



**OHIO DEPARTMENT OF TRANSPORTATION
OFFICE OF REAL ESTATE**

DATE: January 16, 2007

TO: Users of the Railroad Coordination Policy & Procedures Manual

FROM: Rich Behrendt, Program Mgr./State Rail Coordinator

RE: Changes and Updates to the Railroad Coordination Policy & Procedures Manual

The only current and accurate source of ODOT's Real Estate Manual is on the Office of Real Estate's website. This site is located at: <http://www.dot.state.oh.us/real>. Desired information can be accessed by scrolling down the left column and selecting "Manuals and Booklets." Specific information can be selected by clicking on the desired section.

The Railroad Coordination Policy & Procedures Manual is a "living document" as procedures will evolve and change. Individuals or firms providing various services to the ODOT must perform these services in compliance with current published policies and procedures. Individuals utilizing a hard copy version of the manual, without accessing the website for updates, risk providing non-compliant services to the Office of Real Estate. Therefore, all users must be aware of the changes as various sections of the manual are updated.

ODOT will provide notice of manual changes on the Design Reference Resource Center (DRRC) web page. Users of the manual can access this page and subscribe to be made aware of manual changes via e-mail notification. Then, when changes to the manual occur, ODOT will provide direct notice to the subscriber. This page can be accessed at <http://www.dot.state.oh.us/DRRC>. Scroll down to "Real Estate Policies and Procedures Manual" and select the desired section for updates, or enter your e-mail address to subscribe for changes. It is the user's responsibility to maintain their most current e-mail address on the DRRC notification system. The DRRC web site is updated four times a year.

The Office of Real Estate may also provide additional guidance to its procedures by Inter-Office Communications (IOC's). These communications will be made a part of the Railroad Coordination Policy & Procedures Manual and will be found in the Addenda of the manual.

Individuals having questions may contact me at 614-387-3097, or by email at richard.behrendt@dot.state.oh.us.

Railroad Coordination Policy & Procedures Manual

Series 1000

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1000 RAILROAD COORDINATION POLICY AND PROCEDURES

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1001 INTRODUCTION

1. Railroad Coordination refers to the process to be used during the Project Development Process (PDP) to interface and engage the railroads on various projects within the State.
2. The primary concern of the railroads is continued safe operations of railroad traffic during construction and safe completion of the construction work on or near railroad property and operating tracks. Construction activity on railroad right-of-way or within 50 feet of active tracks must be coordinated with the affected railroad. This includes the movement of off-highway equipment and oversized loads using private or public grade crossings.
3. The processes and procedures outlined herein must be utilized when proposed work falls within the railroad Right-of-Way, operating envelope and/or property limits, regardless of whether going over, above or alongside a railroad line.
4. Some examples when railroad coordination is needed include, but are not limited to: construction of new bridges and reconstruction of existing bridges (either rail over highway or highway over rail); grade separation structures (either rail over highway or highway over rail); drainage or guardrail work, utility work, repaving work and traffic signal preemption work.
5. Railroad coordination is also required for work near railroad right-of-way that could affect the support of railroad track and structures, and also if the work involves construction activities that could foul or impact railroad operations including cranes working within the boom length plus 25 of the railroad clearance envelope.
6. The procedures outlined herein are for all common-carrier Class I railroads (i.e. Norfolk Southern (NS), CSX Transportation (CSX) and Canadian National (CN)), as well as for all other regional, shortline and industrial railroad operations state-wide.
7. Agreements and Special Clauses are required for any work over, under or alongside an active, operating railroad corridor. Special Clauses provide the insurance requirements, train traffic, and other information applicable to the project, and are included with all Agreements. The Special Clauses are also included as part of the construction Bid Proposal.
8. Railroad Proposal Notes #150-#159 are no longer permitted to be used on projects.
Use of Proposal Notes in lieu of Special Clauses is not permitted.

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1002 PROJECT DEVELOPMENT

1. Districts will be responsible for defining the scope and technical requirements of the project as it relates to railroad interface, ensuring that design standards and details as mandated by the railroad are included on documents.
2. Early initiation of preliminary engineering discussions and review of the project objectives with the railroad may identify additional alternatives and issues that should be considered while defining the project scope.
3. Technical information, including required clearances and other technical standards, are available at the following websites.
 - NS: www.nscorp.com → Doing Business; (in the drop-down menus) → Publications → Design of Grade Separation Structures
 - CSX: www.csxt.com → General ; then look under ‘Resources’ on that page and click on ‘Public Project Information’

4. Preliminary Engineering (for CSX only)

4.1 Upon definition of Scope, and/or a recognition of the need for railroad involvement during design, the District will notify the Central Office (CO) State Rail Coordinator, noting the Project Identification Number (PID), project name and location; and if known, the railroad, the American Association of Railroads Department of Transportation (AARDOT) crossing number, and milepost number with a request to initiate a Preliminary Engineering (PE) Agreement with the affected railroad (as of this writing, applicable only to CSX Transportation) See Exhibit A.

4.2 The State Rail Coordinator will develop the PE Agreement, acquire signatures from the Director, and forward them to the railroad for execution, with a copy forwarded to the District Rail Coordinator.

4.3 Upon receipt of an executed PE Agreement, one copy will be forwarded to the District who will be responsible for encumbering and entering funds into ELLIS to cover the cost indicated for the railroad’s PE work as indicated under Section 2.2 of the PE Agreement.

4. Preliminary Engineering (for all railroads except CSX)

It is the responsibility of the District’s Railroad Coordinator to notify the applicable responsible railroad personnel to provide necessary interface and review of pending projects that will require railroad review and approval of plans. Notification should occur with submission to the railroad of Stage 1 plans, or earlier as Scope for the project is developed. All correspondence should be copied to the State Rail Coordinator.

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4.3 Stage 1 is a critical milestone for railroad review, and should provide the scope and details pertinent to the railroad, including vertical and horizontal clearances, drainage, and any other above or below grade structures that are within the railroad's Right-of-Way. Adequate time should be built into a project's schedule to allow for the railroad's review of Stage 1 plans (normally 2-3 months).

