENT OF AN INCREASE OR DECREASE IN THE COST OR QUANTITY OF
MATERIALS, EXPENSES, OR LABOR REQUIRED, THE RAILROAD WILL BILL
FOR ACTUAL CONSTRUCTION COSTS AT THE CURRENT EFFECTIVE RATE.**

**EXHIBIT G
TO
PUBLIC HIGHWAY OVERPASS AGREEMENT**

**CERTAIN SHEETS OF FINAL 100% PLANS THAT HAVE BEEN APPROVED BY
RAILROAD**

FORT BEND GRAND PARKWAY TOLL ROAD AUTHORITY

PLANS OF PROPOSED FORT BEND GRAND PARKWAY TOLL ROAD - SEGMENT D FORT BEND COUNTY SH 99

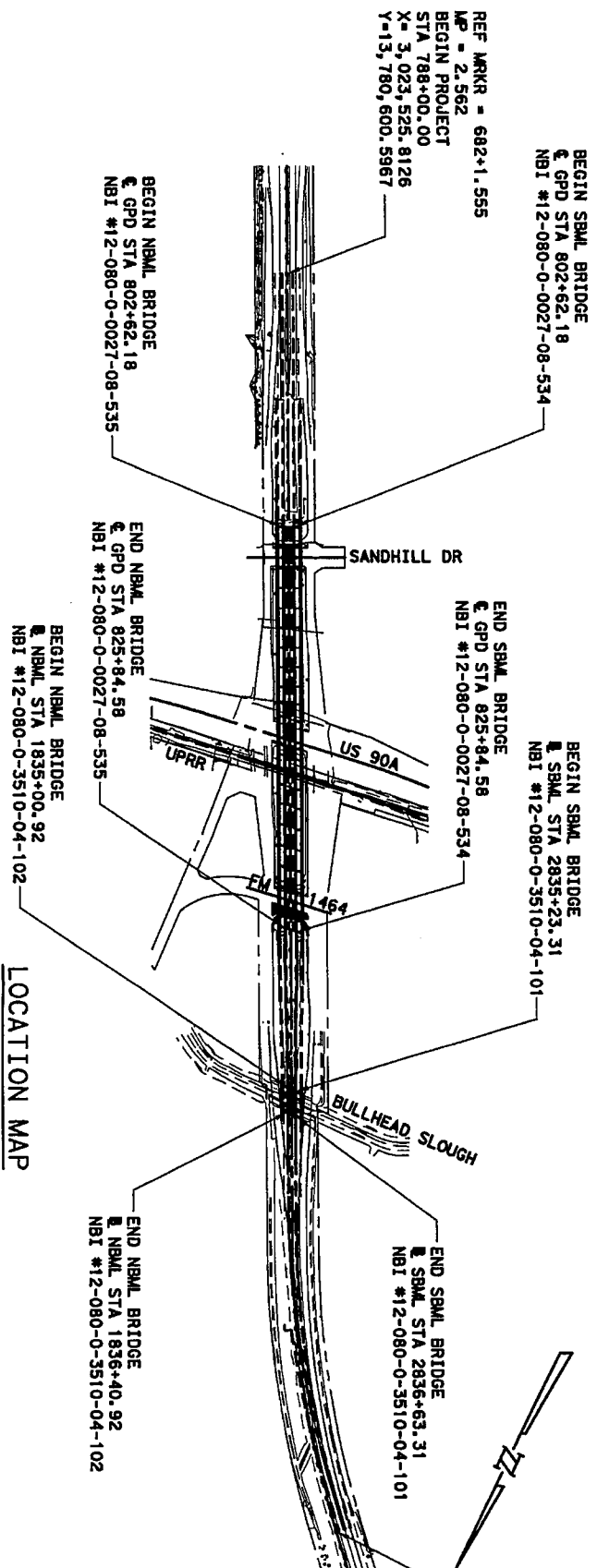
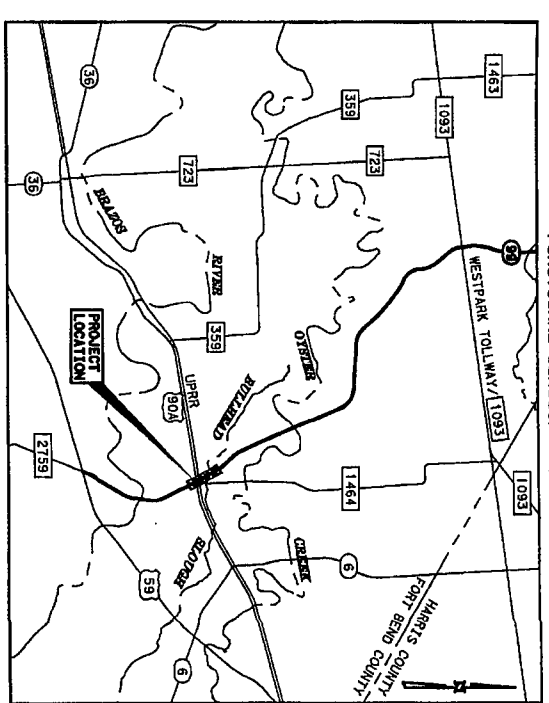
2010 EXISTING ADT = 40,600
 2035 PROJECTED ADT = 84,000
 DESIGN SPEED = 70 MPH (MAINLANES)
 = 45 MPH (RAMP)
 = 45 MPH (FRONTAGE ROADS)
 FUNCTIONAL CLASSIFICATION = URBAN FREEWAY

ISSUED FOR FINAL SUBMITTAL
 MAY 25, 2012

FOR THE CONSTRUCTION OF A TOLLWAY FACILITY
 CONSISTING OF GRADING, BASE, CONCRETE PAVEMENT,
 RETAINING WALLS, DRAINAGE, BRIDGE STRUCTURES,
 ILLUMINATION, SIGNING, AND PAVEMENT MARKINGS

