

RAILROAD CONSTRUCTION AGREEMENT

- 1) It is specifically understood that the project number shown above is for the DEPARTMENT's identification purposes only and may be subject to change by the DEPARTMENT. In the event it becomes necessary for the DEPARTMENT to assign a different project number, the DEPARTMENT will notify the RAILROAD and the COUNTY of the new project designation. Such change in project designation shall have no effect whatsoever on any other terms of this agreement.

- 2) It is agreed that the regulatory provisions of Part 140, Subpart I, and Part 646, Subpart B, of Title 23, Highways, of the Code of Federal Regulations, current edition, (hereinafter referred to as CFR) shall govern the work and procedures covered by this agreement and are by reference incorporated herein.
 - a) It is agreed that in accord with Title 23 of the CFR, Chapter I, Subchapter G, Part 646, Subpart B, Section 646.210 the work proposed under this Agreement shall not benefit the RAILROAD and that the RAILROAD shall not participate in any of the cost of making surveys, preparing plans, acquiring materials and performing the work covered under this Agreement.

 - b) The RAILROAD shall furnish the necessary materials and perform the work on an actual cost basis. All materials which are required to complete the work will be purchased direct by the RAILROAD or furnished from RAILROAD stock in accordance with Part 140, Subpart I, of CFR. Any portion of the work contemplated under this agreement may be let to contract by the RAILROAD through competitive bidding or the RAILROAD may use the services of a contractor which works for the RAILROAD on a routine basis under a written continuing contract subject to the terms and conditions of the aforesaid CFR, and with prior review and approval by the DEPARTMENT, all in accord with the detailed estimate attached. Before the RAILROAD initiates accomplishment of any work by these means, the RAILROAD shall first contact the DEPARTMENT to determine the appropriate procedures to follow to provide for compliance. Prior approval by the DEPARTMENT will not be necessary when work is performed by competitive bidding when the amount of work does not exceed \$10,000 per each individual contractor.

 - c) RAILROAD shall give DEPARTMENT and Federal Highway Administration, when applicable, ample opportunity to inspect materials recovered by RAILROAD in accordance with Part 646, Subpart B, of CFR.

- 3) RAILROAD to the extent that its present right, title and interest permits or enables it so to do and without warranty hereby grants to DEPARTMENT an easement across its right-of-way for the purpose of constructing said overpass and approaches thereto, all as shown on the project plans and in accord with the specifications and special provisions. Said project plans, specifications and special provisions, which are identified by the project number shown above, as finally approved by the RAILROAD, DEPARTMENT, and COUNTY, are hereby made a part hereof by reference. Said easement and construction is more particularly described as shown on project plan sheets which are attached hereto and made a part hereof.