Several entities within the railroad normally need to review proposed construction plans, including Operations, Signal, Communications, Industrial Development, Strategic Planning, Maintenance-of-Way, and others as deemed necessary by the railroad before the railroad can respond back with comments. Projects should not be advanced substantially into Stage 2 without review comments having been received by the railroad.

4.4 Upon receipt of review comments from the railroad of Stage 1 plans, the District will ensure that any technical comments and/or notes mandated by the railroad are incorporated into plan documents. Each railroad has different requirements for plan/general notes that are normally required to be shown on the drawings, and verification of note requirements by each railroad is required, as each railroad's requirements will be different (as an example, do not utilize CSX general/plan notes if work is on NS property).

4.5 Railroad Proposal notes (as utilized in the past) are not to be used.

5. **Final Design** (Stage 2 – sale date)

5.1 After receipt of Stage 1 comments, plan submissions for Stage 3 (& Stage 2 if mandated by the railroad) are to be made to the railroad that will allow them to ensure their comments from the Stage 1 submittal have been included. A request to the railroad for development and submission of any applicable RR Force Account work should also be made as part of the transmittal to the railroad.

5.2 After review/acceptance and/or comments are received back by the railroad of Stage 1 plans, a request for submission of a Force Account estimate should be made by the District, noting the number of anticipated days of construction.

5.3 After receipt of acceptance by the railroad of Stage 2/3 plans, and during bidding or before tracings are submitted to Central Office for bidding, four (4) sets (or other as required by the railroad) of final construction plans are to be submitted to the railroad by the District Railroad Coordinator, noting in the cover letter to the railroad the anticipated sale date of the project.

6. **Future Track expansion request for Highway projects**

6.1 Many rail corridors within the State are high-capacity, mainline corridors that are major routes to out-of-state points. With the railroads continuing to see added growth on many of these existing corridors, several routes are being considered for construction of future additional tracks within existing railroad Right-of-Ways (ROW). Additional track capacity may be required in the future for main line operations, major customers and/or terminals.

6.2 When new highway structures are scheduled, FHWA's position has been that the

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State should provide reasonable accommodation for future track expansion whenever possible/practical to do so, when requested by the affected railroad.

6.3 As a general guideline for all projects spanning over an active rail line, and when economically and structurally feasible, efforts should be made in designing clear spans from ROW line to ROW line.

6.4 Additional information about future corridor requirements will be provided during the preliminary engineering phase

6.5 If new piers/abutments are necessary within the ROW line, efforts should be made to locate these new structures a minimum of 26 feet from the centerline of existing or future track (structures located at 25' or closer require construction of a structural crashwall)

6.6 This policy for future track accommodation applies only to new bridge construction and replacement when building new piers/abutments, and is not applicable to reconstruction/rehabilitation of existing structures.

7. Underground Utilities

7.1 Railroad Agreements **do not** cover installation or railroad costs required for installation of new underground utilities. Both Norfolk Southern and CSX requires the execution of separate license agreements for each affected railroad.

7.2 To review requirements for each railroad, and to acquire the necessary applications and instructions, go to the following web sites:

- **NS:** www.nscorp.com → Doing Business; (in the drop-down menus) → click on 'Business Units', then 'Real Estate'. On the left side of the page under Real Estate Services', click on 'Wireline and Pipeline License'. As of this writing, the link refers you to DMJM+Harris, who are handling pipeline applications on behalf of NS.
- **CSX:** www.csxt.com → click on the 'General' ; then click on 'CSX Property/Real Estate', then 'Leases and Licenses', then under 'Application Packages', click on 'Pipeline'.

7.3 The District Utility Coordinator is responsible for completion of the license application.

1003 RAILROAD AGREEMENTS

1. All **Railroad Agreements** (either Standard or Letter Agreements) utilize a standard template and Special Clauses customized for that railroad, and are issued by the State Rail Coordinator.

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2. For those projects involving special situations and/or circumstances that might affect and/or require railroad flagging, the State Rail Coordinator will determine the use of either a Standard or Letter Agreement customized for the particular project condition, after conferring with the affected railroad.
3. a.) Upon completion of Stage 1 plans, forward one set of Stage 1 plans to the railroad, with a copy to the State Rail Coordinator. The State Rail Coordinator will issue all Standard and Letter Agreements, and will be responsible for tracking Agreements through to execution.
b.) Each Agreement (for both the Standard and Letter Agreements) are provided with Special Clauses that outline specific requirements that bidders are responsible for, including insurance and contact information. **Special Clauses must be included as part of the bid documents for construction.**

4. Standard Railroad Agreements

See Exhibit B for an example of a Standard Railroad Agreement.

4.1 **Standard Railroad Agreements** are utilized for most new and major projects, including Grade Separation Projects, and clearly will involve intrusion upon railroad ROW to execute the project.

4.2 Upon receipt of Stage 1 plans, the State Rail Coordinator will initiate the Standard Railroad Agreement / Special Clauses and forward to the railroad for signature, copying the District Railroad Coordinator.

4.3 Both NS and CSX have extensive inter-departmental reviews of Scope and/or Agreements that must occur before approval is made that will allow for a signature to occur on an Agreement. Past practice has seen NS and CSX turn-around times for return of signed Agreements exceed 2-3 months due to the extensive reviews that are done by each railroad. Grade Separation projects which involve the railroad contributing funds towards the project have historically taken 4-5 months to execute.

4.4 For projects involving Third Party agreements (requiring signatures by cities/counties in addition to signatures by the railroad and ODOT), the State Rail Coordinator, upon receipt of signed Agreements/Special Clause's from the railroad, will forward those Agreements to the District or the County (as determined to be the most expedient process between CO and the District) with a request for signature.

4.5 For all Agreements, the State Rail Coordinator will acquire the Director's signature, assign an Agreement Number (for Standard Agreements only) and forward all copies to the railroad for execution. Upon their return by the railroad, copies of the executed Agreement/Special Clause's are forwarded to the District, CO Estimating, and CO Real Estate Acquisition group by the State Rail Coordinator. One original is maintained in the State Rail Coordinator files at Central Office.

4.6 For third party agreements, upon return of the executed copies by the railroad, the State Rail Coordinator will forward the agreements to the appropriate District Railroad Coordinator for movement to the applicable County/City agency for signatures. Upon

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execution by the County/City, all copies are to be returned to the State Rail Coordinator, who will make appropriate distribution as outlined in section 4.5 above.

