

## AGREEMENT

THIS AGREEMENT made and entered into by and between the STATE OF ILLINOIS, acting by and through its Department of Transportation, hereinafter referred to as the "STATE", and \_\_\_\_\_, hereinafter referred to as the COMPANY,

### W I T N E S S E T H:

THAT, WHEREAS, \_\_\_\_\_ Route \_\_\_\_\_, marked \_\_\_\_\_ as presently located and constructed \_\_\_\_\_, \_\_\_\_\_ County, Illinois, there crosses the COMPANY's track(s) by means of \_\_\_\_\_ [Structure No. \_\_\_\_\_ (if applicable), DOT/AAR No. \_\_\_\_\_, railroad milepost \_\_\_\_\_]; and

THAT, WHEREAS, in the interest of public safety, the STATE is desirous of improving \_\_\_\_\_; and

THAT, WHEREAS, the proposed improvement requires the services of COMPANY flagger(s); and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter contained, the parties hereto agree as follows:

SECTION 1 The STATE agrees to invite a representative of the COMPANY to the STATE's "Pre-construction Conference". At this Conference the STATE's contractor shall furnish the COMPANY the approximate dates flagging services are needed. The approximate date of initiation of flagging services shall be a minimum 30 (thirty) calendar days after the conference. The STATE's contractor shall furnish the COMPANY a minimum 48 (forty-eight) hours advance notice of the actual initiation and termination of flagging services. For the purposes of this Agreement, a calendar day is defined as any day shown on the calendar.

SECTION 2 The COMPANY agrees to make all reasonable efforts to furnish, at the STATE's sole expense, the services of a COMPANY-employed flagger or

flaggers. The STATE and the COMPANY further agree that should a railroad emergency occur and the COMPANY is unable to provide a flagger or flaggers when needed by the STATE'S contractor, the STATE shall require its contractor to immediately suspend the activities which require a flagger or flaggers and shall not allow its contractor to resume said activities until the COMPANY is able to provide a flagger or flaggers.

SECTION 3 The parties hereto agree the number of flaggers required for this improvement is \_\_\_\_\_, the approximate number of days flagging services will be required is \_\_\_\_\_ and the estimated cost per day, per flagger is \_\_\_\_\_. The total estimated cost for flagging services for this improvement is \_\_\_\_\_.

SECTION 4 All of the COMPANY'S work shall be performed in accordance with the terms, stipulations, and conditions as contained in the Federal-Aid Policy Guide, Chapter I, Subchapter B, Part 140, Subpart I, and any supplements thereto.

The COMPANY further agrees to bill the STATE for only those costs deemed eligible in the Federal-Aid Policy Guide, Chapter I, Subchapter B, Part 140, Subpart I (23 CFR 140I) and its supplements.

SECTION 5 The COMPANY shall keep an accurate and detailed account of the actual cost and expense as incurred by it, or for its account, in the provision of flagging services.

The COMPANY may bill the STATE monthly (in sets of four) for the costs and expenses incurred. The progressive invoices may be rendered on the basis of an estimated percentage of the provision of flagging services completed.

The COMPANY, upon the completion of its provision of flagging services, shall, within one hundred twenty (120) calendar days, render to the STATE a detailed statement (in sets of four) of the actual cost and expense as incurred by it or for its

account. After the STATE's representatives have checked the progressive invoices and the final statement and they have agreed with the COMPANY's representatives that the costs are reasonable and proper, insofar as they are able to ascertain, the STATE shall promptly reimburse the COMPANY for the amount of the final bill.

All progressive and final bills shall be sent to \_\_\_\_\_, Regional Engineer, whose mailing address is \_\_\_\_\_.

The COMPANY shall maintain, for a minimum of 3 years after the completion of the contract, adequate books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursements of funds passing in conjunction with the contract; the contract and all books, records, and supporting documents related to the contract shall be available for review and audit by the Auditor General and other STATE auditors; and the COMPANY agrees to cooperate fully with any audit conducted by the Auditor General and other STATE auditors and to provide full access to all relevant materials. Failure to maintain the books, records, and supporting documents required by this section shall establish a presumption in favor of the STATE for the recovery of any funds paid by the STATE under the contract for which adequate books, records, and supporting documentation are not available to support their purported disbursement.

