



**SPECIAL PROVISIONS
FOR
WORK ON RAILROAD RIGHT-OF-WAY (IOWA NORTHERN RAILWAY)**

**Linn County
NHSX-100-1(46)--3H-57
NHSX-100-1(77)--3H-57**

**Effective Date
January 22, 2014**

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.

120128.01 DESCRIPTION.

This specification describes the requirements when work is within the Right-of-way (ROW) or properties of the Iowa Northern Railway Company (IANR) and adjacent to tracks, wire lines, and other facilities. This specification describes the coordination with IANR when work by the Contractor will be performed upon, over, or under the IANR ROW, or may impact current or future IANR operations. The Contractor shall coordinate with the IANR while performing work on IANR ROW.

The IANR representative will be the person or persons identified by the IANR General Manager, William Magee, 1330 Sheffield avenue, Waterloo, IA 50702 (telephone number: 319.232.9702 and email address: wmagee@iowanorthern.com) to handle specific tasks related to the project.

Prior to advertising the project for letting, the Contracting Authority will negotiate and obtain an agreement with the IANR for the work on IANR ROW. The Contractor is not required to enter into an agreement with the IANR except for the sole purpose of a temporary crossing (Article SP-120128.20) that is not included in the contract documents.

The Contractor shall provide track protection for all equipment operating within 25 feet from nearest rail.

120128.02 REQUESTS FOR INFORMATION.

All requests for information involving work within any IANR ROW shall be in accordance with the procedures listed in the contract documents. All requests shall be submitted to the Engineer. The Engineer will forward the request to the IANR as necessary.

120128.03 CONSTRUCTION SCHEDULE NOTICE.

A construction schedule, including the proposed temporary horizontal and vertical clearances and construction sequence for all work to be performed, shall be provided to the Engineer for submittal to the IANR prior to commencement of work. When construction activities are on or about railroad property this schedule shall also include the anticipated dates when the IANR facilities may be impacted by construction activities.

120128.04 IANR REPRESENTATIVES.

IANR representatives will be provided at the expense of the Contractor to protect IANR facilities, property, and movements of its trains or engines. In general, IANR will furnish such personnel or other protective services as follows:

- When any part of any equipment is standing or being operated within 25 feet, measured horizontally, from centerline of any track on which trains may operate, or when any object is off the ground and any dimension thereof could extend inside the 25 foot limit, or when any erection or construction activities are in progress within such limits, regardless of elevation above or below track.
- For any excavation below elevation of track subgrade if, in the opinion of IANR, track or other IANR facilities may be subject to settlement or movement.
- During any clearing, grubbing, excavation, or grading in proximity to IANR facilities, which, in the opinion of IANR, may endanger IANR facilities or operations.
- During the Contractor's operations when, in the opinion of IANR, IANR facilities, including, but not limited to, tracks, buildings, signals, wire lines, or pipe lines, may be endangered.
- The Contractor shall arrange with the IANR to provide the adequate number of flag persons to accomplish the work.

120128.05 INSURANCE.

To the fullest extent permitted by law, the STATE's contractor(s) shall indemnify and hold harmless the COMPANY and the COMPANY affiliates, and their employees, officers, agents and authorized representatives from and against any and all liability, claims, damages, losses and expenses, including but not limited to punitive damages and attorneys' fees, arising from the injury to or death of any person or persons, or loss of or damage to any property whatsoever, while on or about the COMPANY premises or arising out of or resulting from performance of the Project work or services provided by contractor or a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. The STATE and the STATE's contractor(s) shall indemnify and hold harmless the COMPANY against any assertion of claims for mechanics' liens by subcontractors or material contractors, and against any assertion of security interests for goods or materials which are placed or installed upon the Company's premises. The limitations set forth in this section 2(D) are all subject to the terms, provisions and prohibitions of Article VII, Section 1 of the Iowa Constitution. They are only applicable to and enforceable against the State of Iowa to the extent they are permitted under and consistent with said terms, provisions and prohibitions and by entering into this agreement the State of Iowa does not waive said terms, provisions and prohibitions in whole or in part.