5. **Letter Agreements**

See Exhibit C for an example of a Standard Letter Agreement

5.1 **Letter Agreements** are utilized for most resurfacing projects, and minor bridge or repair projects that would have no apparent impact or major intrusion on railroad operations, and would not create a safety hazard to railroad personnel or impact railroad operations.

5.2 Upon receipt of plans, the State Rail Coordinator will initiate the Letter Agreement / Special Clauses, acquire signatures from the Director, and forward two (2) copies of the Letter Agreement to the railroad for signature, copying the District Railroad Coordinator.

5.3 Both Agreements are signed by the Railroad, with one copy returned to the State Rail Coordinator. Upon receipt of the signed Letter Agreement, the State Rail Coordinator will forward a copy to the District for their file, and another copy forwarded to Central Office Estimating. One original is maintained in the State Rail Coordinator files.

5.4 Letter Agreements are usually signed off by the railroad within 30 days (60-120 days for NS).

6. **Special Clauses**

See Exhibit D for an example of Special Clauses

6.1 **Special Clauses** outline additional contractor requirements complimentary to the Agreement for each railroad covering items such as required insurance requirements and coverages, contact information, and other procedural information specific for each railroad and/or project.

6.2 Special Clauses are included with every Standard and Letter railroad agreement, and are included in all construction bid packages, making them a required contractual element between ODOT and the contractor.

7. **Agreements for Grade Separation Projects**

7.1 Grade Separation projects that are being constructed to eliminate one or more at-grade vehicular crossings with a railroad are subject to the requirements of the Code of Federal Regulations (CFR) Title 23 – Part 646 which stipulates financial requirements for railroads to contribute to the overall cost of the project.

7.2 Although 23 CFR stipulates a minimum of 5% total cost contribution from a railroad, the final cost contribution (which will never be less than 5%) is ultimately a negotiated cost, and includes other factors including the number of crossing being closed, vehicular traffic and trains per day over the crossing(s). The State Rail Coordinator is responsible for negotiating final cost contributions with the railroads, which is reflected in Section 15 of the applicable Agreement.

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7.3 The routing and signature process is similar to that of the Standard Railroad Agreement as outlined under subparagraph 4 above.

1004 POST AWARD ACTIVITIES

1. A **Letter of Authorization** (see Exhibit E) is to be forwarded to the railroad from the District Rail Coordinator, Project Manager, or other District-assigned individual, upon award of construction, or earlier if railroad Force Account work is needed to begin. One copy is to be provided to the State Railroad Coordinator. Four (4) copies of complete construction plans should be forwarded to the railroad along with the Letter of Authorization (or sooner if requested by the RR).
2. The railroad will provide information of railroad project representatives, and who should be copied and included in Pre-Construction meetings, notes and follow-ups.
3. The construction Project Manager, or other District individuals assigned to the project are responsible for monitoring railroad Force Account (FA) work, and approving invoices for FA work as received. Specific notations should be noted in field logs/reports noting daily attendance of flagmen (which for many projects is predominant item of a railroad's Force Account work). Project Managers are also responsible for approving of FA invoices received.
4. The Post-Award Activities outlined above provide a recommended procedure, but is contingent upon individual District protocol and/or personnel involvement for design and construction phases.

1005 ATTACHMENTS

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EXHIBIT A

Project:
MP

CSXT OP# _____

ODOT PID:

PRELIMINARY ENGINEERING AGREEMENT

This Preliminary Engineering Agreement (“**Agreement**”) is made as of _____, 2006, by and between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business in Jacksonville, Florida (“CSXT”), and The Ohio Department of Transportation, (“STATE”).

EXPLANATORY STATEMENT

1. The State wishes to facilitate the development of (describe project) (the “**Project**”).
2. The State has requested that CSXT proceed with certain necessary engineering and/or design services for the Project to facilitate the parties’ consideration of the Project.
3. Subject to the approval of CSXT, which approval may be withheld for any reason, the Project is to be constructed, if at all, at no cost to CSXT, under a separate construction agreement to be executed by the parties at a future date.

NOW, THEREFORE, for and in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. Scope of Work
 - 1.1 Generally. The work to be done by CSXT under this Agreement shall consist of: (1) the preparation or review and approval of preliminary and final engineering and design plans, specifications, drawings and other documents pertaining to the Project, (2) the preparation of cost estimates for CSXT’s work in connection with the Project, and (3) the review of construction cost estimates, site surveys, assessments, studies and related construction documents submitted to CSXT by the State for the Project (“**Engineering Work**”). Engineering Work may also include: (1) office reviews, (2) field reviews, (3) attendance at hearings and meetings, and (4) preparation of correspondence, reports, and other documentation in connection with the Project. Nothing contained in this Agreement shall oblige CSXT to perform work which, in CSXT’s opinion, is not relevant to CSXT’s participation in the Project.
 - 1.2 Effect of CSXT Approval or Preparation of Documents. By its review, approval or preparation of plans, specifications, drawings or other documents pursuant to this Agreement (collectively, the “**Plans**”), CSXT signifies only that the Plans and improvements constructed in accordance with the Plans satisfy CSXT’s requirements. CSXT expressly disclaims all other representations and warranties in connection with the Plans, including, but not limited to, the integrity, suitability or fitness for the purposes of the State or any other persons of such Plans or improvements constructed in accordance with the Plans.
2. Reimbursement of CSXT Expenses.

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2.1 Reimbursable Expenses. The State shall reimburse CSXT for all costs and expenses incurred by CSXT in connection with the Engineering Work, including, without limitation: (1) all out of pocket expenses, (2) travel and lodging expenses, (3) telephone, facsimile, and mailing expenses, (4) costs for equipment, tools, materials and supplies, (5) sums paid to consultants and subcontractors by CSXT, and (6) CSXT labor, together with CSXT labor overhead percentages established by CSXT pursuant to applicable law (collectively, “**Reimbursable Expenses**”).