FROM: 0.31 MILE SOUTH OF SANDHILL DR
 TO: 0.70 MILE NORTH OF FM 1464

ROADWAY LENGTH = 4837.60 FT = 0.916 MILES
 BRIDGE LENGTH = 2462.40 FT = 0.466 MILES
 NET LENGTH OF PROJECT = 7300.00 FT = 1.382 MILES



LOCATION MAP
 SCALE: 1"=1000'
 EXCEPTIONS: NONE
 EQUATIONS: NONE
 RAILROAD CROSSINGS: UPRR-STA 816+79.88

PREPARED BY:

RECOMMENDED BY:

APPROVED BY:

- NOTES:
- SPECIFICATIONS ADOPTED BY THE TEXAS DEPARTMENT OF TRANSPORTATION, JUNE 1, 2004 AND ALL APPLICABLE SPECIAL PROVISIONS AND SPECIAL SPECIFICATIONS AS INDICATED IN THE BID PROPOSAL SHALL GOVERN ON THIS PROJECT.
 - ALL BEARINGS AND COORDINATES ARE BASED ON THE TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983, 1993 ADJUSTMENT. ALL DISTANCES AND COORDINATES SHOWN ARE SURFACE AND MAY BE CONVERTED TO GRID BY DIVIDING BY A COMBINED ADJUSTMENT FACTOR OF 1.00013.
 - ALL ELEVATIONS ARE REFERENCED TO NAVD 89, 2001 ADJUSTMENT.

LJA Engineering, Inc.
 101152
 TAYNA FOX LINDQUIST, P.E.
 PROJECT MANAGER

BROWN & GAY
 Brown & Gay Engineers, Inc.
 Houston • Austin • Dallas • Fort Worth • Frisco
 TYPE Registration No. F-1046

