

# **INFORMATION HANDOUT**

**For Contract No. 01-0C4204  
At 01-Hum,Men-20, 101, 255-VAR**

**Identified by  
Project ID 0112000282**

## **RAILROAD RELATIONS**

Railroad Relations and Insurance Requirements

Exhibit "A" Mendocino Railway

## **EXHIBIT "A"**

### **RAILROAD RELATIONS AND INSURANCE REQUIREMENTS**

#### **1.01 GENERAL**

The term "Railroad" shall mean the **Mendocino Railway**.

It is expected that the Railroad will cooperate with the Contractor to the end that the work may be handled in an efficient manner. However, except for the additional compensation provided for hereinafter for delays in completion of specific unit of work to be performed by the Railroad, and except as provided in Public Contracts Code Section 7102, the Contractor shall have no claim for damages, extension of time, or extra compensation in the event his work is held up by railroad train operations or other work performed by the Railroad.

The Contractor must understand the Contractor's right to enter the Railroad's property is subject to the absolute right of the Railroad to cause the Contractor's work on the Railroad's property to cease if, in the opinion of the Railroad, the Contractor's activities create a hazard to the Railroad's property, employees, and operations.

The Contractor acknowledges its receipt from the State of a copy of the Contractor's Right of Entry Agreement that has been executed by the Railroad and the State. The Contractor agrees to execute and deliver to the Railroad the Contractor's Endorsement that is attached hereto as Appendix 1 and to provide to the State and/or the Railroad all insurance policies, binders, certificates or endorsements that are set forth in Exhibit B of the Contractor's Right of Entry Agreement.

#### **1.02 RAILROAD REQUIREMENTS**

The Contractor shall provide to Mr. Robert J. Pinoli, General Manager, Mendocino Railway, 100 W. Laurel Street, Fort Bragg, CA 95437, telephone (916) 789-5152, and the Engineer, in writing, the advance notice requirements set forth in Section 1 of Exhibit A of the Right of Entry Agreement before performing any work on, or adjacent to the property or tracks of the Railroad.

The Contractor shall cooperate with the Railroad where work is over or under the tracks, or within the limits of the Railroad property to expedite the work and avoid interference with the operation of railroad equipment.

The Contractor shall comply with the rules and regulations of the Railroad or the instructions of its representatives in relation to protecting the tracks and property of the Railroad and the traffic moving on such tracks, as well as the wires, signals and other property of the Railroad, its tenants or licensees, at and in the vicinity of the work during the period of construction. The responsibility of the Contractor for safe conduct and adequate policing and supervision of its work at the job site shall not be lessened or otherwise affected by the presence at the work site of the Railroad representatives, or by the Contractor's compliance with any requests or recommendations made by the Railroad representatives.

The Contractor shall perform work so as not to endanger or interfere with the safe operation of the tracks and property of the Railroad and traffic moving on such tracks, as well as wires, signals and other property of the Railroad, its tenants or licensees, at or in the vicinity of the work.

The Contractor shall take protective measures to keep the Railroad facilities, including track ballast, free of sand or debris resulting from his operations. Damage to the Railroad facilities resulting from the Contractor's operations will be repaired or replaced by the Railroad and the cost of such repairs or replacement shall be deducted from the Contractor's progress and final pay estimates.

The Contractor shall contact the Railroad's "Call Before You Dig" at least forty-eight (48) hours prior to commencing work, at 1-800-336-9193 during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays – also a 24-hour, 7-day number for emergency calls) to determine location of fiber optics. If a telecommunications system is buried anywhere on or near the Railroad property, the Contractor will coordinate with the Railroad and the Telecommunication Company(ies) to arrange for relocation or other protection of the system prior to beginning any work on or near Railroad property.

The Contractor shall not pile or store any materials nor park any equipment closer than 25'-0" to the centerline of the nearest track, unless directed by the Railroad's representative.

The Contractor shall also abide by the following temporary clearances during the course of construction:

- 12'-0" horizontally from centerline of track
- 21'-0" vertically above top of rail

The temporary vertical construction clearance above provided will not be permitted until authorized by the Public Utilities Commission. It is anticipated that authorization will be received not later than fifteen (15) days after the approval of the contract by the Attorney General. In the event authorization is not received by the time specified, and, if in the opinion of the Engineer, the Contractor's operations are delayed or interfered with by reason of authorization not being received by the said time, the Licensee will compensate the Contractor for such delay to the extent provided in Section 8-1.07, "Delays," of the Standard Specifications and not otherwise.

Walkways with railing shall be constructed by the Contractor over open excavation areas when in close proximity of tracks, and railings shall not be closer than 8'-6" horizontally from centerline of the nearest track, if tangent, or 9'-6" if curved.

Infringement on the above temporary construction clearances by the Contractor's operations shall be submitted to the Railroad by the Engineer, and shall not be undertaken until approved by the Railroad, and until the Engineer has obtained any necessary authorization from any governmental body or bodies having jurisdiction thereover. No extension of time or extra compensation will be allowed in the event the Contractor's work is delayed pending Railroad approval and governmental authorization.

When the temporary vertical clearance is less than 22'-6" above top of rail, the Railroad shall have the option of installing tell-tales or other protective devices the Railroad deems necessary for protection of the Railroad trainmen or rail traffic.

Four (4) sets of plans, in 11" x 17" format, and two (2) sets of calculations showing details of construction affecting the Railroad's tracks and property not included in the contract plans, including but not limited to shoring and falsework, shall be submitted to the Engineer for review prior to submittal to the Railroad for final approval. Falsework shall comply with the Railroad guidelines. Demolition of existing structures shall comply with the Railroad guidelines. Shoring and falsework plans and calculations shall be prepared and signed by a professional engineer registered in California. This work shall not be undertaken until such time as the Railroad has given such approval, review by the Railroad may take up to six (6) weeks after receipt of necessary information.

The Contractor shall notify the Engineer in writing, at least twenty-five (25) calendar days but not more than forty (40) days in advance of the starting date of installing temporary work with less than permanent clearance at each structure site. The Contractor shall not be permitted to proceed with work across railroad tracks until this requirement has been met. No extension of time or extra compensation will be allowed if the Contractor's work is delayed due to failure to comply with the requirements in this paragraph.

Blasting will be permitted only when approved by the Railroad.

The Contractor shall, upon completion of the work covered by this Contract to be performed by the Contractor upon the premises or over or beneath the tracks of the Railroad, promptly remove from the premises of the Railroad, the Contractor's tools, implements and other materials, whether brought upon said premises and cause said premises to be left in a clean and presentable condition.

Under track pipeline installations shall be constructed in accordance with the Railroad's current standards which may be obtained from the Railroad. The general guidelines are as follows:

Edges of jacking or boring pit excavations shall be a minimum of 20 feet from the centerline of the nearest track.