2.2 Estimate. CSXT has estimated the total Reimbursable Expenses for the Project to be approximately \$ _____ (the “**Estimate**” as amended or revised). In the event CSXT anticipates that actual Reimbursable Expenses may exceed such Estimate, it shall provide the State with the revised Estimate of total Reimbursable Expenses for the State's approval and confirmation that sufficient funds have been appropriated to cover the total Reimbursable Expenses as reflected in the revised Estimate. CSXT may elect, by delivery of notice to the State, to immediately cease all further Engineering Work, unless and until the State provides such approval and confirmation.

2.3 Payment Terms.

2.3.1 The State shall pay CSXT for Reimbursable Expenses in the amounts and on the dates set forth in the Payment Schedule attached to this Agreement as Exhibit A (the “**Payment Schedule**,” as revised from time to time pursuant to Section 2.2). CSXT agrees to submit invoices to the State for Reimbursable Expenses. The State shall remit payment to CSXT within thirty (30) days following delivery to the State of such proper invoice or, if later, the payment date (if any) set forth in the Payment Schedule.

2.3.2 Following completion of all Engineering Work, CSXT shall submit to the State a final invoice that reconciles the total Reimbursable Expenses incurred by CSXT against the total payments received from the State. The State shall pay to CSXT the amount by which actual Reimbursable Expenses exceed total payments, as shown by the final invoice, within thirty (30) days following delivery to the State of the final invoice.

2.3.3 In the event that the State fails to pay CSXT any sums due CSXT under this Agreement: (i) the State shall pay CSXT interest as permitted by applicable law on the delinquent amount until paid in full; and (ii) CSXT may elect, by delivery of notice to the State: (A) to immediately cease all further work on the Project, unless and until the State pays the entire delinquent sum, together with accrued interest; and/or (B) to terminate this Agreement.

2.3.4 All invoices from CSXT shall be delivered to the State in accordance with Section 6 of this Agreement. All payments by the State to CSXT shall be made by certified check and mailed to the following address or such other address as designated by CSXT's notice to the State:

CSX Transportation, Inc.
P.O. Box 116651
Atlanta, GA 30368-6651

3. Appropriations. The State represents to CSXT that: (i) the State has obtained appropriations sufficient to reimburse CSXT for the Reimbursable Expenses encompassed by the initial Estimate; (ii) the State shall use its best efforts to obtain appropriations necessary to cover Reimbursable Expenses encompassed by subsequent Estimates approved by the State; and (iii) the State shall promptly notify CSXT in the event that the State is unable to obtain such additional appropriations. It is agreed and understood by both parties that the obligations described in this agreement are subject to Section 126.07 of the Ohio Revised Code.

4. Termination.

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- 4.1 By the State. The State may terminate this Agreement, for any reason, by delivery of notice to CSXT. Such termination shall become effective upon the expiration of fifteen (15) calendar days following delivery of notice to CSXT or such later date designated by the notice.
- 4.2 By CSXT. CSXT may terminate this Agreement as provided pursuant to Section 2.3.3.
- 4.3 Consequences of Termination. If the Agreement is terminated by either party pursuant to this Section or any other provision of this Agreement, the parties understand that it may be impractical for them to immediately stop the Engineering Work. Accordingly, they agree that, in such instance a party may continue to perform Engineering Work until it has reached a point where it may reasonably and safely suspend the Engineering Work. The State shall reimburse CSXT pursuant to this Agreement for the Engineering Work performed, plus all costs reasonably incurred by CSXT to discontinue the Engineering Work and all other costs of CSXT incurred as a result of the Project up to the time of full suspension of the Engineering Work. Termination of this Agreement or Engineering Work on the Project, for any reason, shall not diminish or reduce the State's obligation to pay CSXT for Reimbursable Expenses incurred in accordance with this Agreement. In the event of the termination of this Agreement or the Engineering Work for any reason, CSXT's only remaining obligation to State shall be to refund to the State payments made to CSXT in excess of Reimbursable Expenses in accordance with Section 2.
5. Subcontracts. CSXT shall be permitted to engage consultants and subcontractors to perform all or any portion of the Engineering Work.
6. Notices. All notices, consents and approvals required or permitted by this Agreement shall be in writing and shall be deemed delivered upon personal delivery, upon the expiration of three (3) days following mailing by first class U.S. mail, or upon the next business day following mailing by a nationally recognized overnight carrier, to the parties at the addresses set forth below, or such other addresses as either party may designate by delivery of prior notice to the other party:
- | | |
|------------------|--|
| If to CSXT: | CSX Transportation, Inc.
500 Water Street, J-301
Jacksonville, Florida 32202
Attention: Mel McNichols
Principal Engineer |
| If to the State: | Ohio Department of Transportation
1980 W. Broad Street
Columbus, OH. 43223
Attn: Richard Behrendt
Program Mgr./ State Rail Coordinator |
7. Project Construction. Nothing contained in this Agreement shall be deemed to constitute CSXT's approval of or consent to the construction of the Project.
8. Entire Agreement. This Agreement embodies the entire understanding of the parties, may not be waived or modified except in a writing signed by authorized representatives of both parties, and supersedes all prior or contemporaneous written or oral understandings, agreements or negotiations regarding its subject matter. In the event of any inconsistency between this Agreement and the Exhibits, the more specific terms of the Exhibits shall be deemed controlling.

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- 9. Waiver. If either party fails to enforce its respective rights under this Agreement, or fails to insist upon the performance of the other party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.
- 10. Assignment. CSXT may assign this Agreement and all rights and obligations herein to a successor in interest, parent company, affiliate, or future affiliate. CSXT shall consult with the State prior to assignment. Upon assignment of this Agreement by CSXT and the assumption by CSXT's assignee of CSXT's obligations under this Agreement, CSXT shall have no further obligations under this Agreement. The State shall not assign its rights or obligations under this Agreement without CSXT's prior written consent, which consent may be withheld for any reason.
- 11. Applicable Law. This Agreement shall be governed by the laws of the State of Ohio.
- 12. Termination by Operation of Law. This agreement shall terminate at the end of the current fiscal biennium, June 30, 2007. This agreement will automatically re-new unless terminated by the parties in accordance with Section 4.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate, each by its duly authorized officers, as of the date of this Agreement.