**FORT BEND GRAND PARKWAY
 TOLL ROAD AUTHORITY**

W. K. ...
 DISTRICT ENGINEER
 HOUSTON DISTRICT

... P.E.
 DIRECTOR,
 DESIGN DIVISION

DATE: 6/13/2012

DATE: 6/14/12

DATE: 5/25/2012

Gary Gebauer, P.E.
 GARY GEBAUER, P.E.
 PROGRAM MANAGER

James Condey
 JAMES CONDEY
 CHAIRMAN

SHEET NUMBER	DESCRIPTION	SHEET NUMBER	DESCRIPTION
1	GENERAL INFORMATION	134	ROADWAY STANDARDS
2	TITLE SHEET	135	CONTINUOUSLY REINFORCED CONCRETE PAVEMENT ~ CRCP(1)-11
3	INDEX OF SHEETS	136	CONTINUOUSLY REINFORCED CONCRETE PAVEMENT HOUSTON SUPPLEMENT ~ CRCP-HS
4	PROJECT LAYOUT	137	CONCRETE PAVEMENT JUNCTIONS ~ CPJ
5	EXISTING TYPICAL SECTIONS	138	CONCRETE PAVEMENT TERMINALS ~ WFP
6	PROPOSED TYPICAL SECTIONS	139	WIDE FLANGE PAVEMENT JOINT SEAL ~ WFP
7	SUMMARY OF QUANTITIES (TRAFFIC CONTROL)	140	CONCRETE PAVING DETAILS JOINT SEAL ~ JS-94
8	SUMMARY OF QUANTITIES (ROADWAY)	141	U-TURN CURB DETAIL NEW CONSTRUCTION ~ HOU-U-CURB
9	SUMMARY OF QUANTITIES (RETAINING WALL & TEMP EROSION CONTROL)	142	CONCRETE CURB AND GUTTER ~ CCCG-12
10	SUMMARY OF QUANTITIES (DRAINAGE)	143	METAL BEAM GUARD FENCE ~ GF(31)-11
11	SUMMARY OF QUANTITIES (ILLUMINATION)	144	METAL BEAM GUARD FENCE TRANSITION ~ GF(31)TR-11
12	SUMMARY OF QUANTITIES (SMALL SIGN)	145	METAL BEAM GUARD FENCE (DOWNSTREAM ANCHOR TERMINAL) ~ GF(31)DAT-11
13	SUMMARY OF QUANTITIES (PAVEMENT MARKING)	146	SINGLE SLOPE CONCRETE BARRIER TYPE 2 (CAST-IN-PLACE) ~ SSCB(2)HOU
14	SUMMARY OF QUANTITIES (SMALL SIGN)	147	SINGLE SLOPE CONCRETE BARRIER PRECAST (TYPE 1) ~ SSCB(2)-10
15	SUMMARY OF QUANTITIES (SMALL SIGN)	148	TRAFFIC RAIL SINGLE SLOPE ~ TRF SSR
16	SUMMARY OF QUANTITIES (SMALL SIGN)	149	LANDSCAPE PAVERS
17	SUMMARY OF QUANTITIES (SMALL SIGN)	150	MOW STRIP ~ MS
18	SUMMARY OF QUANTITIES (SMALL SIGN)	151	FERTILIZER, SEED, SOD, STRAW, COMPOST AND WATER
19	SUMMARY OF QUANTITIES (SMALL SIGN)	152	RETAINING WALL DETAILS
20	SUMMARY OF QUANTITIES (SMALL SIGN)	153	RETAINING WALL PLAN & PROFILE
21	SUMMARY OF QUANTITIES (SMALL SIGN)	154	RETAINING WALL DETAILS ~ ABUTMENT COPING
22	SUMMARY OF QUANTITIES (SMALL SIGN)	155	RETAINING WALL DETAILS (SUGAR LAND MOD)
23	SUMMARY OF QUANTITIES (SMALL SIGN)	156	RETAINING WALL STANDARDS
24	SUMMARY OF QUANTITIES (SMALL SIGN)	157	RETAINING WALL TRAFFIC RAILING FOUNDATIONS ~ RW(TRF)
25	SUMMARY OF QUANTITIES (SMALL SIGN)	158	MECHANICALLY STABILIZED RETAINING WALL ~ MSR-CB (MOD)
26	SUMMARY OF QUANTITIES (SMALL SIGN)	159	CEMENT STABILIZED BACKFILL EMBANKMENT ~ CSBE-RW (MOD)
27	SUMMARY OF QUANTITIES (SMALL SIGN)	160	RETAINING WALL AND EMBANKMENT FOUNDATION IMPROVEMENTS ~ RW & EFT
28	TRAFFIC CONTROL PLAN NARRATIVE	161	DRAINAGE STANDARDS
29	TRAFFIC CONTROL PLAN PHASING LAYOUT	162	OVERALL DRAINAGE AREA MAP
30	TRAFFIC CONTROL PLAN ADVANCED WARNING SIGNS LAYOUT	163	DRAINAGE AREA MAP
31	TRAFFIC CONTROL PLAN PHASE 1 (SANDHILL DRIVE DETOUR FOR BEAM PLACEMENT)	164	DRAINAGE AREA CALCULATIONS
32	TRAFFIC CONTROL PLAN PHASE 1 (US 90A DETOUR FOR BEAM PLACEMENT)	165	STORM SEWER PLAN & PROFILE
33	TRAFFIC CONTROL PLAN PHASE 1 (FM 1464 DETOUR FOR BEAM PLACEMENT)	166	NB ML STORM SEWER PLAN & PROFILE
34	TRAFFIC CONTROL PLAN PHASE 2	167	SB ML STORM SEWER PLAN & PROFILE
35	TRAFFIC CONTROL PLAN PHASE 3	168	STORM SEWER LATERALS
36	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	169	10 - YEAR HYDRAULIC DATA
37	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	170	HYDRAULIC DATA SHEET
38	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	171	100-YEAR MITIGATION SMALL WATERSHED
39	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	172	DRAINAGE STANDARDS
40	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	173	CURB INLET TYPE C (WITH OR WITHOUT EXTENSION) ~ HIL-C
41	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	174	INLETS TYPE AD & AAD ~ HIL-AD/AAAD
42	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	175	INLET TYPE AZR2G ~ HIL-AZR2G
43	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	176	MANHOLES TYPE A & B ~ MH-A/B
44	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	177	MANHOLE TYPE M (JUNCTION BOX WITH ACCESS) ~ MH-M
45	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	178	MISCELLANEOUS SEWER DETAILS ~ MSD
46	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	179	EXCAVATION AND BACKFILL DIAGRAMS ~ EBBD
47	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	180	OUTFALL DETAILS ~ OD
48	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	181	OUTFALL QUANTITIES ~ OQ
49	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	182	
50	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	183	
51	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	184	
52	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	185	
53	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	186	
54	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	187	
55	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	188	
56	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	189	
57	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	190	
58	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	191	
59	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	192	
60	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	193	
61	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	194	
62	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	195	
63	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	196	
64	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	197	
65	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	198	
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67	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	200	
68	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	201	
69	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	202	
70	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	203	
71	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	204	
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75	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	208	
76	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	209	
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82	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	215	
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85	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	218	
86	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	219	
87	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	220	
88	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	221	
89	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	222	
90	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	223	
91	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	224	
92	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	225	
93	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	226	
94	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	227	
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107	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	240	
108	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	241	
109	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	242	
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111	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	244	
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114	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	247	
115	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	248	
116	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	249	
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118	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	251	
119	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	252	
120	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	253	
121	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	254	
122	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	255	
123	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	256	
124	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	257	
125	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	258	
126	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	259	
127	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	260	
128	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	261	
129	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	262	
130	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	263	
131	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	264	
132	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	265	
133	TRAFFIC CONTROL PLAN PHASE 3 (SH 99 NORTHBOUND ENTRANCE RAMP DETOUR)	266	

THE STANDARD SHEETS HAVE BEEN SELECTED BY ME AND ARE APPLICABLE TO THIS PROJECT

DATE: 5/24/12 P.E.