If the pipe to be installed under the track is 4 inches in diameter or less, the top of the pipe shall be at least 42 inches below base of rail.

If the pipe diameter is greater than 4 inches in diameter, it shall be encased and the top of the steel pipe casing shall be at least 66 inches below base of rail.

Installation of pipe or conduit under the Railroad's tracks shall be done by dry bore and jack method.

Hydraulic jacking or boring will not be permitted.

Safety of personnel, property, rail operations and the public is of paramount importance. As reinforcement and in furtherance of overall safety measures to be observed by the Contractor (and not by way of limitation), the following special safety rules shall be followed:

- (a) The 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. The Contractor shall have proper first aid supplies available on the job site so that prompt first aid services can be provided to any person that may be injured on the job site. The Contractor shall promptly notify the Railroad of any U.S. Occupational Safety and Health Administration reportable injuries occurring to any person that may arise during the work performed on the job site. The Contractor shall have a non-delegable duty to control its employees while they are on the job site or any other property of the Railroad to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug, narcotic or other substance that may inhibit the safe performance of work by the employee.
- (b) The employees of the Contractor shall 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. Only waist length shirts with sleeves and trousers that cover the entire leg are to be worn. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching. The employees should wear sturdy and protective work boots and at least the following protective equipment:
  - (1) Protective head gear that meets American National Standard-Z89.1-latest revision. It is suggested that all hardhats be affixed with the Contractor's or the subcontractor's company logo or name.
  - (2) Eye protection that meets American National Standard 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, burning, etc.; and
  - (3) Hearing protection which affords enough attenuation to give protection from noise levels that will be occurring on the job site.
- (c) All heavy equipment provided or leased by the Contractor shall be equipped with audible back-up warning devices. If in the opinion of the Railroad Representative any of the Contractor's or the subcontractor's equipment is unsafe for use on the Railroad's right-of-way, the Contractor, at the request of the Railroad representative, shall remove such equipment from the Railroad's right-of-way.

### **1.03 PROTECTION OF RAILROAD FACILITIES**

Upon the advance notification provided to the Railroad as set forth in Section 1 of Exhibit A of the Contractor's Right of Entry Agreement, the Railroad representatives, conductors, flagmen or watchmen will be provided by the Railroad to protect its facilities, property and movements of its trains or engines. Notice shall be made to Robert J. Pinoli of Railroad at (707) 964-6371. At the time of notification, the Contractor shall provide the Railroad with a schedule of dates that flagging services will be needed, as well as times, if outside normal working hours. Subsequent deviation from the schedule shall require ten (10) working days' advance notice from the first affected date. The Railroad will furnish such personnel or other protective devices:

- (a) When equipment is standing or being operated within 25 feet, measured horizontally, from centerline of any track on which trains may operate, 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's representative, track or other Railroad facilities may be subject to settlement or movement.
- (c) During any clearing, grubbing, grading or blasting in proximity to the Railroad which, in the opinion of the Railroad's representative, may endanger the Railroad facilities or operations.
- (d) During any of the Contractor's operations when, in the opinion of the Railroad's representatives, the Railroad facilities, including, but not limited to, tracks, buildings, signals, wire lines or pipe lines, may be endangered.

The cost of flagging and inspection provided by the Railroad during the period of constructing that portion of the project located on or near the Railroad property, as deemed necessary for the protection of the Railroad's facilities and trains, will be borne by the State. The Railroad has indicated that its estimated flagging rate will be around Five Hundred Sixty Dollars (\$560.00) per day and that the estimated total is fifteen (15) days of flagging. State shall pay Railroad for all actual flagging costs incurred by Railroad under this project, up to and including fifteen days of flagging. Except for unanticipated events as defined in Section 1, subsections 2.2.1 and subsections 2.2.3, 2.2.4, and 2.2.5 of the Standard Specifications, Contractor will be responsible for the cost of railroad flagging protection or inspection in excess of the 15-day estimate.

#### **1.04 WORK BY RAILROAD**

The following work by the Railroad will be performed by Railroad forces and is not a part of the work under this Contract.

- (a) The Railroad shall perform its portion of work at the railroad crossing as described in Article 4 of the Right of Entry Agreement between the Railroad and the State.
- (b) The Railroad will perform preliminary engineering and inspection (if any) and flagging as specified in Section 1.03 "Protection of Railroad Facilities," of these special provisions.
- (c) Temporary crossings at grade over tracks of Railroad for the purpose of hauling earth, rock, paving or other materials will not be permitted. If the Contractor, for any purpose relating to the construction of this project desires to move equipment or materials across Railroad's tracks, the Contractor shall first obtain permission from Railroad via the State Engineer. Should Railroad approve the temporary crossing, State shall execute a Service Contract with Railroad for Railroad to construct the temporary crossing. Under the Service Contract, State shall bear the cost of the crossing surface, warning devices and other components that might be required. Notwithstanding State's Service Contract with Railroad, the Contractor is required to execute Railroad's form of Contractor's Haul Road Crossing Agreement. Railroad, at State's expense, shall provide flagmen to control

movements of vehicles across the temporary crossing. State and its Contractor shall prevent the use of such temporary crossing by unauthorized persons and vehicles.

#### **1.05 DELAYS DUE TO WORK BY RAILROAD.**

If delays due to work by the Railroad occur, and the Contractor sustains loss which, in the opinion of the Engineer, could not have been avoided by the judicious handling of forces, equipment and plant, the amount of said loss shall be determined as provided in Section 8-1.07, "Delays," of the 2010 Standard Specifications.

If a delay due to work by the Railroad occurs, an extension of time determined pursuant to the provisions in Section 8-1.10, "Liquidated Damages," of the 2010 Standard Specifications will be granted.

#### **1.06 LEGAL RELATIONS**

The provisions of Section 1, "Relations with Railroad Company," and the provisions of Section 2, "Railroad Protective Insurance," of these special provisions shall inure directly to the benefit of the Railroad.

#### **2.0 RAILROAD PROTECTIVE INSURANCE**

In addition to any other form of insurance or bonds required under the terms of the contract and specifications, the Contractor will be required to carry insurance of the kinds and in the amounts hereinafter specified.

Such insurance shall be approved by the Railroad before any work is performed on the Railroad's property and shall be carried until all work required to be performed on or adjacent to the Railroad's property under the terms of the contract is satisfactorily completed as determined by the Engineer, and thereafter until all tools, equipment and materials have been removed from the Railroad's property and such property is left in a clean and presentable condition.

Full compensation for all premiums which the Contractor is required to pay on all the insurance described hereinafter shall be considered as included in the prices paid for the various items of work to be performed under the contract, and no additional allowance will be made thereof or for additional premiums which may be required by extensions of the policies of insurance.

