

## INSURANCE SPECIAL PROVISIONS (09/06)

## CSX TRANSPORTATION, INC.

STATE PROJECT: 35011.3.1 (U-4010)

COUNTY: Durham

A. In addition to any other forms of insurance or bonds required under the terms of the contract and specifications, the Prime Contractor will be required to carry insurance of the following kinds and amounts:

1. **CONTRACTOR'S COMMERCIAL GENERAL LIABILITY INSURANCE:**

The Contractor shall procure and maintain, at its expense, an original and one certified copy of the policy **to the Department** as evidence of:

- a. Statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than \$1,000,000, which insurance must contain a waiver of subrogation against CSXT and its Affiliates
- b. Commercial General Liability coverage (inclusive of contractual liability) with available limits of not less than \$3,000,000 in combined single limits for bodily injury and property damage and covering the contractual liabilities assumed under this Agreement
- c. Business automobile liability insurance with available limits of not less than \$500,000 combined single limit for bodily injury and/or property damage per occurrence
- d. Such other insurance as CSXT may reasonably require.

Upon request, Licensee shall provide CSXT with a copy of Licensee's applicable insurance policies. A policy endorsement naming CSXT as an additional insured and specifying such coverage shall be furnished to CSXT, and the required coverage will be kept in force until all of the licensee's obligations under this Agreement have been fully discharged and fulfilled, or until Licensee shall have been specifically released by a written instrument signed by an authorized officer of CSXT. Licensee shall also provide CSXT with a copy of the insurance policies.

The insurance policies shall provide that the insurance carrier must give CSXT notice at least thirty (30) days in advance of cancellation of coverage, of any change in coverage, or of cancellation of the policy. Notwithstanding any provisions of this Section, the liability assumed by Licensee shall not be limited to the required insurance.

## 2. RAILROAD PROTECTIVE LIABILITY INSURANCE:

The Contractor shall furnish **to the Department** an original and one duplicate of the Railroad Protective Liability Insurance Policy to protect CSXT in connection with operations to be performed on or adjacent to CSXT right of way. The specifications for proper evidence of insurance are as follows:

- a) The Insurer must be financially stable and rated A- or better in A. M. Best Insurance Reports.
- b) The policy must be written using the ISO/RIMA Form of Railroad Protective Insurance - Insurance Services Office (ISO) Form CG 00 35.
- c) Named Insured and Address:

**CSX Transportation, Inc.  
Risk Management (C- 907)  
500 Water Street  
Jacksonville, FL 32202**

- d) **Limits of Liability: \$5,000,000 per occurrence, \$10,000,000 annual aggregate required.**
- e) Name and Address of Contractor must be shown on the Declarations page.
- f) Name and Address of the Project Sponsor must be shown on the Declarations page.

Description of operations must appear on the Declarations page and must match the project description, including project or contract identification numbers.

The Description and Designation shall read: Proposed improvements and widening of NC 98, Holloway St., at Milepost SB-152.26, DOT# 630 465A, in Durham, North Carolina.

Authorized endorsements:

### A. **Must**

- 1) **Pollution Exclusion Amendment - CG 28 31**  
(Not required with CG 00 35 01 96 and newer versions)
- 2) **Delete Common Policy Conditions** – Section E. Premiums

### B. **Acceptable**

- 1) Broad Form Nuclear Exclusion - IL 00 21
- 2) 30-day Advance Notice of Non-renewal
- 3) Required State Cancellation Endorsement
- 4) Quick Reference or Index - CL/IL 240

C. **Unacceptable**

- 1) Any Pollution Exclusion Endorsement except CG 28 31
- 2) Any Punitive or Exemplary Damages Exclusion
- 3) Any endorsement not named in A or B
- 4) Any type of deductible policy

You must submit the original policy, via the Department of Transportation, for our approval and filing **prior** to the commencement of construction or demolition operations.

B. Prior to entry on CSXT right-of-way, the original Railroad Protective Liability Insurance Policy shall be submitted by the Prime Contractor to the Department at the address below for its review and transmittal to CSXT. In addition, certificates of insurance evidencing the Prime Contractor’s Commercial General Liability Insurance shall be “issued” to CSXT **and** the Department at the addresses below, and **forwarded to the Department** for its review and transmittal to CSXT. No work will be permitted by CSXT on its right-of-way until it has reviewed and approved the evidence of insurance required herein.