NOTE: 1. * DENOTES TYPOO STANDARD

Fort Bend Grand Parkway
Toll Road Authority

LJA Engineering, Inc. LJA
FRN-15-1888

GRAND PARKWAY - SEGMENT D

INDEX OF SHEETS

SHEET 1 OF 2

DRAWN: HORIZ SCALE: _____

DESIGNED: VERT SCALE: _____

CHECKED: DATE: May, 24, 2012

APPROVED: SHEET NO: 2


CSJ-3510-04-045 SECTION 3

SHEET NUMBER	DESCRIPTION	SHEET NUMBER	DESCRIPTION
220	BRIDGES NB MAINLANES BRIDGE LAYOUT - SANDHILL/JUS 90A/UPRR/PM 1464 OVERPASS	366	BRIDGE STANDARDS COMMON FOUNDATION DETAILS (MOD)
227	NB MAINLANES ESTIMATED QUANTITIES & BEARING SEAT ELEVATIONS	367	BRIDGE MOUNTED CLEARANCE SIGN ASSEMBLY ~ BMCS
230	NB MAINLANES FOUNDATION LAYOUT	369	CONCRETE RIPRAP AND SHOULDER DRAINS ~ CR
232	NB MAINLANES ABUTMENT 1	370	PRESTRESSED CONCRETE I-GIRDER DETAILS ~ IGD
234	NB MAINLANES BENT 2	372	ELASTOMERIC BEARING AND GIRDER END DETAILS ~ IGERB
236	NB MAINLANES BENT 3	375	MISCELLANEOUS SLAB DETAILS ~ IGMS
238	NB MAINLANES BENTS 4-9	376	THICKENED SLAB END DETAILS ~ IGTS
240	NB MAINLANES BENT 10	377	MINIMUM ERECTION AND BRACING REQUIREMENTS ~ MEBR(C)
242	NB MAINLANES BENT 11	378	PRESTRESSED CONCRETE PANELS ~ PCP
244	NB MAINLANES BENT 12	382	PERMANENT METAL DECK FORMS ~ PMDF
246	NB MAINLANES BENT 13	383	8 FT CHAIN LINK FENC FOR RAILROAD OVERPASS ~ CLF-RO
248	NB MAINLANES BENTS 14 & 15	385	SEALED EXPANSION JOINT TYPE A ~ SEJ-A
250	NB MAINLANES BENTS 16 & 17	387	THICKENED SLAB END DETAILS ~ SBTS
252	NB MAINLANES BENT 18	389	ELASTOMERIC BEARING DETAILS ~ SGB
254	NB MAINLANES BENT 19	390	MISCELLANEOUS SLAB DETAILS (STEEL GIRDERS & BMS) ~ SBMS
256	NB MAINLANES BEAM LAYOUT	393	MISCELLANEOUS DETAILS ~SGMD
262	NB MAINLANES SLAB DETAILS	394	MINIMUM ERECTION AND BRACING REQUIREMENTS ~ MEBR(S)
263	NB MAINLANES PRESTRESSED CONCRETE I-GIRDER DESIGNS ~ IGNU	397	
270	NB MAINLANES FRAMING PLAN	398	ILLUMINATION ILLUMINATION LAYOUT
271	NB MAINLANES PLATE GIRDER UNIT	402	UNDERPASS ILLUMINATION LAYOUT
272	NB MAINLANES GIRDER ELEVATION	403	CIRCUIT DIAGRAM LAYOUT
273	NB MAINLANES CAMBER DATA	404	ILLUMINATION DETAILS LAYOUT
274	NB MAINLANES FINISH GRADE ELEV	405	
275	NB MAINLANES GIRDER DETAILS	407	
276	NB MAINLANES BRIDGE LAYOUT - SANDHILL/JUS 90A/UPRR/PM 1464 OVERPASS		
277	SB MAINLANES ESTIMATED QUANTITIES & BEARING SEAT ELEVATIONS	408	ILLUMINATION STANDARDS ELECTRICAL DETAILS-COMBUT ~ ED(1)-03, ED(5)-03, ED(9)-03
284	SB MAINLANES FOUNDATION LAYOUT	414	ROADWAY ILLUMINATION DETAILS ~ RID(FND)-11, RID(TIF)-07, RID(LUM1)-07, RID(LUM2)-07
287	SB MAINLANES ABUTMENT 1	418	ROADWAY ILLUMINATION POLES ~ RIP(1)-11 - RIP(4)-11
289	SB MAINLANES ABUTMENT 20		
291	SB MAINLANES BENT 2	413	SIGNING & PAVEMENT MARKINGS SMALL & LARGE SIGNING LAYOUT
293	SB MAINLANES BENT 3	417	OVERHEAD SIGN ELEVATION
295	SB MAINLANES BENTS 4-8	421	GUIDE SIGN DETAILS
296	SB MAINLANES BENT 9	422	PAVEMENT MARKING REMOVAL LAYOUT
297	SB MAINLANES BENT 10	429	
299	SB MAINLANES BENT 11	434	
301	SB MAINLANES BENT 12	435	
303	SB MAINLANES BENT 13	439	
304	SB MAINLANES BENTS 14 & 15		
307	SB MAINLANES BENTS 16 & 17	445	SIGNING & PAVEMENT MARKINGS STANDARDS TYPICAL STANDARD FREEMWAY PAVEMENT MARKINGS ~ FPM(1)-12, FPM(2)-12, FPM(3)-12
309	SB MAINLANES BENT 18	448	PAVEMENT MARKINGS ~ PM(RSD)-10, PM(CLL)-08
310	SB MAINLANES BENT 19	450	POSITION GUIDANCE USING RAISED MARKERS REFLECTORIZED PROFILE MARKINGS ~ PM(2)-12
311	SB MAINLANES BEAM LAYOUT	451	TYPICAL SIGN REQUIREMENTS ~ TSR (1)-08 - TSR (5)-08
313	SB MAINLANES SLAB DETAILS	456	DELINATOR & OBJECT MARKER INSTALLATION AND MATERIAL DESCRIPTION ~ DROM(1)-10
315	SB MAINLANES THICKENED SLAB END DETAILS	456A	DELINATOR & OBJECT MARKER PLACEMENT DETAILS ~ DROM(4)-04
322	SB MAINLANES PRESTRESSED CONCRETE I-GIRDER DESIGNS ~ IGNU	457	DELINATOR & OBJECT MARKERS FOR VEHICLE IMPACT ATTENUATORS ~ DROM(VTA)-04
329	SB MAINLANES FRAMING PLAN	458	SIGN MOUNTING DETAILS ~ SMD(GEN)-09, SMD(SLIP-1)-08, SMD(SLIP-3)-09, SMD (2-1)-08, SMD (2-4)
330	SB MAINLANES PLATE GIRDER UNIT	466	WIND MOUNTING DETAILS ~ SMD(TY 6)-08
331	SB MAINLANES GIRDER ELEVATION	467	WIND VELOCITY AND ICE ZONES ~ WAIZ-96
332	SB MAINLANES CAMBER DATA	468	OVERHEAD SIGN BRIDGE DETAILS ~ COSS & OSB-SZ
333	SB MAINLANES FINISH GRADE ELEV	469	OVERHEAD SIGN BRIDGE TRUSS DETAILS ~ HOSSB-Z1
334	SB MAINLANES GIRDER DETAILS	471	HIGH LEVEL OVERHEAD SIGN BRIDGE DETAILS ~ HOSB-Z1
335	SB MAINLANES BRIDGE LAYOUT - SANDHILL/JUS 90A/UPRR/PM 1464 OVERPASS	472	OVERHEAD SIGN BRIDGE TRUSS DETAILS ~ OSBC
336	SB MAINLANES ESTIMATED QUANTITIES & BEARING SEAT ELEVATIONS	473	HIGH LEVEL CANTILEVER OVERHEAD SIGN SUPPORTS ~ HCOSB-Z1-10
340	SB MAINLANES FOUNDATION LAYOUT	475	CANTILEVER OVERHEAD SIGN SUPPORT DETAILS ~ COSSD
341	SB MAINLANES ABUTMENT 1	476	BRIDGE MOUNTING DETAILS FOR SMALL ROADSIDE SIGNS ~ SMD(BK-1)-04
342	SB MAINLANES ABUTMENT 4	477	ATTACHMENT DETAILS FOR ROUTING SIGNS ~ SMD(RSD)-96
343	SB MAINLANES ABUTMENT 2 & 3	480	OVERHEAD SIGN BRIDGE COLUMN DETAILS ~ OSB-HS
344	SB MAINLANES ABUTMENT 3	481	BRACED TEE OVERHEAD SIGN STRUCTURE DETAILS ~ BTOSB-HS
345	SB MAINLANES BEAM LAYOUT	482	ENVIRONMENTAL TxDOT STORM WATER POLLUTION PREVENTION PLAN ~ SWP
347	SB MAINLANES SLAB DETAILS	483	EROSION CONTROL LAYOUT (SNPP)
348	SB MAINLANES GIRDER LAYOUT	487	ENVIRONMENTAL PERMITS ISSUES AND COMMITMENTS ~ EPIC
349	SB MAINLANES PRESTRESSED CONCRETE I-GIRDER DESIGNS ~ IGNU	489	ENVIRONMENTAL STANDARDS TEMPORARY EROSION, SEDIMENT AND WATER POLLUTION CONTROL MEASURES ~ EC(1)-09, EC(3)-93
350	SB MAINLANES ESTIMATED QUANTITIES & BEARING SEAT ELEVATIONS	491	EROSION CONTROL LOG ~ ECL
352	SB MAINLANES FOUNDATION LAYOUT		
353	SB MAINLANES ABUTMENT 1	492	MISCELLANEOUS SOIL BORING LOGS
354	SB MAINLANES ABUTMENT 4	504	
355	SB MAINLANES ABUTMENT 2 & 3		
356	SB MAINLANES ABUTMENT 3		
357	SB MAINLANES BEAM LAYOUT		
358	SB MAINLANES SLAB DETAILS		
360	SB MAINLANES GIRDER LAYOUT		
361	SB MAINLANES PRESTRESSED CONCRETE I-GIRDER DESIGNS ~ IGNU		
362	SB MAINLANES ESTIMATED QUANTITIES & BEARING SEAT ELEVATIONS		
363	SB MAINLANES FOUNDATION LAYOUT		
364	SB MAINLANES ABUTMENT 1		