The following insurance coverage will be required:

**A. Commercial General Liability insurance.** This insurance shall contain a single limit of at least \$5,000,000 each occurrence or claim and an aggregate limit of at least \$10,000,000 and include broad form contractual liability coverage. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability

- Products and completed operations

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance**:

- The worker's compensation and employee related exclusions in the above policy apply only to the Contractor's employees.
- The exclusions for railroads [except where the Job site is more than fifty feet (50') from any railroad including, but not limited to, tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings], and explosion, collapse and underground hazard shall be removed.
- Coverage for the Contractor's employees shall not be excluded.
- Waiver of subrogation

If the Contractor will be using, storing and/or handling hazardous materials, the Contractor, in addition to the other endorsements to be obtained by the Contractor as provided in this exhibit, must also ensure that the Commercial General Liability Insurance policy contains a Designated Premises Pollution Coverage (CG00-39) endorsement. Evidence of the endorsement must also be indicated on the certificate of insurance that is provided to the Railroad.

**B. Business Automobile Coverage** insurance. This insurance shall contain a combined single limit of at least \$5,000,000 per occurrence or claim, including but not limited to coverage for the following:

- Bodily injury and property damage
- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance**:

- The worker's compensation and employee related exclusions in the above policy apply only to the Contractor's employees.
- The exclusions for railroads [except where the Job Site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings], and explosion, collapse and underground hazard shall be removed.

**C. Worker's Compensation and Employer's Liability** insurance including but not limited to:

- The Contractor's statutory liability under the workers' compensation laws of the State of California
- Employer's Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee

If the State of California requires participants in a state worker's compensation fund and if Worker's Compensation insurance will not cover the liability of the Contractor in the State of California, the Contractor shall comply with such laws. If the Contractor is self-insured, evidence of state approval must be provided along with evidence of excess worker's compensation coverage. Coverage shall 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 shall also contain the following endorsement **which shall be indicated on the certificate of insurance:**

- Alternate Employer Endorsement

- D. **Umbrella or Excess Policies** In the event the Contractor utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.
- E. **Railroad Protective Liability** insurance naming only the Railroad as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 07 98 or equivalent). A binder stating the policy is in place must be submitted to the Railroad until the original policy is forwarded to the Railroad.

#### Other Requirements

- F. Punitive damage exclusion must be deleted, **which deletion shall be indicated on the certificate of insurance.**
- G. The Contractor agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against the Railroad. The Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against the Railroad for loss of its owned or leased property or property under its care, custody and control. The Contractor's insurance shall be primary with respect to any insurance carried by the Railroad. All waivers of subrogation **shall be indicated on the certificate of insurance.**
- H. All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name the Railroad as an additional insured. The coverage provided to the Railroad as additional insured shall provide coverage for the Railroad's negligence whether sole or partial, active or passive, and shall not be limited by the Contractor's liability under the indemnity provisions of this Agreement. **Severability of interest and naming the Railroad as additional insured shall be indicated on the certificate of insurance.**
- I. Prior to commencing the Work, the Contractor shall furnish to the Railroad original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify the Railroad in writing of

any cancellation or material alteration. **Upon request from the Railroad, a certified duplicate original of any required policy shall be furnished.**

- J.** Any insurance policy shall be written by a reputable insurance company acceptable to the 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 California.
- K.** The Contractor **WARRANTS** that this Agreement has been thoroughly reviewed by the Contractor's insurance agent(s)/broker(s), who have been instructed by the Contractor to procure the insurance coverage required by this Agreement and acknowledges that the Contractor's insurance coverage will be primary.
- L.** If the Contractor fails to procure and maintain insurance as required, the Railroad may elect to do so at the cost of the Contractor plus a 25% administration fee.
- M.** The fact that insurance is obtained by the Contractor or Railroad on behalf of the Contractor shall not be deemed to release or diminish the liability of the Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by the Railroad shall not be limited by the amount of the required insurance coverage.

**CONTRACTOR'S ENDORSEMENT**

A. As a condition to entering upon the Railroad's right-of-way to perform Work pursuant to this agreement, State's contractor, \_\_\_\_\_  
*(Name of Contractor)*

whose address is \_\_\_\_\_,  
*(Contractor's Mailing Address)*

(hereinafter "Contractor"), agrees to comply with and be bound by all the terms and provisions of the attached Caltrans Right of Entry Agreement that was signed by Mendocino Railway ("Railroad") and the State of California, Department of Transportation ("State") relating to the Work to be performed and the insurance requirements set forth in Exhibit B of the Right of Entry Agreement. The Contractor further acknowledges and agrees that the reference to Cal. Gov. Code §14662.5 in Sections 5.b) and 8.b) of Exhibit A to the Right of Entry Agreement does not apply to the Contractor and in no way limits the indemnities set forth in those provisions, to which the Contractor agrees to be bound.

B. Before the Contractor commences any Work, the Contractor will provide the Railroad with (i) a binder of insurance for the Railroad Protective Liability Insurance described in Section 2 of the Contract Special Provisions, hereto attached, and the original policy, or a certified duplicate original policy when available, and (ii) a certificate issued by its insurance carrier providing the other insurance coverage and endorsements required pursuant to Section 2 of the Contract Special Provisions.

C. All insurance correspondence, binders or originals shall be directed to:

Mendocino Railway  
Attn: General Manager  
100 W. Laurel Street  
Fort Bragg, CA 95437  
Folder No. 12.12232012a

D. Please note that fiber optic cable may be buried on the Railroad's property. **Prior to commencing any work, the Contractor agrees to contact the Railroad's Telecommunications Operation Center as provided in Section 5 of Exhibit A of the Right of Entry Agreement to determine if any fiber optic cable is located on the Railroad's property on or near the location where the work is to be performed.** If there is, the Contractor must comply with the terms and conditions of Section 5 of Exhibit A before commencing any work on the Railroad's property.

E. **The Contractor agrees to also provide to the Railroad's Manager at (707) 964-6371 the advance notice required in Section 1 of Exhibit A of the Right of Entry Agreement prior to working on the Railroad's property in order for the Railroad to coordinate the Contractor's work with the Railroad's operations and to make arrangements for flagging protection (if applicable).**

This endorsement shall be completed and sent to the person named in Paragraph C above.

\_\_\_\_\_  
*(Name of Contractor)*

By \_\_\_\_\_

Title: \_\_\_\_\_

**RIGHT OF ENTRY AGREEMENT  
(CALIFORNIA DEPARTMENT OF TRANSPORTATION)**

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**THIS AGREEMENT** is made and entered into as of 19 - February - 2014, by and between **MENDOCINO RAILWAY**, a California Corporation (hereinafter "Railroad") and the **STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION** (hereinafter "Licensee").

**IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

**ARTICLE 1 - DEFINITION OF LICENSEE**

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

**ARTICLE 2 - RIGHT GRANTED; PURPOSE**

Railroad hereby grants to Licensee 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 portion of Railroad's property located at Railroad's At-Grade Crossing (CPUC No. 017-37.50, DOT No. 8640881.), Highway 20, Post Mile 31.56, Mendocino County, California. Licensee requests permission to access railroad property for the purpose of removing existing deteriorated Asphalt Concrete and replacing with new Dense Graded Hot Mix Asphalt Concrete. Work will be adjacent to tracks and between tracks from edge of pavement to edge of pavement. The right herein granted to Licensee is limited to those portions of Railroad's property specifically described herein, or designated by the Railroad representative named in Article 4. Such location is also shown on the print marked Exhibit E, attached hereto and hereby made a part hereof.

**ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS A, B, C & D**

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

**ARTICLE 4 - EXPENSES TO BE BORNE BY LICENSEE; RAILROAD PERFORMED WORK; RAILROAD REPRESENTATIVE**

- A. Licensee shall bear any and all costs and expenses associated with any work performed by Licensee, or any costs or expenses incurred by Railroad required by Licensee relating to the highway work as described in Article 2 above and this Agreement.
- B. Licensee's Resident Engineer shall coordinate with Railroad to replace its railroad ties after existing pavement is removed from highway at the above described crossing location in Article 2. Work shall be performed by Railroad and all costs and expenses for labor and materials to replace railroad ties shall be borne by Railroad. During the course of Railroad performed work Licensee shall be responsible for providing traffic control and the cost of said traffic control. Licensee shall provide adequate time for Railroad to perform said work.
- C. Licensee shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

*Robert J. Pinoli  
General Manager  
Mendocino Railway  
100 W. Laurel Street  
Fort Bragg, CA 95437  
Phone: (707) 964-6371  
Fax: (707) 964-6428*

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

**ARTICLE 5 - TERM; TERMINATION**

- A. The grant of right herein made to Licensee shall commence on the date of this Agreement, continuing until December 31, 2015, unless sooner terminated as herein provided, or at such time as Licensee has completed its Work on Railroad's property, whichever is earlier. Licensee agrees to notify the Railroad Representative in writing when it has completed its Work on Railroad's property.
- B. Railroad may terminate this Agreement if it reasonably determines in good faith that Licensee has failed to comply with any of the material terms and conditions of this Agreement and has not cured such failure within ten (10) days after receiving notice (oral or written) from Railroad describing such failure in reasonable detail.

**ARTICLE 6 - INSURANCE**

- A. Licensee is self-insured. Licensee shall provide Railroad defense and indemnification at least equal to the defense, indemnification and insurance provisions (including the endorsements) contained in Exhibit B. Nothing herein shall be deemed to insure Railroad against its sole negligence or willful misconduct.
- B. In the event any of the Work to be done upon the property of Railroad is to be done by a contractor or subcontractor of Licensee, said contractor or subcontractor may have the benefit of the license herein granted, while performing work for Licensee, provided such contractor or subcontractor agrees to be subject to and bound by the terms and conditions of this Agreement by: (1) executing an endorsement to this Agreement in the form set forth in Contractor's Endorsement marked Exhibit D, attached hereto, and (2) providing to Railroad the insurance policies, certificates, binders, and/or endorsements described in Exhibit B.
- C. All insurance correspondence, certificates, binders or originals shall be sent to:

*Mendocino Railway  
Attn: Robert J. Pinoll  
General Manager  
100 W. Laurel Street  
Fort Bragg, CA 95437  
Contract No. ~~14-2014150~~  
14-2014150 ←*

**ARTICLE 7 - CHOICE OF FORUM**

This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Litigation arising out of or connected with this Agreement may be instituted and maintained in the courts of the State of California only, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts.

**ARTICLE 8 - REMOVAL OF CONTRACTOR/SUBCONTRACTOR EMPLOYEE**

At the request of Railroad, Licensee shall remove from Railroad property any contractor, subcontractor, officer, agent and/or employee of Licensee who fails to conform to the instructions of the Railroad Representative in connection with the Work on Railroad's property, and any right of Licensee shall be suspended until such removal has occurred. Licensee shall indemnify Railroad against any claims arising from the removal of any such contractor, subcontractor, officer, agent and/or employee from Railroad property.

**ARTICLE 9 - LICENSE AND ADMINISTRATIVE FEE**

Upon the execution and delivery of this Agreement, Licensee shall pay to Railroad [REDACTED] as reimbursement for administrative and other costs associated with this Agreement. The effectiveness of this Agreement is contingent upon payment of the above fee. Said fee shall be in addition to any flagging, switching or other costs of the Railroad which are payable under the terms of this agreement.

**ARTICLE 10 - SPECIAL PROVISIONS**

- A. No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Licensee without the prior written permission of Railroad.
- C. Explosives or other highly flammable substances shall not be stored on Railroad property without the prior written approval of the Railroad Representative.
- D. The parties agree that this agreement is not, and is not intended to be, a construction contract for purposes of Cal. Civ. Code § 2782(a). Accordingly, to the maximum extent permitted by law, the provisions of Cal. Civ. Code § 2782(a), as interpreted by the California courts in Southern Pacific Transportation Co. v. Sandyland Protective Association, 224 Cal.App.3d 1494, 274 Cal.Rptr. 626 (1990), and in other past and future cases, shall not apply to this Agreement.

**ARTICLE 11 - PAYMENT OF FEES, BILLS**

Licensee shall pay for all invoices rendered by Railroad associated with this Agreement in compliance with the California Prompt Payment Act of January 1, 1999. Invoices must be paid within 45 days of receipt, or a late penalty will be accrued.

**ARTICLE 11 - NOTICES**

Each notice given pursuant to this Agreement shall be effective when delivered by hand or upon mailing by certified or registered mail, postage prepaid, to the party for whom it is intended at the address set forth below or such other address as may be specified from time to time in writing by one party or the other.

To Licensee:  
Caltrans Right of Way  
Attn: Chris Marshall  
Railroad Coordination Branch  
P. O. Box 3700  
Eureka, CA 95501  
Telephone 707-441-5785

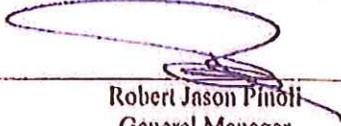
To Railroad:  
Mendocino Railway  
Attn: General Manager  
100 W. Laurel Street  
Fort Bragg, CA 95437  
Telephone 707-964-6371  
Facsimile 707-964-6428

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement in duplicate as of the date first herein written.