Ohio Department of Transportation:

By: _____
Print Name: _____
Title: _____

CSX TRANSPORTATION, INC.

By: _____
Print Name: _____
Title: _____

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EXHIBIT A

PAYMENT SCHEDULE

Progress Payments

Notwithstanding anything to the contrary set forth in this Agreement, the State shall pay CSXT in arrears for its Reimbursable Expenses, rather than in advance, with only such exceptions, such as purchasing materials and equipment, as the parties mutually agree. Accordingly, the State shall remit full payment to CSXT, with no retainage, for its Reimbursable Expenses within thirty (30) days following delivery to State of an invoice.

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EXHIBIT B

IN THE MATTER OF THE WIDENING OF
THE I-270 BRIDGE OVER THE TRACKS
OF NORFOLK SOUTHERN RAILWAY
COMPANY IN COLUMBUS, FRANKLIN
COUNTY, OHIO

**AGREEMENT NO.: 14184
PID: 81737**

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2006 between the State of Ohio, acting by and through the Director of Transportation of the State of Ohio, as First Party, hereinafter referred to as the STATE, and Norfolk Southern Railway Company, as the Second Party, hereinafter referred to as the COMPANY.

WITNESSETH:

WHEREAS, the STATE proposes to widen the I-270 bridges over the tracks of the COMPANY at milepost S10.50 in Columbus, Franklin County, Ohio, and

WHEREAS, said construction requires the widening of the I-270 bridge over the track of the COMPANY and the highway at the point hereinbefore mentioned. Said work and the necessary approaches thereto are hereinafter referred to as the PROJECT; and

WHEREAS, no existing COMPANY grade crossing will be eliminated as a result of the proposed construction; and

WHEREAS, under such conditions, Chapter 5523 of the Revised Code of Ohio and other grade crossing elimination laws of the State of Ohio do not apply to the PROJECT herein considered; and

WHEREAS, the Director of Transportation of the State of Ohio is empowered generally by Chapter 5501 of the Revised Code of Ohio to carry forward highway improvements of the type herein contemplated; and

WHEREAS, the Federal-Aid Highway Act of 1956, as amended, and Section 5531.03 of the Revised Code of Ohio have become effective, providing funds for the construction costs of projects such as is contemplated herein; and

WHEREAS, it is desired by the parties hereto to carry out and accomplish the construction of the PROJECT over the tracks of the COMPANY at the point hereinbefore mentioned and to determine and agree upon the manner of doing said work and the portion of said work to be done by each of said parties respectively, and the proportion of costs and expenses to be paid by each of said parties, and the mode and time of payment therefore.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter stipulated to be kept and performed, it is agreed between the parties as follows:

SECTION 1

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The plans of the STATE for the said improvement are identified by title as follows:

"State of Ohio, Department of Transportation, FRA-270-24.43, City of Columbus, City of Worthington, Sharon Township, Franklin County".

Before this agreement shall be in force and effect, the foregoing plans shall meet the approval of the parties hereto, and upon such approval shall become a part of this agreement by reference.

SECTION 2

The work to be done under this agreement and shown on the plans, which are attached hereto and incorporated herein as if fully rewritten, and are described under SECTION 1 of this agreement, consists of the widening and reconstruction of the I-270 bridge over the tracks of the COMPANY and the necessary approaches thereto.

The construction of the highway and the necessary earth work to effect the clearances are as shown in the plans, and includes the removal and reconstruction of the bridge, grading, draining and paving of the highway, the sodding, seeding and planting of slopes, the construction of highway guard rails, the settlement of claims for property purchased, appropriated or damaged by such construction, and the maintenance of railroad traffic and rearrangement and restoration of railroad facilities made necessary by the work herein contemplated, shall be considered as necessary items to be included as part of this improvement.

SECTION 3

Responsibility for the several necessary items of work shall be as follows:

- a. The following items shall be let in contract by the STATE after competitive bidding as provided by law, at PROJECT expense, subject to the provisions of this agreement:
 1. Removal and reconstruction of the bridge, grading, draining and paving the highway, including constructing any necessary side drives and approaches.
 2. Sodding, seeding and planting of slopes.
 3. Erecting necessary highway guardrails.
- b. The following items shall be done or caused to be done by the COMPANY with its own forces, at PROJECT expense, subject to the provisions of this agreement.
 1. Changes in communication and signal lines, interlocking and signal apparatus
 2. Provision of switch tenders, flagmen, watchmen and other protective services and devices to promote safety and insure continuity of train operations as may be necessary in connection with the work performed by the COMPANY's forces.

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SECTION 4

Any work not specifically provided for in SECTION 3 shall be done by one of the parties hereto as may be mutually agreed upon from time to time during progress of the work, as provided for by the rules and regulations of the Federal Highway Administration as then in effect.

SECTION 5

All work to be done by the COMPANY under the provisions of this agreement shall be done in accordance with the plans described in SECTION 1, and in accordance with good engineering practice. All work to be done by the STATE shall be done in accordance with said plans and under the standard and supplemental specifications of the Department of Transportation in force on the date of the award of the contract, together with such special provisions as may be agreed upon by the parties hereto.

The STATE will require its contractor to use Railroad protective personnel to protect railroad traffic made necessary or occasioned by his operations, as set forth in special provisions to be approved by the parties hereto, which are more specifically set forth in the "Special Clauses in the Proposal" and which are included in this agreement by reference.

The COMPANY agrees to furnish the STATE's contractor at PROJECT expense, and the STATE shall require its contractor to use, all applicable and reasonable protective personnel, services and devices, other than engineering personnel, as in the opinion of the COMPANY that are required to promote the safety and insure continuity of railroad traffic during the contractor's operations.

The COMPANY agrees to bill the STATE as a part of its regular force account work the actual cost for such protective services and devices, including the actual rate of pay, plus the amount paid for overtime, insurance, railroad retirement, vacation allowance, holidays, health and welfare, transportation, deadhead and turn around time, accounting and billing.

The STATE agrees to reimburse the COMPANY for said protective services and devices as a part of its regular force account work as set forth in this agreement.