A. Commercial General Liability Insurance.

This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000. Coverage must be purchased on ISO occurrence form CG 00 01 12 04 or a substitute form providing equivalent coverage and include coverage for, but not limited to, the following:

- Bodily Injury and Property Damage
- Personal Injury and Advertising Injury
- Fire legal liability
- Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- The employee and workers compensation related exclusions in the above policy shall not apply with respect to claims related to railroad employees.
- The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- Any exclusions related to the explosion, collapse and underground hazards shall be removed.

No other endorsements limiting coverage as respects obligations under this specification may be included on the policy with regard to the work being performed under this agreement.

B. Business Automobile Insurance.

This insurance shall contain a combined single limit of at least \$5,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

C. Workers Compensation and Employers Liability Insurance.

This insurance shall include coverage for, but not limited to:

- Contractor's statutory liability under the worker's compensation Laws of the state(s) in which the work is to be performed. If optional under State Law, the insurance must cover all employees anyway.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

D. Railroad Protective Liability Insurance.

This insurance is required if there is any construction or demolition activities. If applicable, this insurance shall name only the Railway as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate.

The 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 1093) and on ISO Form no. CG00351093
- 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 must be provided to the Railway prior to performing any work or services under this Easement Agreement

E. Other Requirements.

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Contractor is not allowed to self-insure without the prior written consent of IANR. If granted by IANR, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Contractor in lieu of insurance. Any and all IANR liabilities that would otherwise, in accordance with the provisions of this Agreement be covered by Contractor's insurance, will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Prior to commencing work, Contractor shall furnish to IANR an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments and referencing the contract audit/folder number if available. The policy(ies) shall contain a provision that obligates the insurance IANR(ies) issuing such policy(ies) to notify IANR in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from IANR, a certified duplicate original of any required policy shall be furnished.

If any portion of the contract is to be subcontracted by Contractor, Contractor shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming IANR as an additional insured, and shall require that the subcontractor shall release, defend and indemnify IANR to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify IANR herein.

Failure to provide evidence as required by this section shall entitle, but not require, IANR to remove contractor from or deny entry of contractor to IANR property immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Easement Agreement. Damages recoverable by IANR shall not be limited by the amount of the required insurance coverage.

120128.06 ASSIGNMENT, SUBCONTRACTING, AND INSURANCE ENDORSEMENTS.

The Contractor shall not assign or subcontract the provisions of this specification, or any interest therein, without the written consent of the Engineer. The Contractor shall be responsible for the acts and omissions of all subcontractors. Before the Contractor commences any work, they shall, except to the extent prohibited by law; (1) require each subcontractor to include the Contractor as "Additional Insured" in the subcontractor's Commercial General Liability policy and Business Automobile policies with respect to all liabilities arising out of the subcontractor's performance of work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage); (2) require each subcontractor to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each subcontractor to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.

120128.07 ADDITIONAL SAFETY REQUIREMENTS.

The Contractor shall require its employees to be suitably dressed to perform their duties safely. The Contractor shall require workers to wear personal protective equipment as specified by IANR rules and regulations. Protective equipment shall include, but not be limited to the following: protective headgear meeting ANSI 289.1; eye protection meeting ANSI 287.1, however additional eye protection shall be provided to meet specific job situations such as welding, grinding, burning, etc.; and hearing protection which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Only waist length shirts with sleeves and trousers covering the entire leg shall be worn. Flare-legged trouser bottoms shall be tied to prevent catching.

Heavy equipment operating within IANR ROW shall be equipped with audible back-up warning devices. If in the opinion of the IANR the Contractor's equipment is unsafe for use on the IANR's ROW, the Contractor shall remove such equipment from the IANR ROW.

The Contractor shall promptly notify the IANR of any U.S. OSHA reportable injuries occurring to any employee that arises during the work performed on the work site within IANR ROW.