**MENDICINO RAILWAY**

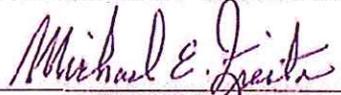
Federal Tax ID No. 73-110581

By: \_\_\_\_\_

  
Robert Jason Pinoli  
General Manager

**STATE OF CALIFORNIA,  
DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_

  
MICHAEL E. FREITAS  
Senior R/W Agent, Railroad Coordination

## EXHIBIT A

### TO CALTRANS RIGHT OF ENTRY AGREEMENT

#### TERMS AND CONDITIONS

##### **Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.**

A. Licensee agrees to notify the Railroad Representative at least ten (10) working days in advance of Licensee commencing its Work and at least ten (10) working days in advance of proposed performance of any Work by Licensee 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 10-day notice, the Railroad Representative will determine and inform Licensee whether a flagman need be present and whether Licensee need implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, such services will be provided at Licensee's expense with the understanding that if Railroad provides any flagging or other services, Licensee shall not be relieved of any of its responsibilities or liabilities set forth herein. Licensee shall promptly pay to Railroad all charges connected with such services within 30 days after presentation of a bill therefor.

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 persons 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 & welfare, supplemental sickness, Railroad Retirement & UC, supplemental pension, Employee's Liability & 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, Licensee 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 the Licensee 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, Licensee 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, Licensee 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 ten (10) days-notice must then be given to Railroad if flagging services are needed again after such five (5) 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 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 reasonably done at any time or times by Railroad without liability to Licensee 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 OPERATION OF RAILROAD AND ITS TENANTS.**

A. Licensee 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 Licensee at any time that would in any manner impair the safety of such operations. When not in use, Licensee'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 Railroad's 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 Licensee caused by such railroad operations and work are expected by Licensee, and Licensee agrees that Railroad shall have no liability to Licensee, or any other person or entity for any such delays. Licensee 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 Licensee.

#### **Section 4. LIENS.**

Licensee shall pay in full all persons who perform labor or provide materials for the work to be performed by Licensee. Licensee 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. Licensee 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.

#### **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. Licensee 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 Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, and shall commence no work on the right of way until all such protection or relocation has been accomplished.

E. In addition to other indemnity provisions in this Agreement, Licensee shall, pursuant to Cal. Gov. Code §14662.5, indemnify 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 Licensee, its contractor, agents and/or employees, that proximately causes or contributes to:

- any damage to or destruction of any telecommunications system on Railroad's property, and/or
- any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractors, agents and/or employees, on Railroad's property.

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

B. Without limitation of the provisions of paragraph A above, Licensee 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. Licensee 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. Licensee shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Licensee shall have a non-delegable 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, Licensee shall deliver to Railroad a copy of Railroad's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Licensee 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 Cal. Gov. Code §14662.5, 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, Licensee, or any employee of Licensee or of any Indemnified Party) arising out of or in any manner connected with:

- any Work performed by Licensee, or
- any act or omission of Licensee, its officers, agents or employees, or
- any breach of this agreement by Licensee.

B. To the extent not prohibited by Cal. Gov. Code §14662.5, 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 or willful misconduct of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence or willful misconduct of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. To the extent not prohibited by Cal. Gov. Code §14662.5, Licensee expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Licensee's own employees. Licensee waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify Railroad under this Section 8. Licensee acknowledges that this waiver was mutually negotiated by the parties hereto.

D. To the extent not prohibited by Cal. Gov. Code §14662.5, no court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employer's Liability Act against a party to this Agreement may be relied upon or used by Licensee in any attempt to assert liability against Railroad.

E. The provisions of this Section 8 shall survive the completion of any Work performed by Licensee or the termination or expiration of this Agreement. To the extent not prohibited by Cal. Gov. Code §14662.5, in no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Licensee may have to any Indemnified Party by statute or under common law.

#### **Section 9. RESTORATION OF PROPERTY.**

In the event Railroad authorizes Licensee 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 Licensee, then in that event Licensee shall, as soon as possible and at Licensee'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. Licensee shall remove all of Licensee's tools, equipment and materials from Railroad's property promptly upon completion of the Work, restoring Railroad's property to the same state and condition as when Licensee 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 Licensee 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 Licensee and Railroad. This Agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Licensee 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 Licensee.

**Section 12. ASSIGNMENT - SUBCONTRACTING.**

Licensee shall not assign or subcontract this Agreement, or any interest therein, without the written consent of Railroad. Licensee shall be responsible for the acts and omissions of all subcontractors, and shall require all subcontractors to maintain the insurance coverage required to be maintained by Licensee as provided in this Agreement, and to indemnify Licensee and Railroad to the same extent as Railroad is indemnified by Licensee under this Agreement.

## EXHIBIT B

### TO RIGHT OF ENTRY AGREEMENT

#### CONTRACT INSURANCE REQUIREMENTS

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement (except as otherwise provided in this Agreement) 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.

**B. Business Automobile Coverage** insurance. Business auto coverage written on ISO form CA 00 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$5,000,000 for each accident.

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(s) affected by this Agreement.
- 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.

**D. Railroad Protective Liability** insurance. Contractor must maintain Railroad Protective Liability 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. A binder stating the policy is in place must be submitted to Railroad before the work may be commenced and until the original policy is forwarded to 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.

#### **Other Requirements**

**F.** 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.

**G.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless:

- insurance coverage may not lawfully be obtained for any punitive damages that may arise under this agreement, or
- all punitive damages are prohibited by all states in which this agreement will be performed.

**H.** Contractor waives all rights against Railroad and its agents, officers, directors and employees for recovery of damages to the

extent these damages are covered by the workers compensation and employers liability or commercial umbrella or excess liability insurance obtained by Contractor required by this agreement.

I. 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.

J. 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(s) in which the work is to be performed.

K. 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 C

### TO CALTRAN'S RIGHT OF ENTRY AGREEMENT

#### MINIMUM SAFETY REQUIREMENTS

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

#### **I. Clothing**

A. All employees of Licensee 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, Licensee's employees must wear:

- Waist-length shirts with sleeves.
- Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
- 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**

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

- Hardhat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with Licensee's company logo or name.
- 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.
- 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)
- 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**

Licensee 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:

- Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- Wear an orange, reflectorized workwear approved by the Railroad Representative.
- Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Licensee must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Licensee 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 Licensee to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Licensee's equipment is unsafe for use, Licensee shall remove such equipment from the Railroad's property. In addition, Licensee 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. Licensee shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.