SECTION 6

The STATE shall have general charge of the engineering work on the PROJECT, but the COMPANY shall provide such engineering services as the STATE may require. Nothing herein shall deny the COMPANY the right to place inspectors on work being done on its property or facilities. Preliminary engineering costs incurred by the COMPANY subsequent to October 27, 2005 may be charged against the PROJECT.

Construction engineering and inspection costs incurred by the COMPANY subsequent to the award of a construction contract by the STATE may be charged against the PROJECT.

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SECTION 7

It is understood that the construction costs of the PROJECT herein contemplated are to be financed from funds provided by the STATE expended in accordance with Federal regulations, that all plans, specifications, estimates of costs, awards of contracts, acceptance of work and procedure in general will at all times conform to all Federal laws, rules, regulations, orders and approvals applying to a Federal-Aid Project, and the STATE shall reimburse the COMPANY for construction costs and for preliminary and construction engineering costs in accordance with Federal-Aid Policy Guide 140(I) of the Federal Highway Administration or any subsequent amendments thereto, in such amounts and forms as are proper and eligible for payment from Federal-Aid highway funds. The COMPANY shall render its billings to the STATE in accordance with said rules and regulations, and further agrees to provide and furnish such itemized records of and substantiating data for such costs as may be necessary.

In the event that delays or difficulties arise in securing necessary approvals or in securing necessary rights of way or settling damages or damage claims which, in the opinion of the STATE, render it impracticable to utilize funds from the current appropriation for the construction of the PROJECT, the STATE may serve formal notice of cancellation upon the COMPANY and this agreement shall, with the exception of the obligations set forth in the following sentence, become null and void.

The STATE shall reimburse the COMPANY for all costs and expenses incurred by it at the request of the STATE, on account of the PROJECT prior to such cancellation, and shall restore the COMPANY's property to the condition existing prior to the initiation of the PROJECT construction.

SECTION 8

The COMPANY may invoice the state no more than monthly for its force account when costs exceed \$1,000. Progressive invoices may be submitted for work done during the previous month or period showing the portion of estimated cost completed. A final invoice covering actual cost of work and showing all details shall be submitted to the STATE within ninety (90) days after completion of said work. The STATE shall pay all invoices that have been approved within sixty (60) days after receipt thereof. The STATE may hold a retainer on all invoices not to exceed eight percent (8%) until final payment. Final payment for all amounts due the COMPANY shall be paid by the STATE within sixty (60) days after the final audit has been made and approved.

SECTION 9

The STATE shall acquire or settle all property, property rights and all damages to property affected by the PROJECT. The cost of said property, property rights and damages to property shall be included as a part of the PROJECT expense.

The COMPANY, insofar as it has the legal right so to do, shall permit the STATE and/or its contractor to enter upon lands owned or operated by the COMPANY to construct and occupy said highway facilities across its property with sufficient width to permit construction and maintenance of the PROJECT. The STATE and COMPANY shall enter into good faith negotiations for a price to be consistent with the property interest determined by the Director of Transportation to be needed for the proposed improvement.

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However, the price to be paid by the STATE to the COMPANY for said conveyances (representing the fair market value thereof plus damages, if any, to the residue) shall be as mutually agreed upon within nine (9) months from the date of occupancy by the STATE, and if agreement as to price is reached, an additional period of ninety (90) days shall be allowed for settlement, it being agreed however, that if no agreement as to price is reached within the aforesaid nine (9) month period, the STATE will within ninety (90) days thereafter institute an eminent domain proceeding authorized by law for the determination of the value of same. The provisions of this agreement shall survive the institution of such eminent domain proceeding.

The STATE shall furnish the plans and descriptions for any such conveyance. It is understood however, that the foregoing right of entry is a permissive use only, and this Section is not intended to convey or obligate the COMPANY to convey any interest in its land.

In case any action involving said improvement is brought by or against any party hereto, said party shall promptly notify the other parties of the pendency of such action.

SECTION 10

Each party hereto waives, but only against the others, any and all damages or right to claim damages to any of its property growing out of or in any way connected with the improvement herein contemplated, except as otherwise provided for in this agreement.

The STATE shall require of its contractor a bond, conditioned according to Section 5525.16 of the Revised Code of Ohio, in favor of the STATE and the COMPANY, and shall further require its contractor to take out before work is commenced, and keep in effect until work is completed and accepted, a policy of Railroad Protective Liability Insurance from an insurance company authorized to do business in the State of Ohio, to protect the COMPANY against loss or damage to property and injury to or death of persons, and against all claims, demands, expenses, suits or judgments arising because of, or resulting from the operations of the contractor, his subcontractor, agents or employees, such policy of insurance

Required insurance provisions are more specifically set forth in the "Special Clauses in the Proposal" which are included in this agreement by reference.

SECTION 11

The work provided for in this agreement shall be commenced by the parties hereto within thirty (30) days from the latter of the following: (1) the date on which this agreement becomes effective, (2) the date on which the COMPANY has been notified by the STATE to proceed or (3) the date on which all funds necessary therefore on the part of the STATE have been properly certified and made available; and it shall be completed within a reasonable time thereafter. Buying and assembling of materials shall be construed as compliance with the foregoing thirty (30) day provision.

All obligations of the STATE provided for in this agreement which require the expenditure of funds by the STATE shall terminate at the end of the present biennium, being June 30, 2007.

If construction covered under said agreement is not complete by June 30, 2007, it is the expressed intention of the parties to renew said obligations for one successive biennium period; with the renewal period beginning July 1, 2007 and ending no later than June 30, 2009; until such time as construction covered under said agreement is complete. Said renewal is conditioned upon the STATE determining future appropriations will permit the STATE to renew said obligations.

All financial obligations of the STATE as provided for in this agreement are subject to the provisions of Section 126.07 of the Ohio Revised Code.

1000 RAILROAD COORDINATION POLICY AND PROCEDURES

SECTION 12

Upon completion of the PROJECT herein contemplated the STATE shall at its own cost and expense, maintain, repair and renew, or by agreement with others provide for the maintenance, repair and renewal of the highway surfaces, approach grades and all other highway facilities constructed or changed under the terms of this agreement. The COMPANY will permit access onto its property to perform said maintenance and shall at its own cost and expense, maintain, repair and renew all of its facilities constructed or changed under the terms of this agreement. The COMPANY will not be vested with any rights of ownership of the highway, and will not have a duty to maintain the highway or adjoining facilities, and will not, if the highway ceases to be a part of the highway system, have a duty to remove the facility from the COMPANY right of way.