THE STANDARD SHEETS HAVE BEEN SELECTED BY ME AND ARE APPLICABLE TO THIS PROJECT.
 DATE: 5/24/12
 P.E.

NOTE:
 1. * DENOTES TxDOT STANDARD

Fort Bend Grand Parkway
 Toll Road Authority

LJA Engineering, Inc. 

GRAND PARKWAY - SEGMENT D
 INDEX OF SHEETS

DESIGNED	HORIZ SCALE
CHECKED	VERT SCALE
DATE: May. 24, 2012	
SHEET NO. 3	
CSJ: 3510-04-045	SECTION 3

SHEET 2 OF 2

3.09 CONSTRUCTION AND AS-BUILT SUBMITTALS

- A. Provide TxDOT submittals for construction materials and procedures as outlined below and indicated in TxDOT Standard Specifications. A summary of most TxDOT submittal requirements can be found at: www.dot.state.tx.us/pub/itc/bridge/items_reviewed.pdf
- B. The tables below provide the Railroad's minimum submittal requirements for the construction items noted. Submittal requirements are in addition to those specified elsewhere in these bid documents. The review times indicated below represent the total time, including the Railroad's required four (4) weeks.
- C. TxDOT will forward relevant submittals to the Railroad Manager of Industry and Public Projects unless otherwise directed by the Railroad. TxDOT and the Engineer of Record will review and include comments prior to forwarding to the Railroad. Submit items in Table 1 for both railroad overpass and underpass projects, as applicable. Submit items in Table 2 for railroad underpass projects only.