DEPARTMENT:

Department of Transportation  
Utilities Coordination Unit  
C/O David Hinnant, State Railroad Agent  
1555 Mail Service Center  
Raleigh NC 27699-1555

RAILROAD:

CSX Transportation, Inc.  
Risk Management (C-907)  
500 Water Street  
Jacksonville, FL 32202

C. The insurance required herein shall in no way serve to limit the liability of Department or its Contractors under the terms of this agreement.

**RAILROAD SITE DATA:**

The following information is provided as a convenience to the Contractor. This information is subject to change and the Contractor should contact the Railroad to verify the accuracy. Since this information is shown as a convenience to the Contractor but is subject to change, the Contractor shall have no claims whatsoever against either the Railroad or the Department of Transportation for any delays or additional costs incurred based on changes in this information.

Number of tracks	-	<u>2</u>
Number of trains per day	-	<u>2</u>
Maximum speed of trains	-	<u>10 mph</u>

**SPECIAL PROVISIONS FOR PROTECTION OF RAILWAY INTEREST  
NORFOLK SOUTHERN RAILWAY COMPANY (09/06)**

14 **INSURANCE:** State Project: 35011.3.1 (U-4010) County: Durham

A. In addition to any other forms of insurance or bonds required under the terms of the contract and specifications, the Prime Contractor will be required to provide coverage conforming to the requirements of the Federal-Aid Policy Guide outlined under 23 CFR 646A for all work to be performed on Railroad right(s) of way by carrying insurance of the following kinds and amounts:

1. **CONTRACTOR'S COMMERCIAL GENERAL LIABILITY INSURANCE:**

The Contractor shall furnish an original and one copy of the certificate of insurance and one certified copy of the policy to the Department as evidence that, with respect to the operations he performs on railroad right of way, he carries regular Commercial General Liability Insurance having a combined single limit of not less than \$2,000,000 per occurrence for all loss, damage, cost and expense, including attorneys' fees, arising out of bodily injury liability and property damage liability during the policy period. Said policy shall include explosion, collapse, and underground hazard (XCU) coverage, shall be endorsed to name Railroad specified in item A.2.c. below as an additional insured, and shall include a severability of interests provision.

2. **RAILROAD PROTECTIVE LIABILITY INSURANCE:**

The Contractor shall furnish to the Department an original and one duplicate of the Railroad Protective Liability Insurance having a combined single limit of not less than \$2,000,000 each occurrence and \$6,000,000 in the aggregate applying separately to each annual period. If the project involves track over which passenger trains operate, the insurance limits required are not less than a combined single limit of \$5,000,000 each occurrence and \$10,000,000 in the aggregate applying separately to each annual period. Said policy shall provide coverage for all loss, damage or expense arising from bodily injury and property damage liability, and physical damage to property attributed to acts or omissions at the job site.

The standards for the Railroad Protective Liability Insurance are as follows:

- a. The insurer must be rated A- or better by A.M. Best Company, Inc.
- b. The policy must be written using one of the following combinations of Insurance Services Office ("ISO") Railroad Protective Liability Insurance Form Numbers:
  - (1) CG 00 35 01 96 and CG 28 31 10 93; or
  - (2) CG 00 35 07 98 and CG 28 31 07 98; or
  - (3) CG 00 35 10 01; or

(4) CG 00 35 12 04.

- c. The named insured shall read:  
**[Name of railroad that owns the track];** and  
 Norfolk Southern Railway Company  
 Three Commercial Place  
 Norfolk, Virginia 23510-2191  
 Attn: D. W. Fries, Director Risk Management
- d. The description of operations must appear on the Declarations, must match the project description in this agreement, and must include the appropriate Department project and contract identification numbers.

The Description and Designation shall read: Proposed Widening of NC 98, Holloway St., in Durham, North Carolina, U-4010.