SECTION 13

This agreement shall be for the benefit of the parties hereto only and no person, firm or corporation shall acquire any rights whatsoever by virtue of this agreement, except the STATE and COMPANY and the successors and assigns of the COMPANY.

SECTION 14

The Federal Highway Administration's Federal-Aid Policy Guide 646(B) classifies this PROJECT in Classification No. 2 resulting in no ascertainable benefits to the COMPANY. The Parties signatory to this agreement accept this classification as applicable in this instance. The COMPANY's contribution shall be zero dollars.

SECTION 15

The COMPANY agrees to adhere to the requirements of Ohio Ethics law as provided by Section 102.04 of the Ohio Revised Code (ORC). Contractor affirms that, as applicable to it, no party listed in division (i) or (j) of section 3517.13 of the ORC or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the governor or to his campaign committees.

SECTION 16

COMPANY agrees that it is in compliance with the requirements of Ohio Revised Code section 125.111.

SECTION 17

COMPANY agrees to comply with all applicable state and federal laws regarding a drug-free workplace. COMPANY shall make a good faith effort to ensure that all COMPANY employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

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IN WITNESS WHEREOF, the parties hereunto have caused this agreement to be duly executed in duplicate as of the day and year first above written.

THE STATE OF OHIO

By _____
Director of Transportation

NORFOLK SOUTHERN RAILWAY COMPANY

By _____

1000 RAILROAD COORDINATION POLICY AND PROCEDURES

EXHIBIT C

(ODOT Letterhead)

(Date)

(Contact name/address)

SUBJECT: City, County, Ohio
Rt. Number / project description
Agency Reference: (project name)
PID No. _____

AAR/DOT No.: _____
RR Reference: Milepost _____

Dear Mr. _____

(Brief description of project and scope of work)

- 1) No work will commence until the Railway has approved the State's final plans for the project. All work will be performed in accordance with the approved plans, specifications and the attached Special Clauses in the Proposal.
- 2) During the performance of the work, temporary construction clearances of 22'-0" vertically above the top of rail and 13'-0" horizontally from the centerline of a track shall be maintained to any form work, false work or other temporary obstruction.
- 3) The State's Contractor will not be allowed to commence work on or over Railway property until the following conditions have been met:
 - a) The State has received notice from the Railway that the required insurance is satisfactory.
 - b) The State has received written authorization from the Railway to begin work on Railway property. The written authorization will include the name and telephone number of the local representative who must be contacted to arrange for flag protection.
 - c) The State shall reimburse the Railway for all necessary force account work to accommodate the project, including but not limited to preliminary engineering, flagging, and construction engineering.

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- d) All obligations of the State provided for in this agreement which require the expenditure of funds by the State shall terminate at the end of the present biennium, being June 30, 2007. If construction covered under said agreement is not completed by June 30, 2007, it is the expressed intention of the parties to renew said obligations for one successive biennium period; with the renewal period beginning July 1, 2007 and ending no later than June 30, 2009; until such time as construction covered under said agreement is complete. Said renewal is conditioned upon the State determining future appropriations will permit the State to renew said obligations.

- 1. e) Contingent upon meeting requirements indicated above, railroad shall permit the State and/or its contractor to enter upon lands owned or operated by the company to permit construction and/or maintenance referenced herein.

If you agree with the terms of this letter, please indicate your concurrence by signing in the space below and return one copy of this letter to me. Please contact Rich Behrendt, State Rail Coordinator at (614) 387-3097 if you have any questions or concerns, or wish to discuss this project further.

Sincerely,

James Beasley, P.E., P.S.
Director of Transportation

Accepted by (RR name) :

By: _____

Title: _____

Date: _____

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EXHIBIT D

FRANKLIN COUNTY
FRA-161-5.78; PID 76145
CSX TRANSPORTATION INC.;
Milepost CD9.30

SPECIAL CLAUSES IN THE PROPOSAL

The bidder, if awarded the contract for this improvement agrees:

1. To cooperate at all times with the local officials of the railroad company.
2. To use all reasonable care and diligence in the work in order to avoid accidents, damage or unnecessary delay to, or interference with the trains and other property of the railroad company.
3. To conduct his work in a manner satisfactory to the Chief Engineer of the railroad company or his authorized representative, to perform his work in such manner and at such time as not to unnecessarily interfere with the movements of trains or railroad traffic, and to hold his work at all times open to inspection of railroad company inspectors.
4. To cooperate with a public utility, railroad or other organizations having occasion to do work on or in connection with the improvement.
5. To avoid unnecessary use of railroad property without written permission of the railroad company and to leave railroad roadbed and property in a condition acceptable to the Chief Engineer of the railroad company.
6. To execute a bond conditioned according to Section 5525.16 of the Revised Code of Ohio, in favor of the State of Ohio and further to carry insurance of the following kinds and amounts:

a) Railroad Protective Liability Insurance.

In addition to the above, he shall furnish evidence to the highway department that, with respect to the operations he or any of his sub-contractors perform, he has provided for and in behalf of CSX Transportation Inc. in the amount of \$5,000,000 per occurrence and subject to that limit per occurrence, an aggregate limit in the amount of \$10,000,000 for each annual period.

The above railroad protective policy of insurance shall conform to the Railroad Liability requirements prescribed by the Federal Highway Administration in Federal-Aid Policy Guide 23 CFR 646A as amended.

The corporate name and address of the "Named Insured" as listed on the policy shall be as follows:

CSX Transportation, Inc.
500 Water Street, SC J-907
Jacksonville, FL 32202

Common Policy Conditions form

Any other endorsement/form not specifically authorized above.

The number of trains operating through the improvement is estimated to be:

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 0 Passenger trains per day @ miles per hour.

 Freight trains per day @ miles per hour.