TABLE 1 - RAILROAD SUBMITTAL REQUIREMENTS FOR OVERPASS & UNDERPASS PROJECTS

ITEM	DESCRIPTION	SETS	REVIEW TIME
1	Shoring design and details	6	6 weeks
2	Falswork design and details	6	6 weeks
3	Drainage design provisions	6	6 weeks
4	Erection diagrams and sequence	6	6 weeks
5	Demolition diagram and sequence	6	6 weeks

TABLE 2 - RAILROAD SUBMITTAL REQUIREMENTS FOR UNDERPASS PROJECTS

ITEM	DESCRIPTION	SETS	NOTES	REVIEW TIME
1	Shop drawings	6	Steel and Concrete members	6 weeks
2	Basings	6	For all structures	6 weeks
3	Concrete Mix Designs	6	For all structures	6 weeks
4	Rebar & Strand certifications	6	For super-structure only	6 weeks
5	28 day concrete strength	6	For super-structure only	6 weeks
6	Waterproofing material certifications and installation procedure	6	Waterproofing & protective boards	6 weeks
7	Structural steel certifications	6	All fracture critical members & other members requiring improved notch toughness	6 weeks
8	Fabrication and Test reports	6	All fracture critical members & other members requiring improved notch toughness	6 weeks
9	Welding Procedures and Welder Certification	6	AWS requirements	6 weeks
10	Foundation Construction Reports or Notes	6	Pile driving, drilled shaft construction, bearing pressure test reports for spread footings	6 weeks
11	Compaction testing reports for backfill or abutments	6	Must meet 95% maximum dry density, Modified Proctor ASTM D1557	6 weeks

D. TxDOT shall submit As-Built Records to the Railroad when TxDOT has processed the final project plans. These records shall consist of the following items:

- 1. Electronic files of all structure design drawings with Acrobat .PDF format.
- 2. Hard copies of all structure design drawings with as-constructed modifications shown.
- Underpass Projects
 - 1. Electronic files of all structure design drawings with as-constructed modifications shown, in Microstation J or Acrobat .PDF format.
 - 2. Hard copies of all structure design drawings with as-constructed modifications shown.
 - 3. Final approved copies of shop drawings for concrete and steel members.
- 4. Foundation Construction Reports
- 5. Compaction testing reports for backfill or abutments

3.10 APPROVAL OF DETAILS

Submit details of the construction affecting Railroad tracks and property not already included in the Contract Plans to the Railroad Designated Representative through TxDOT for the Railroad's review and written approval before such work is undertaken. Allow a total six (6) weeks for review and approval of these submittals, which includes the Railroad's four (4) week review time.

3.11 MAINTENANCE OF RAILROAD FACILITIES

- A. Maintain all ditches and drainage structures free of silt or other obstructions resulting from Contractor's operations. Repair eroded areas and any other damage within Railroad Right-of-Way and repair any other damage to the property of the Railroad, or its tenants.
- B. Perform all such maintenance and repair of damages due to the Contractor's operations at Contractor's expense.
- C. Submit a proposed method of erosion control for review by the Railroad prior to beginning any grading on the Project Site. Comply with all applicable local, state and federal regulations when developing and implementing such erosion control.

3.12 SITE INSPECTIONS BY RAILROAD'S DESIGNATED REPRESENTATIVE

- A. In addition to the office reviews of construction submittals, site inspections may be performed by the Railroad Designated Representative at significant points during construction, including the following if applicable:
 - 1. Pre-construction meetings.
 - 2. Pile driving/drilling of coissons or drilled shafts.
 - 3. Reinforcement and concrete placement for railroad bridge substructure and/or superstructure.
 - 4. Erection of precast concrete or steel bridge superstructure.
 - 5. Placement of waterproofing (prior to placing ballast on bridge deck).
 - 6. Completion of the bridge structure.
- B. Site inspection is not limited to the milestones events listed above. Site visits to check progress of the work may be performed at any time throughout the construction as deemed necessary by the Railroad.
- C. Provide a detailed construction schedule, including the proposed temporary horizontal and vertical clearances and construction sequence for all work to TxDOT for submittal to the Railroad Designated Representative for review prior to commencement of work. Include the anticipated dates when the above listed events will occur. Update this schedule for the above listed events as necessary and each month or a minimum to allow the Railroad to schedule site inspections.

3.13 RAILROAD REPRESENTATIVES

Railroad representatives, conductors, flag person or watch person will be provided by the Railroad at expense of TxDOT to protect Railroad facilities, property and movements of its trains or engines. In general, the Railroad will furnish such personnel or other protective services as follows:

- A. When any part of any equipment is standing or being operated within 25 feet, measured horizontally, from centerline of any track on which trains may operate, or when any object is off the ground and any dimension thereof could extend inside the 25 foot limit, or when any erection or construction activities are in progress within such limits, regardless of elevation above or below track.
- B. For any excavation below elevation of track subgrade if, in the opinion of the Railroad Designated Representative, track or other Railroad facilities may be subject to settlement or movement.
- C. During any clearing, grubbing, excavation or grading in proximity to Railroad facilities, which, in the opinion of the Railroad Designated Representative, may endanger Railroad facilities or operations.
- D. During any contractor's operations when, in the opinion of the Railroad Designated Representative, Railroad facilities, including, but not limited to, tracks, buildings, signals, wire lines, or pipe lines, may be endangered.
- E. Arrange with the Railroad Designated Representative to provide the adequate number of flag persons to accomplish the work.

3.14 WALKWAYS REQUIRED

Maintain along the outer side of each exterior track of multiple operated tracks, 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 twelve feet (12') from centerline of track. Remove any temporary impediments to walkways and track drainage encroachments or obstructions allowed during work hours before the close of each work day. Construct walkways with railings over open excavation areas when in close proximity of track. Do not violate allowable clearances of these railings to centerline of track: 8' - 6" horizontally for tangent track or 9' - 6" horizontally for curved track.

3.15 COMMUNICATIONS AND SIGNAL LINES

If required, the Railroad will rearrange its communications and signal lines, its grade crossing warning devices, train signals and tracks, and facilities that are in use and maintained by the Railroad's forces in connection with its operation at expense of TxDOT. This work by the Railroad will be done by its own forces and it is not a part of the work under this Contract.

3.16 TRAFFIC CONTROL

Coordinate any operations that control traffic across or around Railroad facilities with the Railroad Designated Representative.