B. Licensee 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 Licensee 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:

- Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
- Do not step or walk on the top of the rail, frog, switches, guardrails, or other track components.
- 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 if the opening is less than one car length (50 feet).
- Avoid walking or standing on a track unless so authorized by the employee in charge.
- Before stepping over or crossing tracks, look in both directions first.
- 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 CALTRANS RIGHT OF ENTRY AGREEMENT**

**CONTRACTOR'S ENDORSEMENT**

A. As a condition to entering upon Railroad's right-of-way to perform Work pursuant to this Agreement, Licensee's contractor,

\_\_\_\_\_ *(Name of Contractor)*

whose address is: \_\_\_\_\_

*(Contractor's Mailing Address)*

(Hereinafter "Contractor"), agrees to comply with and be bound by all the terms and provisions of this Agreement relating to the Work to be performed and the insurance requirements set forth in Exhibit B. Contractor further acknowledges and agrees that the references to Cal. Gov. Code §14662.5 in this Agreement do not apply to Contractor and in no way limits the indemnities set forth in those provisions, to which Contractor agrees to be bound.

B. Before Contractor commences any Work, Contractor will provide to Railroad the insurance policies, certificates, binders and/or endorsements described in Exhibit B of this Agreement.

C. All insurance correspondence, certificates, endorsements sent, binders or originals shall be sent to:

*General Manager  
Mendocino Railway  
100 West Laurel Street  
Fort Bragg, CA 95437  
Telephone: (707)964-6371*

D. Please note that fiber optic cable may be buried on Railroad's property. Prior to commencing any work, Contractor agrees to contact Railroad's Telecommunications Operation Center at 1-800-336-9193 to determine if any fiber optic cable is located on Railroad's property on or near the location where the Work is to be performed. If there is, Contractor must comply with the terms and conditions contained in Section 5 of Exhibit A of this Agreement before commencing any Work on Railroad's property.

E. Contractor also agrees to provide the advance notice set forth in Exhibit A of this Agreement by contacting the Railroad Representative named in Article 4B of this Agreement prior to working on Railroad's property in order for Railroad to coordinate Contractor's work with Railroad's operations and to make arrangements for flagging protection (if applicable).

\_\_\_\_\_ *(Name of Contractor - Print full legal name on above line)*

By: \_\_\_\_\_

Title: \_\_\_\_\_

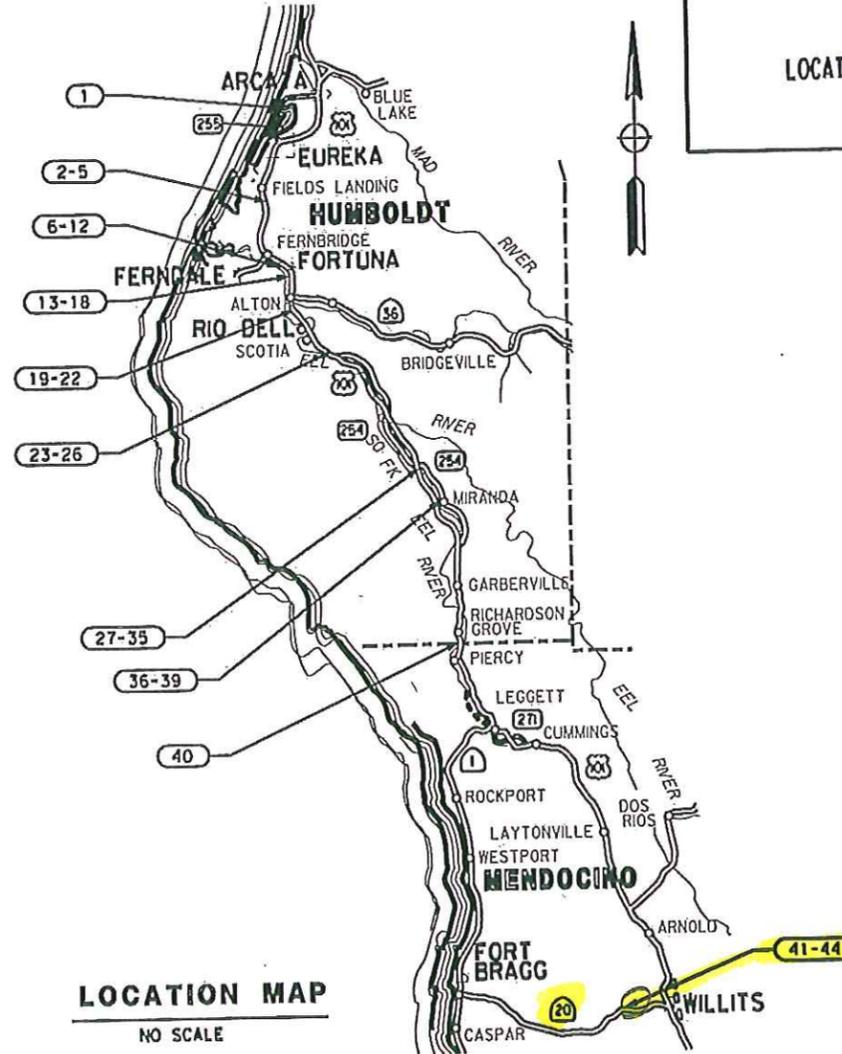
Date: \_\_\_\_\_

INDEX OF PLANS

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION  
PROJECT PLANS FOR CONSTRUCTION ON  
STATE HIGHWAY  
IN HUMBOLDT AND MENDOCINO COUNTIES  
AT VARIOUS LOCATIONS