If at any time the Engineer or the IANR are of the opinion that any work of the Contractor is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Engineer may suspend the work until suitable, adequate, and proper protective measures are adopted and provided.

120128.08 SAFETY MEASURES-PROTECTION OF OPERATIONS.

The Contractor shall perform work in a safe manner and in conformity with the following standards:

A. Explosives.

The Contractor shall not discharge any explosives on or in the vicinity of the IANR's property without the prior consent of the IANR, which shall not be given if, in the sole discretion of the IANR, such discharge would be dangerous or would interfere with the IANR's property or facilities. For the purposes hereof, the "vicinity of the IANR's property" shall be deemed to be any place on the IANR's property or in such close proximity to the IANR's property that the discharge

of explosives could cause injury to the IANR's employees or other persons, or cause damage to or interference with the facilities or operations on the IANR's property. The IANR reserves the right to impose such conditions, restrictions, or limitations on the transportation, handling, storage, security, and use of explosives as the IANR, in the IANR's sole discretion, may deem to be necessary, desirable or appropriate. In addition to any conditions, restrictions, or limitations as may be specifically imposed:

1. The Contractor shall provide no less than 48 hours written notice, excluding weekends and holidays, before discharging any explosives.
2. Any explosives loaded in holes, placed or otherwise readied for discharge, they shall be discharged the same day during daylight hours, and at mutually acceptable times.
3. The Contractor, at its own expense, shall take all precautionary measures and construct all temporary shelters necessary to guard against danger of damage, destruction, or interference arising out of or connected with any blasting or any transportation, handling, storage, security, or use of explosives.

B. Obstructions to View.

Except as otherwise provided herein, the Contractor shall not cause or permit the view along the tracks of the IANR to be obstructed, nor place any combustible material on the crossing area, nor erect any structures thereon except as allowed by the contract documents.

C. Excavation.

The Contractor shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, impair, or endanger the clearance between existing or new slopes and the tracks of the IANR. The Contractor shall not perform any work that may disturb the stability of any area that may adversely affect the IANR's tracks or facilities. The Contractor, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation or trenching performed by them in connection with construction, maintenance, or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the IANR to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the IANR's operations in the vicinity.

D. Drainage.

The Contractor, at its expense, shall provide and maintain suitable facilities for draining the highway and its appurtenances, and shall not suffer or permit drainage water to flow or collect upon property of the IANR so as to adversely affect any of the IANR's operations, equipment or any third parties with permitted facilities on the IANR's ROW. The Contractor, at its own expense, shall provide adequate passageway for the waters of any streams, bodies of water, and drainage facilities (either natural or artificial, and including water from the IANR's culverts and drainage facilities), so that said waters may not, because of any facilities or work of the Contractor, be impeded, obstructed, diverted, or caused to back up, overflow or damage the property of the IANR or any part thereof, or property of others. The Contractor shall not obstruct or interfere with existing ditches or drainage facilities.

E. Clearances.

The Contractor shall provide a minimum vertical clearance of 21.5 feet above top of rails and a minimum lateral clearance of 12.0 feet from centerline of track nearest temporary construction falsework.

Proposed changes to the specified minimum clearances shall be submitted to IANR, through the Engineer, at least 30 calendar days in advance of the work. No work shall commence until the Engineer receives concurrence, in writing, from IANR that approval is given and that

arrangements have been made for flagging service, as may be necessary. The IANR will have two weeks to respond to the request.

F. Demolition of Existing Structures.

The Contractor shall submit demolition plans to the Engineer for review and approval. The Engineer will forward to the IANR as identified in the project agreement. Demolition shall not be undertaken until the Contractor has received the Engineer's written approval of such demolition plans. All such reviews and approvals or rejections will be completed by the Engineer within 45 calendar days of receipt from the Contractor.

