



**CUY-90-14.90**

**PID 77332/85531**

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**APPENDIX RR-04**

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**CSX Special Clauses  
(Contract Document)**

State of Ohio  
Department of Transportation  
Jolene M. Molitoris, Director

**Innerbelt Bridge  
Construction Contract Group 1 (CCG1)**

CUYAHOGA COUNTY  
CUY-INNERBELT BRIDGE CCG-1, PID 77332

CSX Willow Industrial Track, Cleveland Subdivision, Western Region  
MP BJB-74.02

## SPECIAL CLAUSES

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### CSX TRANSPORTATION

#### I. Overview

The Design-Build consultant will be responsible for all technical coordination and drawing reviews with CSX Transportation, Inc. (CSX), as well as construction and flagman scheduling during subsequent construction phases.

The Railroad's General Engineering Consultant (GEC), representing CSX on technical and construction issues, will require review and approval of preliminary and final drawings of those elements of the project that may impact the Railroad. CSX has agreed to have their GEC provide a thirty (30) day review time from the time documents are received to the time comments and/or approval(s) are issued.

CSX has indicated that the following firm is the designated GEC for this project:

Mr. Larry Shaw, P.E.  
Project Manager  
URS Corporation  
One Indiana Square, Suite 2100  
Indianapolis, IN. 46204  
Phone: 317-532-5481  
Email: [Larry\\_Shaw@urscorp.com](mailto:Larry_Shaw@urscorp.com)

Copies of all correspondence with URS should be copied to ODOT's State Rail Coordinator:

Rich Behrendt  
Program Manager/State Rail Coordinator  
Ohio Dept. of Transportation  
1980 W. Broad St.  
Columbus, OH. 43223  
Phone: 614-387-3097  
Email: [richard.behrendt@dot.state.oh.us](mailto:richard.behrendt@dot.state.oh.us)

Construction around active railroad track, and/or on Railroad Right-of-Way, cannot begin until CSX (and/or their designated General Engineering Consultant) has acknowledged, in writing, approval of the project plans, and a fully executed Standard Railroad Construction Agreement has been executed with the State through ODOT's State Rail Coordinator in Columbus, and necessary insurance coverage for construction activities has been received and acknowledged in writing by CSX.

Preliminary Engineering Agreements have been executed with CSX, with necessary construction Agreements to be handled exclusively by ODOT's State Rail Coordinator in Columbus.

The Design-Build consultant should refer to the following for additional guidance and requirements for designing the new substructure and superstructure alongside and over CSX's track, which are included herein:

- CSX's *Design & Construction Standard Specifications*
- CSX's *Criteria for Overhead Bridges*
- ODOT's *Railroad Coordination Policy and Procedures Manual*

The following are added requirements for the Design/Build consultant and/or construction Contractor when working on or around active CSX railroad tracks, and are complimentary to the above-referenced CSX standards and criteria.

## **II General Requirements:**

The construction contractor agrees:

1. To cooperate at all times with the local officials of the railroad company, field inspectors, or their designees
2. To use all reasonable care and diligence in the work in order to avoid accidents, damage or unnecessary delay to, or interference with the trains and other property of the railroad company.
3. To conduct his work in a manner satisfactory to the Chief Engineer of the railroad company or his authorized representative, to perform his work in such manner and at such time as not to unnecessarily interfere with the movements of trains or railroad traffic, including train, signal, telephone services, or damage to CSXT's property, or to poles, wires, and other facilities of tenants on CSXT's property or right-of-way; and to hold his work at all times open to inspection of railroad company inspectors.
4. That the CSXT Representative shall have final authority in all matters affecting the safe maintenance of CSXT operations and CSXT property, and his or her approval shall be obtained by the State or its' contractor for methods of construction to avoid interference with CSXT operations and CSXT property and all other matters applicable to CSXT contemplated by the Agreement and these Special Clauses.
5. To cooperate with a public utility, railroad or other organizations having occasion to do work on or in connection with the improvement.
6. To avoid unnecessary use of railroad property without written permission of the railroad company and to remove all temporary grade crossings, temporary erosion control measures used to control drainage, all machinery, equipment, surplus materials, falsework, rubbish, or temporary buildings, and to leave railroad roadbed and property in a condition acceptable to the Chief Engineer of the railroad company upon completion of the project.
7. To execute a bond conditioned according to Section 5525.16 of the Revised Code of Ohio, in favor of the State of Ohio and further to carry insurance of the following kinds and amounts:

a) **Railroad Protective Liability Insurance.**

In addition to the above, he shall furnish evidence to the highway department that, with respect to the operations he or any of his sub-contractors perform, he has provided for and in behalf of CSX Transportation Inc. in the amount of \$5,000,000 per occurrence and subject to that limit per occurrence, an aggregate limit in the amount of \$10,000,000 for each annual period.