TO BE SUPPLEMENTED BY STANDARD PLANS DATED MAY 2010

LOCATION NO.	COUNTY	RTE	PIJ	LOCATION
1	HUM	255	4.86	RAILROAD GRADE CROSSING
2	HUM	101	67.87	SALMON CREEK BRIDGE
3	HUM	101	67.87	SALMON CREEK BRIDGE
4	HUM	101	67.87	SALMON CREEK BRIDGE
5	HUM	101	67.87	SALMON CREEK BRIDGE
6	HUM	101	63.10	FINCH CREEK ROAD UNDERCROSSING
7	HUM	101	63.10	FINCH CREEK ROAD UNDERCROSSING
8	HUM	101	63.10	FINCH CREEK ROAD UNDERCROSSING
9	HUM	101	62.23	PALMER BOULEVARD UNDERCROSSING
10	HUM	101	62.23	PALMER BOULEVARD UNDERCROSSING
11	HUM	101	62.23	PALMER BOULEVARD UNDERCROSSING
12	HUM	101	62.23	PALMER BOULEVARD UNDERCROSSING
13	HUM	101	60.49	TWELFTH STREET OVERCROSSING
14	HUM	101	60.49	TWELFTH STREET OVERCROSSING
15	HUM	101	60.49	TWELFTH STREET OVERCROSSING
16	HUM	101	60.49	TWELFTH STREET OVERCROSSING
17	HUM	101	59.52	KENWAR ROAD UNDERCROSSING
18	HUM	101	59.52	KENWAR ROAD UNDERCROSSING
19	HUM	101	53.93	EEL RIVER BRIDGE
20	HUM	101	52.25	EEL RIVER BRIDGE OVERHEAD
21	HUM	101	52.25	EEL RIVER BRIDGE OVERHEAD
22	HUM	101	51.98	EEL RIVER BRIDGE OVERHEAD
23	HUM	101	47.95	STAFFORD ROAD UNDERCROSSING
24	HUM	101	47.95	STAFFORD ROAD UNDERCROSSING
25	HUM	101	47.95	STAFFORD ROAD UNDERCROSSING
26	HUM	101	47.95	STAFFORD ROAD UNDERCROSSING
27	HUM	101	27.92	MYERS FLAT SEPARATION
28	HUM	101	27.92	MYERS FLAT SEPARATION
29	HUM	101	27.94	ROUTE 101/254 NB OFFRAMP
30	HUM	101	27.94	ROUTE 101/254 NB OFFRAMP
31	HUM	101	27.86	ROUTE 101/254 NB OFFRAMP
32	HUM	101	28.02	ROUTE 101/245 NB ONRAMP
33	HUM	101	28.04	ROUTE 101/254 NB ONRAMP
34	HUM	101	28.15	ROUTE 101/254 SB ONRAMP
35	HUM	101	27.94	ROUTE 101/254 NB ONRAMP
36	HUM	101	23.04-23.42	MAINLINE
37	HUM	101	23.01	BEAR BUTTES UNDERCROSSING
38	HUM	101	22.42-23.01	MAINLINE
39	HUM	101	23.01	BEAR BUTTES UNDERCROSSING
40	MEN	101	106.67	SOUTH FORK EEL RIVER BRIDGE
41	MEN	20	31.56	BROADDUS CREEK BRIDGE
42	MEN	20	31.56	BROADDUS CREEK BRIDGE <i>KKX</i>
43	MEN	20	32.82	BROADDUS CREEK BRIDGE
44	MEN	20	32.82	BROADDUS CREEK BRIDGE



LOCATION MAP

NO SCALE



LOCATION MAP

PROJECT MANAGER  
R.B. MCCARTHY

DESIGN ENGINEER  
R.B. MCCARTHY

THE CONTRACTOR SHALL POSSESS THE CLASS (OR CLASSES) OF LICENSE AS SPECIFIED IN THE "NOTICE TO BIDDERS."

EXHIBIT E

PROJECT ENGINEER DATE  
REGISTERED CIVIL ENGINEER



PLANS APPROVAL DATE  
THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SKINNED COPIES OF THIS PLAN SHEET.

CONTRACT No. 01-0C4204  
PROJECT ID 0112000282

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	FUNCTIONAL SUPERVISOR: R.B. MCCARTHY	CALCULATED BY DESIGNED BY	S. BRANDENBURG	REVISED BY
		CHECKED BY	C.J. THORNE	DATE REVISED

LEGEND

REPLACE AC SURFACING

LOCATION NUMBER

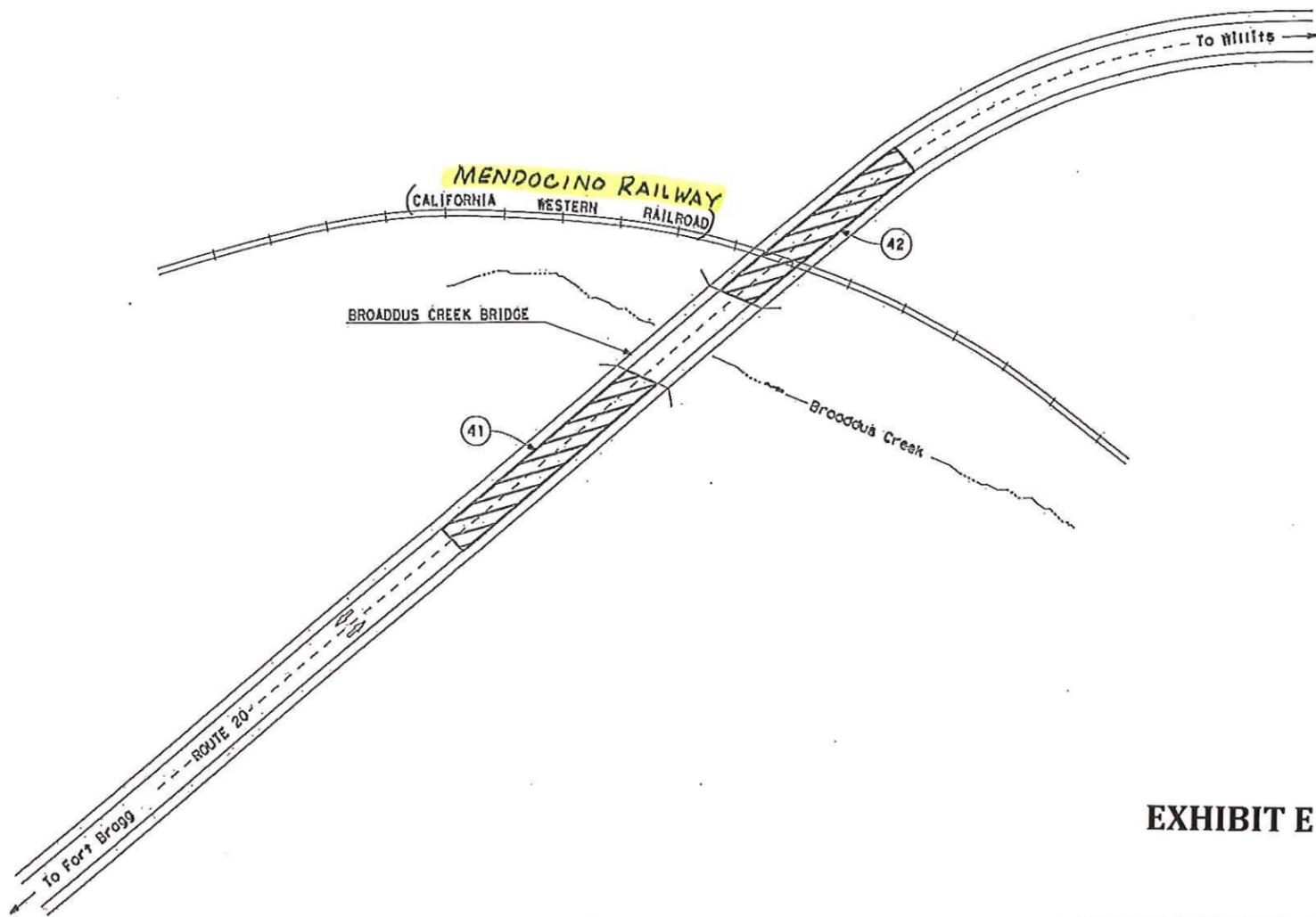
DT&#	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
01	HUM, MEN	20, 101, 255	VAR	19	X

REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

REGISTERED PROFESSIONAL ENGINEER  
GREGORY J. THORNE  
No. C71744  
Exp. 12-31-13  
CIVIL  
STATE OF CALIFORNIA



**EXHIBIT E**

**CONSTRUCTION DETAILS**

NO SCALE

**C-16**

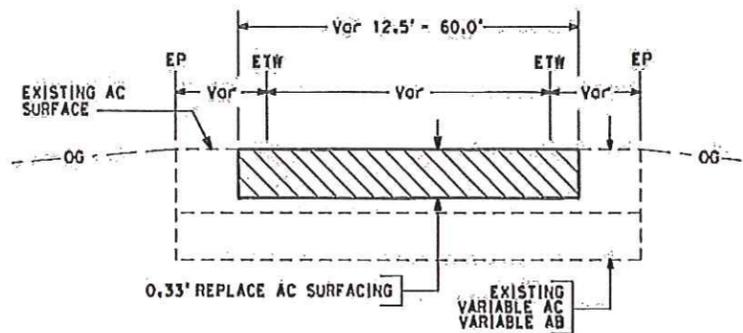
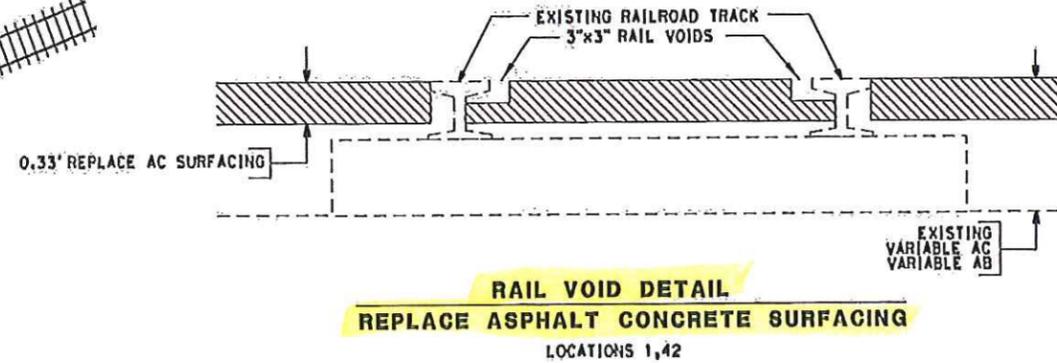
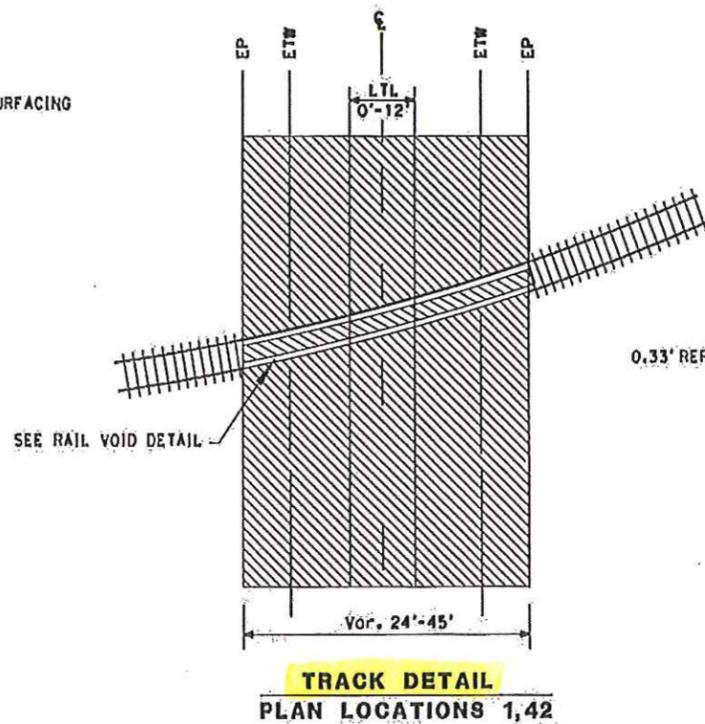
EXISTING UTILITY FACILITIES HAVE NOT BEEN PLOTTED ON THESE PLANS.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
 FUNCTIONAL SUPERVISOR  
 R.B. MCCARTHY  
 S. BRANDENBURG  
 G.J. THORNE  
 REVISIONS: REVISION BY DATE  
 CALCULATED/DESIGNED BY CHECKED BY  
 BORDER LAST REVISED 7/2/2010

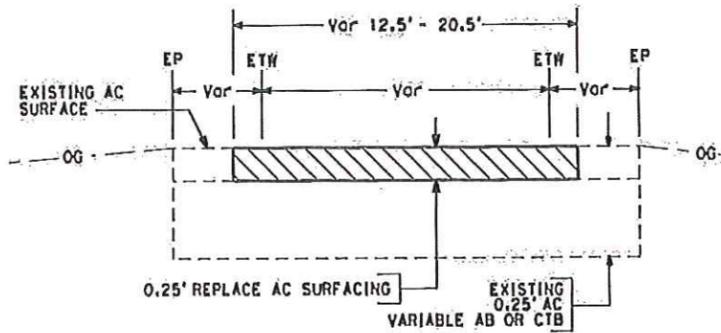
DATE	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
	01 HUMBOLDT	20, 101, 255	VAR	3	X
REGISTERED CIVIL ENGINEER		DATE		GREGORY J. THORNE	
PLANS APPROVAL DATE		NO. 521744		EXP. 12-31-13	
		REGISTERED PROFESSIONAL ENGINEER		CIVIL	

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**LEGEND**  
 REPLACE AC SURFACING



LOCATION	DESCRIPTION
41-44	ROUTE 20
2-12, 19-28, 36-40	ROUTE 101
1	ROUTE 255



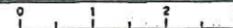
LOCATION	DESCRIPTION
29-35	MEYERS FLAT RAMPS
17-18	KENWAR RAMPS
13-16	TWELFTH STREET RAMPS

**EXHIBIT E**  
**TYPICAL CROSS SECTION**  
**AND CONSTRUCTION DETAILS**  
**X-2**  
 NO SCALE

EXISTING UTILITY FACILITIES HAVE NOT BEEN PLOTTED ON THESE PLANS

USERNAME => RUSER  
 DGN FILE => RREQUEST

RELATIVE BORDER SCALE  
 1/8" = 1' IN INCHES



UNIT 0052

PROJECT NUMBER & PHASE

01120002821

DATE PLOTTED => 00-00-00  
 TIME PLOTTED => 00:00:00