3.17 CONSTRUCTION EXCAVATIONS

- A. Take special precaution and care in connection with excavating and shoring. Excavations for construction of footings, piers, columns, walls or other facilities that require shoring shall comply with requirements of TxDOT's OSHA, AREMA and Railroad "Guidelines for Temporary Shoring".
- B. The project plans indicate whether there are fiber optic lines or other such telecommunications systems that require consideration. Regardless, contact the necessary call center to determine if such cable systems are present:

UPRR 1-800-336-9193
7:00 AM to 9:00 PM CST Monday-Friday except holidays,
staffed 24 hrs/day for emergencies
48 hrs notice required

BNSF 1-800-533-2891
24 hour number
5 working days notice required

KCS 1-800-344-8377
Texas One Call, a 24 hour number
48 hrs notice required, excluding weekends and holidays

3.18 RAILROAD FLAGGING

Railroad flagging will be required for any work within 25 ft horizontally of the track. Provisions for flagging are also described in Item 7.16 "Work Near Railroads" in the TxDOT Standard Specifications.

3.19 CLEANING OF RIGHT-OF-WAY

When work is complete, remove all tools, implements, and other materials brought into Railroad Right-of-Way and leave the Right-of-Way in a clean and presentable condition to satisfaction of TxDOT and the Railroad.

Texas Department of Transportation
Bridge Division

RAILROAD REQUIREMENTS FOR BRIDGE CONSTRUCTION

FILES	Dist: TxDOT	City: TxDOT	State: TxDOT	Country: TxDOT
REVISED	NOVEMBER 2007	FEDERAL AID PROJECT	363C	
REVISIONS	HOU	CONTR. SECT	04	045 3499
5/24/10 - Revised Part 2				
05/11/10 - Rev. and Add. to Part 2				
05/11/10 - Rev. and Add. to Part 2				

ACTIVE FILE LEVELS DISPLAYED	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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ACTIVE	FILE	LEVELS	DISPLAYED
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PART 1 - GENERAL

1.01 DESCRIPTION

This project includes construction work within the Right-of-Way and/or properties of the Railroad Company and adjacent to its tracks, wire lines and other facilities. These sheets describe the minimum special requirements for coordination with the Railroad when working upon, over or under Railroad Right-of-Way or when impacting current or future Railroad operations. Coordinate with the Railroad while performing the work outlined herein, and afford the same cooperation with the Railroad as with TXDOT. Complete all submittals and work in accordance with TXDOT Standard Specifications, Railroad guidelines and AREMA recommendations as modified by these minimum special requirements or as directed in writing by the Railroad Designated Representative.

For purposes of this project, the Railroad Designated Representative is the person or persons designated by the Railroad Manager of Industry and Public Projects to handle specific tasks related to the project.

1.02 RAILROAD CONTACTS

The primary Railroad point of contact for this project and the contact for Railroad flagging services and track work, can be obtained by contacting the TXDOT Area Engineer responsible for the project.

1.03 REQUEST FOR INFORMATION / CLARIFICATION

Submit Requests for Information ("RFI") involving work within any Railroad Right-of-Way to the TXDOT Engineer. The TXDOT Engineer will submit the RFI to the Railroad Designated Representative for review and approval for RFI's corresponding to work within Railroad Right-of-Way. Allow six (6) weeks total time for review and approval, which includes four (4) weeks for review and approval by the Railroad.

1.04 PLANS / SPECIFICATIONS

TXDOT has received written Railroad approval of the plans and specifications for this project. Any revisions or changes in the plans offered by the Contractor must have the approval of TXDOT and the Railroad.

PART 2 - UTILITIES AND FIBER OPTIC

Construct all utility installations in accordance with current AREMA recommendations, Railroad, TXDOT and owning utility specifications and requirements. Railroad general guidelines can be found on the Railroad website or by contacting the Railroad Designated Representative.

PART 3 - CONSTRUCTION

3.01 GENERAL

A. Perform all work in compliance with all applicable Railroad, FRA and TXDOT rules and regulations. Arrange and conduct work in a manner that does not endanger or interfere with the safe operation of the tracks and property of the Railroad and the traffic moving on such tracks, or the wires, signals, and other property of the Railroad, its tenants or licensees, at or in the vicinity of the work. The Contractor is responsible for train delay cost and lost revenue claims due to any delays or interruption of train operations resulting from Contractor's construction or other activities.

B. Construction activities within 12 feet of the operational tracks will only be allowed if absolutely necessary and the Railroad's Designated Representative grants approval. Construction activities within 12 feet of the operational tracks(s) preferably allow the tracks to stay operational. In such cases, coordination and approval by the Railroad Track Manager is required with regard to schedule, flagging, and slow orders. See Sections 3.07 and 3.08 for additional information.

C. Provide track protection for all work equipment (including rubber tired equipment) operating within 25 feet from nearest rail.

D. The Contractor is also advised that new railroad facilities within the project may be built by the Railroad. If applicable, these facilities are delineated in the plans. Be aware of the limits of responsibilities and coordinate efforts with the Railroad and TXDOT.

3.02 RAILROAD OPERATIONS

A. Trains and/or equipment are expected on any track, at any time, in either direction. Become familiar with the train schedules in this location and structure bid assuming intermittent track windows in this period, as defined in Paragraph B that follows.

B. All railroad tracks within and adjacent to the Contract Site are active, and rail traffic over these facilities shall be maintained throughout the project. Activities may include both through moves and switching moves to local customers. Railroad traffic and operations will occur continuously throughout the day and night on these tracks and shall be maintained at all times as defined herein. Coordinate and schedule the work so that construction activities do not interfere with railroad operations.