- e. The job location must appear on the Declarations and must include the city, state, and appropriate highway name/number.
- f. The name and address of the prime contractor must appear on the Declarations.
- g. The name and address of the Department must be identified on the Declarations as the "Involved Governmental Authority or Other Contracting Party."
- h. Other endorsements/forms that will be accepted are:  
 (1) Broad Form Nuclear Exclusion – Form IL 00 21  
 (2) 30-day Advance Notice of Non-renewal or cancellation  
 (3) 60- day written notice be given the Department prior to cancellation or change  
 (4) Quick Reference or Index Form CL/IL 240
- i. Endorsements/forms that are **NOT** acceptable are:  
 (1) Any Pollution Exclusion Endorsement except CG 28 31  
 (2) Any Punitive or Exemplary Damages Exclusion  
 (3) Known injury or Damage Exclusion form CG 00 59  
 (4) Any Common Policy Conditions form  
 (5) Any other endorsement/form not specifically authorized in item no. 2.h above.

B. If any part of the work is sublet, similar insurance, and evidence thereof as specified in A.1 above, shall be provided by or on behalf of the subcontractor to cover its operations on Railroad's right of way. As an alternative, the Prime Contractor may provide insurance for the subcontractor by means of separate and individual policies.

C. Prior to entry on Railroad right-of-way, the original and one duplicate copy of the Railroad Protective Liability Insurance Policy shall be submitted by the Prime Contractor to the Department at the address below for its review and transmittal to the Railroad. In addition, certificates of insurance evidencing the Prime Contractor's Commercial General Liability Insurance shall be issued to the Railroad and the Department at the addresses below, and one certified copy of the Prime Contractor's policy is to be forwarded to the Department for its review and transmittal to the Railroad. All policies and certificates of insurance shall state that the insurance coverage will not be suspended, voided, canceled, or reduced in coverage or limits without (30) days advance written notice to Railroad and

the Department. No work will be permitted by Railroad on its right-of-way until it has reviewed and approved the evidence of insurance required herein.

DEPARTMENT:

Department of Transportation  
 Utilities Coordination Unit  
 C/O Mr. David Hinnant, State Railroad Agent  
 1555 Mail Service Center  
 Raleigh, NC 27699-1555

RAILROAD:

Mr. D. W. Fries, ARM  
 Director Risk Management  
 Norfolk Southern Railway Company  
 Three Commercial Place  
 Norfolk, Virginia 23510-2191

- D. The insurance required herein shall not limit the obligations of Department or its Contractors under the terms of this agreement.
- E. All insurance herein before specified shall be carried until the final inspection and acceptance of the project, or that portion of the project within railroad right of way, by the Department or, in the case of subcontractors, until the Contractor furnishes a letter to the Engineer stating that the subcontractor has completed his subcontracted work within railroad right of way to the satisfaction of the Contractor and that the Contractor will accomplish any additional work necessary on railroad right of way with his own forces. It is understood that the amounts specified are minimum amounts and that the Contractor may carry insurance in larger amounts if he so desires. As to "aggregate limits", if the insurer establishes loss reserves equal to or in excess of the aggregate limit specified in any of the required insurance policies, Contractor shall immediately notify the Department of Transportation and shall cease all operations until the aggregate limit is reinstated. If the insurer establishes loss reserves equal to or in excess of one-half of the aggregate limit, Contractor shall arrange to restore the aggregate limit to at least the minimum amount stated in these requirements. Any insurance policies and certificates taken out and furnished due to these requirements shall be approved by the Department and the Railroad Company as to form and amount prior to beginning work on railroad right of way.

15. FAILURE TO COMPLY:

- A. In the event the Contractor violates or fails to comply with any of the requirements of these Special Provisions:
- (1) The Railroad Engineer may require that the Contractor vacate Railroad property.
  - (2) The Engineer may withhold all monies due the Contractor on monthly statements.

Any such orders shall remain in effect until the Contractor has remedied the situation to the satisfaction of the Railroad Engineer and the Engineer.

16. PAYMENT FOR COST OF COMPLIANCE:

- A. No separate payment will be made for any extra cost incurred on account of compliance with these special provisions. All such cost shall be included in prices bid for other items of the work as specified in the payment items.

RAILROAD SITE DATA:

The following information is provided as a convenience to the Contractor. This information is subject to change and the Contractor should contact the Railroad to verify the accuracy. Since this information is shown as a convenience to the Contractor but is subject to change, the Contractor shall have no claims whatsoever against either the Railroad or the Department of Transportation for any delays or additional costs incurred based on changes in this information.

Number of tracks	-	<u>2</u>
Number of trains per day	-	<u>2</u>
Maximum speed of trains	-	<u>10 mph</u>