After the Federal or STATE representatives have audited the expenses as incurred by the COMPANY, including such amounts as may have been suspended from any previous payment, the STATE shall promptly reimburse the COMPANY for the retained amounts, less the deduction of any item(s) of expense as may be found by the Federal or STATE representatives as not being eligible for reimbursement. If the total of the item(s) of expense as may be found by the Federal or STATE representatives as not being eligible for reimbursement exceeds any retained

amounts, then the COMPANY shall promptly reimburse the STATE for the overpayment.

SECTION 6. The STATE shall require its contractor(s) to perform his/her (their) work in accordance with the "Standard Specifications for Road and Bridge Construction" in effect on the date of invitation for bids and supplements thereto. A single Railroad Protective Liability Insurance policy, naming the COMPANY, shall be carried in limits of **\$5,000,000 (Class I railroads only – all others \$2,000,000)** combined single limit per occurrence for bodily injury liability and property damage liability with an aggregate limit of **\$10,000,000 (Class I railroads only – all others \$6,000,000)** over the life of the policy as set forth in Federal-Aid Policy Guide, Chapter I, Subchapter G, Part 646, Subpart A (23 CFR 646A).

SECTION 7. The COMPANY, subrecipient or subcontractor shall not discriminate on the basis of race, color, natural origin, or sex in the performance of this Agreement. The COMPANY shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the COMPANY to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy deemed appropriate.

In the event any work is performed by other than COMPANY forces, the provisions of "an act regulating wages of laborers, mechanics and other workers employed in public works by the State, County, City or any public body or any political subdivision or by anyone under contract for public works" (Illinois Compiled Statutes, 820 ILCS 130/1) shall apply.

SECTION 8. All previous Agreements relative to the \_\_\_\_\_ described herein shall remain in full force and effect.

SECTION 9. Obligations of the STATE under this Agreement shall cease immediately, without penalty or payment, should the Illinois General Assembly or the federal finding source fail to appropriate or otherwise make available funds for this project.

SECTION 10. This Agreement shall be binding upon the parties hereto, their successors or assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate counterparts, each of which shall be considered as an original, by their duly authorized officials as of the dates below indicated.

Executed by the COMPANY this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF ILLINOIS  
DEPARTMENT OF TRANSPORTATION

**Use this signature format for contracts UNDER \$ 250,000.00**

Executed by the STATE this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Priscilla A. Tobias, P.E.  
Director, Office of Program Development

\_\_\_\_\_  
Randall S. Blankenhorn  
Secretary

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Priscilla A. Tobias, P.E. Date  
Director, Office of Program Development

Agreement No.  
Job No.

**Use this signature format for contracts OVER \$ 250,000.00**

Executed by the STATE this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_.

By: \_\_\_\_\_  
Randall S. Blankenhorn  
Secretary

By: \_\_\_\_\_  
Jeff Heck, Chief Fiscal Officer  
Director of Finance and Administration

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Priscilla A. Tobias, P.E.  
Director, Office of Program Development

By: \_\_\_\_\_  
William M. Barnes  
Chief Counsel

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Agreement No.  
Job No.

## TIN CERTIFICATION

The COMPANY certifies that:

1. The number shown on this form is the COMPANY's correct taxpayer identification number ( or the COMPANY ) is waiting for a number to be issued to them), and
2. The COMPANY is not subject to backup withholding because: (a)the COMPANY is exempt from backup withholding, or (b) the COMPANY has not been notified by the Internal Revenue Service (IRS) that the COMPANY is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that the COMPANY no longer subject to back-up withholding , and
3. The COMPANY's person with signatory authority for this AGREEMENT is a U. S. person (including a U.S. resident alien)

### Taxpayer Identification Number:

#### Legal Status

- |   |  |
|---|--|
| <input type="checkbox"/> Individual   | <input type="checkbox"/> Government  |
| <input type="checkbox"/> Sole Proprietor  | <input type="checkbox"/> Nonresident Alien   |
| <input type="checkbox"/> Partnership/Legal Corporation  | <input type="checkbox"/> Estate or Trust   |
| <input type="checkbox"/> Tax-exempt   | <input type="checkbox"/> Pharmacy ( Non Corp.)   |
| <input type="checkbox"/> Corporation providing or billing medical and/or health care services     | <input type="checkbox"/> Pharmacy/Funeral home /Cemetery                                   |
| <input type="checkbox"/> Corporation NOT providing or billing medical and/or health care services | <input type="checkbox"/> Limited Liability Company ( select applicable tax classification) |
| <input type="checkbox"/> Other _____  | <input type="checkbox"/> D= Disregarded entity   |
|   | <input type="checkbox"/> C= Corporation  |
|   | <input type="checkbox"/> P= Partnership  |