120128.09 WALKWAYS.

Along the outer side of each exterior track of multiple operated track, and on each side of single operated track, an unobstructed continuous space suitable for IANR's use in walking along trains, extending to a line not less than 12 feet from centerline of track, shall be maintained. Any temporary impediments to walkways and track drainage encroachments or obstructions allowed during work hours while IANR's flagging service is provided shall be removed before the close of each work day. Walkways with railings shall be constructed by Contractor over open excavations when in close proximity of track, and railings shall not be closer than 8.5 feet horizontally from center line of tangent track or 9.5 feet horizontally from centerline of curved track.

120128.10 EXCAVATIONS IN CLOSE PROXIMITY TO IANR FACILITIES.

The Contractor shall take special precaution in connection with excavating and shoring. Excavations for construction of footings, piers, columns, walls, or other facilities that require shoring shall comply with the following requirements: OSHA, AREMA, and IANR Guidelines.

The Contractor shall contact IANR at least 48 hours prior to commencing work during normal business hours to determine location of fiber optics. If a telecommunications system is buried anywhere on or near IANR property, the Contractor shall coordinate with IANR and the Telecommunication Company to arrange for relocation or other protection of the system prior to beginning any work on or near IANR property.

120128.11 NO INTERFERENCE WITH IANR'S OPERATION.

The Contractor shall not interfere with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of the IANR its lessees, licensees, or others, unless specifically permitted by this specification, or specifically authorized in advance by the IANR. When not in use, the Contractor's machinery and materials shall be kept at least 50 feet from the centerline of IANR's nearest active track, and there shall be no crossings of IANR's tracks except at existing open public crossings or as provided by agreement.

120128.12 TRAFFIC CONTROL.

The Contractor's operations that control traffic across or around IANR facilities shall be coordinated with and approved by the IANR.

120128.13 INDEMNITY.

As used in this Article, "IANR" includes other railroad companies using the IANR's property at or near the location of the Contractor's work and their officers, agents, and employees; "Loss" includes loss, damage, claims, demands, actions, causes of action, penalties, costs, and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from the following:

- Injury to or death of persons whomsoever (including the IANR's officers, agents, and employees, the Contractor's officers, agents, and employees, as well as any other person); and
- Damage to or loss or destruction of property whatsoever (including Contractor property, damage to the roadbed, tracks, equipment, or other property of the IANR, or property in its care or custody).

The Contractor shall indemnify, hold harmless, and defend to the extent allowed by law the IANR from any loss which is due to or arises from any cause and is associated in whole or in part with the work, a breach of the contract or the failure to observe the health and safety provisions herein, or any activity or

omission arising out of performance or nonperformance; except when caused by the sole negligence of the IANR, or except to the extent caused by the gross negligence or willful misconduct of the IANR.

120128.14 MAINTENANCE OF IANR FACILITIES.

The Contractor shall maintain all ditches and drainage structures free of silt or other obstructions which may result from its operations, promptly repair eroded areas within IANR's ROW, and repair any other damage to IANR property, or its tenants; at no additional cost to the IANR.

120128.15 COMMUNICATIONS AND SIGNAL LINES.

If required, IANR will rearrange its communications and signal lines, grade crossing warning devices, train signals and tracks, and facilities that are in use and maintained by IANR's forces in connection with its operation at the expense of the Contracting Authority. This work will be performed by the IANR and it is not a part of the contract.

120128.16 FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on the IANR'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. The Contractor shall contact the IANR to determine if fiber optic cable is buried anywhere on the IANR's Crossing Area to be used by the Contractor. If it is, the Contractor shall telephone the telecommunications company involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the IANR's Crossing Area.

In addition to the liability terms elsewhere in this specification, the Contractor shall indemnify and hold harmless the IANR against and from all cost, liability, and expense whatsoever (including, without limitation, attorney's fees, court costs, and expenses) arising out of or in any way contributed to by any act or omission of the Contractor, agents, or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on IANR's property, and (2) any injury to or death of any person employed by or on behalf of any telecommunications company, its contractor, agents, or employees, on IANR's property in the crossing area. The Contractor shall not have or seek recourse against IANR for any claim or cause of action for alleged loss of profits, revenue, loss of service, or other consequential damage to a telecommunication company using IANR's property or a customer or user of services of the fiber optic cable on IANR's property.