Additional Terms

1. Contractor must submit its original insurance policies and two (2) copies and all notices and correspondence regarding the insurance policies to:

Deborah A. Tauro
Risk Manager, Planning & Analysis
CSX Corporation
500 Water Street – C907
Jacksonville, FL. 32202
Phone: 904-366-5088
FAX: 904-245-3506
Email: Deborah_Tauro@csx.com

2. The Insurance Declaration page must include a description and location of the project, including project and/or contract identification numbers.
3. Neither Agency nor Contractor may begin work on the Project until it has received CSXT's written approval of the required insurance policies.

(b) General Insurance Requirements

The insurance hereinbefore specified shall be with an acceptable insurance company authorized to do business in the State of Ohio, and shall be taken out before execution of the Contract by the Director and kept in effect until all work required to be performed under the terms of the contract is satisfactorily completed as evidenced by the formal acceptance by the State. Such policies shall include thirty (30) days canceling notice. The cost of insurance hereinbefore specified in subsection (a) will be a specific bid item.

Notwithstanding the Department's Construction and Material Specification No. 107.14 "Evidence" as above set forth shall consist of furnishing the Director of Transportation three (3) certified copies of the railroad policy.

7. To indemnify, defend, and hold CSXT and its affiliates harmless from and against all claims, demands, payments, suits, actions, judgments, settlements, and damages of every nature, degree, and kind (including direct, indirect, consequential, incidental, and punitive damages), for any injury to or death to any person(s) (including, but not limited to the employees of CSXT, its affiliates, the State or the Contractor), for the loss of or damage to any property whatsoever (including but not limited to property owned by or in the care, custody, or control of CSXT, its affiliates, the State or the Contractor, and environmental damages and any related remediation brought or recovered against CSXT and its affiliates), arising directly or indirectly from the negligence, recklessness or intentional wrongful misconduct of the Contractor, the State, and their respective agents, employees, invitees, contractors, or its contractor's agents, employees or invitees in the performance of work in connection with the project or activities incidental thereto, or from their presence on or about CSXT's property. The foregoing indemnification obligation shall not be limited to the insurance coverage required in paragraph 6 above.
2. 8. The Railroad company will assign, at the sole cost and expense of the Department, railroad flaggers or other protective services and devices as necessary to insure the safety and continuity of the work to be performed as a part of this contract. Said services and devices

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will be provided when necessary, as determined by the railroad company, because of any of the Contractor's operations over, under or adjacent to tracks over which trains are operating. The provision of such protective personnel and devices does not relieve the Contractor from the liability of payment for damage caused by his operations.

Such protection will be required when men or equipment are working within clearances limits of 25 feet of a rail or when work being performed adjacent to operating tracks may present hazards to tracks, train operation, or when equipment does or may infringe upon such limits.

The Contractor will not be permitted to operate any of his own equipment on railroad tracks except under an acceptable arrangement with the railroad company. Such equipment and the operation of such equipment, or equipment rented from the railroad company, shall be arranged for by the Contractor with the railroad and the cost for its use, including protection or railroad traffic, shall be borne by the Contractor.

The Contractor shall notify the following named individual for each railroad company at least 30 days, or as directed by the authorized representative of the Railroad, in advance of starting any work which might require protection:

Mr. Dave Fette, Regional Director R/W Construction
CSX Transportation, Inc.
1717 Dixie Highway, Suite 400
Fort Wright, KY 41011 - 2785
Telephone: (859) 344- 8137

The Contractor shall notify the railroad at least 5 working days in advance of suspending or ceasing operations that require a flagger.

Railroad protective personnel assigned to the project will be responsible for notifying the Engineer upon arrival at the job site on the first working day that protective services begin and on the last day that he performs such services. This will be required for each separate period that such services are provided. The Engineer will document such notification in the project diary.

The Contractor will be responsible for protective services provided at his request and not utilized due, in the opinion of the Engineer, to a change in the Contractor's construction schedule or if it is determined by the Engineer that the requested services were not necessary. The actual costs for such protective services so assessed to the Contractor will be deducted from the Contract.

The decision of the Director of Transportation shall be final in the event of controversy as to the necessity for any protection services provided and not utilized by the Contractor as described in the preceding paragraph.

9. To pay the railroad or owning company for any changes, requested for his convenience, to railroad property, facilities, wire, fiber optic and/or pipe lines other than shown on the plans for the project.
10. If at any time the contractor desires a temporary crossing of the railroad's tracks, he shall make a request for a temporary crossing from the railroad. If approved, he shall arrange with the railroad company, execute its regular form of private grade crossing agreement covering the crossing desired, paying all construction, maintenance, removal, protection and other costs.

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11. Methods and procedures for performing work on property of **CSX Transportation, Inc.** must be approved by:

David J. Fette, Regional Director Right of Way Construction
CSX Transportation, Inc.
1717 Dixie Highway, Suite 400
Fort Wright, KY 41011-2785
Phone: (859) 344-8137

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EXHIBIT E

(ODOT / District Letterhead)

(Date)

Mr. Phil Decker
Engineer Public Improvements
Norfolk Southern Corporation
1200 Peachtree Street
Atlanta, GA. 30309

RE: (insert Project name) PID: XXXXX

Mr. Decker,

The above referenced project will be generally supervised by:

(ODOT District Construction Engineer/Proj. Mgr.)
Ohio Department of Transportation, District No. XX
(street address)
(City, State, zip)

Office Phone:

FAX :

Cell:

Alternate contact name:

“ “ phone/cell no:

The State’s contractor will be:

(Contractor name)
(street address)
(City, State, zip)

Office Phone:

FAX:

Contact name + position: Cell:

In order to expedite the construction of this project, please acquire the material necessary and proceed with your work to be performed by your company’s forces. Please coordinate your activities with those of our contractor, so as not to delay the construction operations.

To ensure full reimbursement to your company for work performed due to this project and to eliminate complications at the time of the project audit, please advise our project engineer when your forces are working at this location so that this information may be logged in the project diary. Also, please furnish this office advance notice of the date you anticipate initiating your force account work. After your force account work is completed, give us the date your forces last performed work on account of this project. Your cooperation in this matter is appreciated.

If you have any questions or need additional information, please contact me at (insert phone number), or by email at (insert email address).

Respectfully,

(RR Coordinator name)
ODOT District X Railroad Coordinator

c: R.Behrendt/CO