C. Coordinate work windows with TXDOT and the Railroad's Designated Representative. Types of work windows include Conditional Work Windows and Absolute Work Windows, as defined below:

1. Conditional Work Window: A Conditional Work Window is a period of time that railroad operations have priority over construction activities. When construction activities may occur on and/or adjacent to the railroad tracks within 25 feet of the nearest track, a Railroad flag person will be required. At the direction of the Railroad flag person, upon approach of a train, and when trains are present on the tracks, the tracks must be cleared (i.e., no construction equipment, materials or personnel within 25 feet, or as directed by the Railroad Designated Representative, from the tracks). Conditional Work Windows are available for the Project.

2. Absolute Work Window: An Absolute Work Window is a period of time that construction activities are given priority over railroad operations. During this time frame the designated Railroad track(s) will be inactive for train movements and may be fouled by the Contractor. At the end of an Absolute Work Window the railroad tracks and/or signals must be completely operational for train operations and all Railroad, Public Utilities Commission (PUC) and Federal Railroad Administration (FRA) regulations, codes and regulations for operational tracks must be satisfied. In the situation where the operating tracks and/or signals have been affected, the Railroad will perform inspections of the work prior to placing that track back into service. Railroad flag persons will be required for construction activities requiring an Absolute Work Window. Absolute Work Windows will not generally be granted. Any request will require a detailed explanation for Railroad review.

3.03 RIGHT OF ENTRY, ADVANCE NOTICE AND WORK STOPPAGES

A. Prior to beginning any work on or over the property of, or affecting the facilities of the Railroad, enter into a "Contractor's Right of Entry Agreement" with Railroad. The fee for processing the agreement is the responsibility of the Contractor. Submit a copy of the executed agreement and the insurance policies, binders, certificates and endorsements set forth therein to TXDOT prior to commencing work on Railroad property. Within the right of entry agreement, specify working time frames, flagging and inspection requirements, and any other items specified by the Railroad.

B. Give advance notice to the Railroad as required in the "Contractor's Right of Entry Agreement" before commencing work in connection with construction upon or over Railroad Right-of-Way and observe the Railroad's rules and regulations with respect thereto.

C. Perform all work upon Railroad Right-of-Way in a manner to avoid interference with or endanger the operations of the Railroad. Whenever work may affect the operations or safety of trains, submit the work method to the Railroad Designated Representative for approval. Approval does not relieve the contractor from liability. Do not commence any work which requires flagging service or inspection service until the flagging protection required by the Railroad is available at the job site. See Section 3.18 for railroad flagging requirements.

D. Make requests in writing for both Absolute and Conditional Work Windows, at least two weeks in advance of any work. Include in the written request:

1. Exactly what the work entails.
2. The days and hours that work will be performed.
3. The exact location of work, and proximity to the tracks.
4. The type of window requested and the amount of time requested.
5. The designated contact person.

E. Make provisions to protect operations and property of the Railroad should a condition arising from, or in connection with the work, require immediate and unusual action. If in the judgment of the Railroad Designated Representative such provisions are insufficient, the Railroad Designated Representative may require or provide such provisions as deemed necessary. In any event, such provisions shall be at the Contractor's expense and without cost to the Railroad or TXDOT. The Railroad or TXDOT shall have the right to order the Contractor to temporarily cease operations in the event of an emergency or, if in the opinion of the Railroad Designated Representative, the Contractor's operations could endanger Railroad operations. In the event of such an order, immediately notify TXDOT of the order.

3.04 INSURANCE

Do not begin work upon or over Railroad Right-of-Way until furnishing the Railroad with the insurance policies, binders, certificates and endorsements required by the "Contractor's Right of Entry Agreement" and until the Railroad Designated Representative has advised TXDOT that such insurance is in accordance with the agreement. Further information on insurance requirements appear in the Special Provisions to Item 7 of the TXDOT Standard Specifications and/or the project General Notes.

3.05 RAILROAD SAFETY ORIENTATION

Complete the Railroad course "Orientation for Contractor's Safety", and maintain current registration prior to working on Railroad property. This orientation is available at www.contractororientation.com. This course is required to be completed annually by Contractor and Subcontractor personnel working on site.

"KCS/ENXEX will not accept on-track safety training certificates from other railroads. Contractor's employees entering the KCS railroad shall hold current certificates at all times. The training can be had by contacting Larry Slater of Tracsense Inc. at 330-847-8661 or by email at lslater@enx.com."

3.06 COOPERATION

The Railroad will cooperate with Contractor so that work may be conducted in an efficient manner, and will cooperate with Contractor in enabling use of Railroad Right-of-Way in performing the work.

3.07 MINIMUM CONSTRUCTION CLEARANCES FOR FALSEWORK AND OTHER TEMPORARY STRUCTURES

Abide by the following minimum temporary clearances during the course of construction:

- A. 15' - 0" (BNSF) and 12' - 0" (UPRR & KCS) horizontal from centerline of track
- B. 21' - 0" vertically above top of rail.

3.08 APPROVAL OF REDUCED CLEARANCES

For construction clearance less than listed above, obtain local Railroad Operating Unit review and approval.

A. Maintain minimum track clearances during construction as specified in Section 3.07.

B. Submit any proposed infringement on the specified minimum clearances to the Railroad Designated Representative through TXDOT at least 30 days in advance of the work. Do not proceed with such infringement until written approval by the Railroad Designated Representative.

C. Do not commence work involving an approved infringement until receiving written assurance from the Railroad Designated Representative that arrangements have been made for any necessary flagging service.

Texas Department of Transportation
Bridge Division

RAILROAD REQUIREMENTS FOR BRIDGE CONSTRUCTION

FILE:	NOVEMBER 2007	DISTRICT:	H01	SHEET:	3658
PROJECT:	UTILITIES AND FIBER OPTIC	COUNTY:	FORT BEND	CONTROL SECT:	04
				DATE:	04/05/09