120128.17 COOPERATION.

The IANR will cooperate with the Contractor so that work may be conducted in an efficient manner, and will cooperate with the Contractor in enabling use of IANR's ROW in performing the work.

120128.18 WAIVER OF BREACH.

The waiver by the IANR of the breach of any condition, covenant, or specification herein contained to be kept, observed and performed by the Contractor shall in no way impair the right of the IANR to avail itself of any subsequent breach thereof.

120128.19 RAILROAD FLAGGING.

A. Flagging and Notification.

The Contractor shall notify the IANR and Engineer at least 15 working days in advance of the commencement of work and at least ten working days in advance of proposed performance of any work by the Contractor in which any person or equipment will be within 25 feet of any track, or near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within 25 feet of any track. This notice shall include the following:

- Project Number
- Contractor's name
- Date flagging is needed
- Location of flagging services to be provided
- Duration of flagging

No work shall be performed, and no person, equipment, machinery, tools, materials, vehicles, or things shall be located, operated, placed, or stored within 25 feet of any of IANR's track at any time, for any reason, unless and until a railroad flagger is provided to watch for trains.

Upon receipt of such ten day notice, the IANR will determine and inform the Contractor whether a flagger need be present and whether the Contractor need implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by the IANR, such services will be provided at Contractor's expense with the understanding that if the IANR provides any flagging or other services, the Contractor shall not be relieved of any of its responsibilities or liabilities set forth herein. The Contractor shall pay the IANR all charges connected with such services within 30 calendar days after presentation of a bill.

Work performed without proper flagging services, when required, will be subject to a \$5,000 per day price adjustment.

The Contractor shall provide the IANR a minimum of two working days notice prior to the completion of work for which the flagging services were requested.

B. Flagger Rate of Pay.

The rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight hour day for the class of worker 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 and welfare, supplemental sickness, Railroad Retirement and UC, supplemental pension, Employee, Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect on the day of execution of the agreement between the IANR and the Contracting Authority. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays; 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 the IANR 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, the Contractor shall pay on the basis of the new rates and charges.

C. Reimbursement to the IANR.

Reimbursement to the IANR, by the Contractor, shall cover the full eight hour day during which any flagger is furnished, unless they can be assigned to other IANR work during a portion of such day. Reimbursement will not be required for the portion of the day during which the flagger is engaged in other IANR work. Reimbursement will also be required for any day not actually worked by said flagger following assignment to work on the project for which the IANR is required to pay the flagger and which could not reasonably be avoided by the IANR by assignment of such flagger to other work, even though the Contractor may not be working during such time.

In the event the Contractor fails to reimburse the IANR, the Contracting Authority will reimburse the IANR within 30 calendar days of the Contractor defaulting on the payment (default is defined as non-payment within 30 calendar days of final billing by the IANR to the Contractor). Failure of the Contractor to reimburse the IANR may result in a reduction or suspension of the Contractors bidding qualifications according to Article 1102.03 of the Standard Specifications.

D. Documentation and Reimbursement to the Contractor.

The Contractor shall initially pay IANR invoices for all flagging costs in conjunction with railroad flaggers when any of the conditions identified in Article SP-120128.04, warrant a flagger. The Contracting Authority will reimburse the Contractor for any daily cost that exceeds \$1000.00 per day for the cost of flagger services provided by the IANR. The Contracting Authority will reimburse the Contractor 100% of the total cost of flagger services, as deemed necessary by the

IANR, that does not meet any of the conditions identified in Article SP-120128.04, unless the flagger's presence on the project was a result of the Contractor's communication, or lack of communication, with the IANR. The Contracting Authority will reimburse the Contractor following completion of all work necessitating flagging operations by the IANR and receipt of documentation verifying the IANR invoices have been paid.

