



**SPECIAL PROVISIONS
FOR
WORK ON RAILROAD RIGHT-OF-WAY (D & I RAILROAD COMPANY)**

**Sioux County
BRF-012-3(6)--38-84**

**Effective Date
December 18, 2012**

THE STANDARD SPECIFICATIONS, SERIES 2012, ARE AMENDED BY THE FOLLOWING MODIFICATIONS AND ADDITIONS. THESE ARE SPECIAL PROVISIONS AND THEY PREVAIL OVER THOSE PUBLISHED IN THE STANDARD SPECIFICATIONS.

120016.01 DESCRIPTION.

This project involves work on property owned by the State of South Dakota and operated by the D & I Railroad.

120016.02 OPERATIONS.

The Contractor shall not interfere with the tracks, operation of trains, communications, and other facilities of SOUTH DAKOTA or Regional Railroad Authorities' Operator (D & I Railroad).

120016.03 RAILROAD FLAGGING.

If SOUTH DAKOTA or the Regional Railroad Authority's Operator determines it necessary to furnish a flagger during the Contractor's operations, the Contractor shall reimburse SOUTH DAKOTA or Regional Railroad Authority's Operator for the expense of flagging.

120016.04 INDEMNITY.

The Contractor shall indemnify, hold harmless, and defend SOUTH DAKOTA to the extent allowed by law, from any and all claims, suits, losses, damages, or expenses, except when caused by the willful misconduct or gross negligence of SOUTH DAKOTA, its officers, agents, or employees, or otherwise, on account of injuries to or death of any and all persons whomsoever, including but not limited to the Iowa DOT, Iowa DOT's members, guests, invitees, employees, agents and contractors, subcontractors, employees of the contractors, employees of the subcontractors, and employees of SOUTH DAKOTA, and on account of any and all loss or destruction of or damage to property to whomsoever belonging, including property owned by, rented to, or in the care, custody, or control of SOUTH DAKOTA, Iowa DOT, Iowa DOT'S members, guests, invitees, contractors, subcontractors, and of their respective employees and agents, arising or growing out of or in any manner connected with or caused or occasioned, in whole or in part, by reason of or arising during the presence of the person or of the property of Iowa DOT, Iowa DOT'S members, guests, invitees, employees or agents, contractors or subcontractors and their respective employees and agents, upon or in proximity to the property of SOUTH DAKOTA or while going to or departing from the same under the authority granted by this specification.

120016.05 INSURANCE.

The Contractor shall procure and maintain during the Contract the following insurance coverage:

- A. Railroad Protective Liability Insurance shall name, as Insureds, Regional Railroad Authority's Operator (D & I Railroad Company), SOUTH DAKOTA, and any other railroads which are permitted users. Insurance shall provide coverage of at least \$3,000,000 per occurrence and \$6,000,000 in aggregate. Policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:
 - ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
 - ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
 - ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
 - ◆ No other endorsements restricting coverage may be added.
 - ◆ The original policy shall be provided to SOUTH DAKOTA prior to performing any work or services under this Contract.

- B. Public Liability and Property Damage Insurance for a limit of not less than \$1,000,000 for all damages arising out of the bodily injuries to or death of one person, and, subject to that limit for each person, a total limit of not less than \$2,000,000 for all damages arising out of bodily injuries to or death of two or more persons in any one accident, and providing for a limit of not less than \$1,000,000 for all damages to or destruction of property in any one accident and subject to that limit a total (or aggregate) limit of not less than \$2,000,000 for all damages to or destruction of property during the policy period.

Prior to entry upon or use of Railroad property by Contractor, Contractor shall furnish to SOUTH DAKOTA an acceptable certificate or certificates of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, amendments, and referencing the contract audit/folder number if available. Each policy shall obligate the insurance company issuing the policy to notify the Engineer and SOUTH DAKOTA, in writing, at least 30 calendar days prior to any cancellation, non-renewal, substitution, or material alteration. This cancellation provision shall be indicated on the certificate of insurance. In the event of a claim or lawsuit involving SOUTH DAKOTA or Regional Railroad Authority's Operator arising out of this Permit, the Department will make available to SOUTH DAKOTA and any Regional Railroad Authority's Operator any required policy covering such claim or lawsuit. Upon request from SOUTH DAKOTA, the Department will furnish a certified duplicate original of any required policy. All insurance policies shall be written by reputable insurance companies authorized to do business in the State of Iowa, and acceptable to SOUTH DAKOTA or with a current Best's Guide Rating of A-and Class VII or better.

120016.06 ASSIGNMENT AND SUBCONTRACTING.

If the work is to be performed by a subcontractor, the Contractor shall include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this specification, to indemnify SOUTH DAKOTA, and to provide insurance coverage for the benefit of SOUTH DAKOTA in a manner consistent with this specification. The Contractor and any subcontractors, agents, and employees shall comply with applicable federal, South Dakota, and local laws, rules, regulations, ordinances, guidelines, permits, and requirements, and will adopt such review and inspection procedures as are necessary to assure such compliance.

The provisions of this specification are for the equal protection of any railroad company or companies granted the use of SOUTH DAKOTA'S property above described.

120016.07 UNDERGROUND BORINGS.

The Engineer and Contractor shall keep the location and log of any borings or survey made on the subject premises and will furnish a copy to SOUTH DAKOTA.

120016.08 NOTIFICATIONS.

The Contractor shall notify Jack Parliament, D & I Railroad, 300 South Phillips Avenue, Suite 200, PO Box 5829, Sioux Falls, South Dakota 57117-5829; telephone number 605.330.6588; or cell phone 605.359.7634; and Lynn Kennison, South Dakota DOT, 700 East Broadway Avenue, Pierre, South Dakota, 57501; telephone number 605.773.3222 ; not less than 5 working days before work is to begin and within 5 working days after the work is completed under this Contract.

120016.09 ENVIRONMENTAL COMPLIANCE.

The Contractor shall comply with all applicable ordinances, rules, regulations, requirements, and laws of any governmental authority controlling environmental standards and conditions on the premises. If, as a result of operations under this specification, any such ordinance, rule, regulation, requirement or law is violated, the Contractor will protect, save harmless, defend and indemnify SOUTH DAKOTA from and against any penalties, fines, costs and expenses, including legal fees and court costs imposed upon or incurred by SOUTH DAKOTA caused by, resulting from, or connected with such violation or violations, to the extent allowed by law.

120016.10 METHOD OF MEASUREMENT AND BASIS OF PAYMENT.

Insurance Provisions required by this specification above those required by Division 11 of the Standard Specifications will be measured as a lump sum. The cost of the insurance provisions above that required by Division 11 of the Standard Specifications shall be included in the lump sum bid price for D & I Insurance Provisions.