For each day that railroad flaggers have been provided, the Contractor shall document daily the conditions on the project site that warrant the flagger. The Contractor shall submit the daily records to the Engineer each week. The Engineer will review the daily logs and promptly notify the Contractor if any information in the daily log is believed to be incorrect.

The Contractor shall forward copies of the invoices received from the IANR for flaggers and a summary of the flagging costs incurred that exceed the Contractors' requirements described in Article SP-120128.04, to the Engineer with a request for payment for the additional railroad flagger costs. The Engineer will review the Contractor's daily logs against the IANR's invoice and make payment for the eligible costs in accordance with Article 1109.03, of the Standard Specifications.

The Contractor shall be responsible to the IANR for all flagging costs. Flagging costs for subcontracted work shall be the responsibility of the Contractor. Reimbursement from subcontractors to the Contractor shall be the sole responsibility of the Contractor.

The Contractor shall forward, to the Engineer, copies of payments made to the IANR for flagging costs.

The Contracting Authority may award multiple contracts for work in the same general area. The Contractor shall try to stage work to minimize the need for railroad flaggers. In the event of multiple projects in a particular location, the Contractor initially requiring flagging on a daily basis shall be responsible for all flagging costs for that day.

120128.20 TEMPORARY CROSSINGS.

At other than established public road crossings, the Contractor shall not move any equipment or materials across the IANR's tracks until written permission has been obtained from the IANR.

If the Contractor requires a temporary railroad crossing the Contractor shall arrange for the crossing installation at a mutually acceptable location at the Contractor's expense to include all IANR costs of installation, maintenance, removal, and track restoration. The temporary crossing shall be gated and locked at all times when not required for use by the Contractor. Flagging will always be required during use of a temporary crossing. The billing, Contractor payment provisions, and final Contractor payment requirements for crossing costs except flagging are to be covered as agreed to in a separate agreement between the Contractor and IANR. Prior notice of need for a temporary crossing needs to allow for IANR site review, cost estimating, securing material, and work crew scheduling and will vary. The Contractor should contact the IANR prior to making a bid when a temporary crossing is required.

120128.21 LIMITATION OF RIGHTS GRANTED.

The Contract, any Temporary Easement, and Permanent Easement are all subject to the prior and continuing right and obligation of the IANR to use and maintain its property, not inconsistent with highway purposes, including the right and power of the IANR to construct, maintain, repair, renew, use, operate, change, modify, or relocate IANR 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 freely done at any time or times by the IANR, not inconsistent with highway purposes and at IANR's sole cost and expense.

The Contract, Temporary Construction Easement, and Permanent Easement, whether recorded or unrecorded, are subject to all outstanding rights (including those in favor of licensees and lessees of the

IANR's property, and others) and the right of the IANR to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

120128.22 MECHANICS' LIENS.

The Contractor shall not permit or suffer any mechanic's or material supplier's liens of any kind or nature to be enforced against any property of the IANR for any work performed. The Contractor shall indemnify and hold harmless the IANR from and against any 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. It is understood that this specification may be recorded in the county in which the work is to be performed and such recording shall serve as public notice that no Contractor, subcontractor, or material supplier shall file any notice of a mechanic's or material supplier's lien or permit or suffer any mechanic's lien or material supplier's lien on the property of the IANR to the extent permitted by law.

120128.23 METHOD OF MEASUREMENT AND BASIS OF PAYMENT.

- A. Liability Insurance, Modified, for IANR; will be paid for as a Lump Sum bid item. The Contractor will be paid 100% of the lump sum bid item following the Contracting Authority executing the Contract.
- B. Insurance When Working in Railroad Right-of-Way, Modified, for IANR will be paid for as a Lump Sum bid item. The Contractor will be paid 50% of the lump sum bid item following the Contracting Authority executing the Contract. The remainder of the bid item will be paid when the Contractor has begun work on Railroad ROW and the Engineer has verified the insurance policy is still in force.