The above railroad protective policy of insurance shall conform to the Railroad Liability requirements prescribed by the Federal Highway Administration in Federal-Aid Policy Guide 23 CFR 646A as amended. The insurer must be rated B+ or better by A.M. Best Company, Inc.

The corporate name and address of the "Named Insured" as listed on the policy shall be as follows:

CSX Transportation, Inc.  
500 Water Street, C-907  
Jacksonville, FL 32202

The description of operations must appear on the Declarations, must match the project description in this agreement and must include the appropriate MP and/or OP number as identified at the top of pg. 1

The job location must appear on the Declarations page and must include the city, state and appropriate highway name/number.

The name and address of the prime contractor must appear on the Declarations.

The name and address of the Department must be identified on the Declarations as the "Involved Governmental Authority or Other Contracting Party."

Endorsements that **must** be included:

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

Other endorsements/forms that will be accepted are:

- Broad Form Nuclear Exclusion – Form IL 00 21
- 30-day Advance Notice of Non-renewal or cancellation
- Required State Cancellation Endorsement
- Quick Reference or Index Form CL/IL 240

**Endorsements/forms that are NOT acceptable are:**

- Any Pollution Exclusion Endorsement except CG 28 31
- Any Punitive or Exemplary Damages Exclusion
- Any other endorsement/form not specifically authorized above.
- Any type of deductible policy

The number of trains operating through the improvement at both locations is estimated to be:

0 Passenger trains per day @ \_\_\_ miles per hour.

2 Freight trains per day @ 10 miles per hour.

Additional Terms

1. The construction contractor must submit its original insurance policies and two (2) copies and all notices and correspondence regarding the insurance policies to:

Donna Melton  
CSX Corporation  
500 Water Street – C907  
Jacksonville, FL. 32202  
Phone: 904-359-1247  
FAX: 904-245-2833  
Email: donna\_melton@csx.com

2. The construction contractor may not begin work on the Project until it has received CSXT's written approval of the required insurance policies.

Certificate must be provided which evidences the following coverages and lists the Certificate Holder as:

CSX Transportation, Inc.  
500 Water Street, C-907  
Jacksonville, FL 32202

Commercial General Liability: as required by the Department's Construction and Material Specification, Section 107.12, and lists CSX Transportation, Inc. as additional insured.

Automobile Liability: Limits of minimum of \$1,000,000 per occurrence, and lists CSX Transportation, Inc. as additional insured.

**(b) General Insurance Requirements**

The insurance hereinbefore specified shall be with an acceptable insurance company authorized to do business in the State of Ohio, and shall be taken out before execution of the Contract by the Director and kept in effect until all work required to be performed under the terms of the contract is satisfactorily completed as evidenced by the formal acceptance by the State. Such policies shall include thirty (30) days canceling notice. .

Notwithstanding the Department's Construction and Material Specification No. 107.12 "Evidence" as above set forth shall consist of furnishing the Director of Transportation three (3) certified copies of the railroad policy.

3. To indemnify, defend, and hold CSXT and its affiliates harmless from and against all claims, demands, payments, suits, actions, judgments, settlements, and damages of every nature, degree, and kind (including direct, indirect, consequential, incidental, and punitive damages), for any injury to or death to any person(s) (including, but not limited to the employees of CSXT, its affiliates, the State or the Contractor), for the loss of or damage to any property whatsoever (including but not limited to property owned by or in the care, custody, or control of CSXT, its affiliates, the State or the Contractor, and environmental damages and any related remediation brought or recovered against CSXT and its affiliates), arising directly or indirectly from the negligence, recklessness or intentional wrongful misconduct of the Contractor, the State, and their respective agents, employees, invitees, contractors, or its contractor's agents, employees or invitees in the performance of work in connection with the project or activities incidental thereto, or from their presence on or about CSXT's property. The foregoing indemnification obligation shall not be limited to the insurance coverage required in paragraph 6 above
4. The Railroad company will assign, at the sole cost and expense of the Department, railroad flaggers or other protective services and devices as necessary to insure the safety and continuity of the work to be performed as a part of this contract. Said services and devices will be provided when necessary, as determined by the railroad company, because of any of the Contractor's operations over, under or adjacent to tracks over which trains are operating. The provision of such protective personnel and devices does not relieve the Contractor from the liability of payment for damage caused by his operations.
5. Such protection will be required when men or equipment are working within clearances limits of 25 feet of a rail or when work being performed adjacent to or over operating tracks may present hazards to tracks, train operation, or when equipment does or may infringe upon such limits.
6. In general, a flagman is necessary in the following circumstances: (1) the driving of sheeting or piles within twenty-five (25) feet of the tracks; (2) the removal or demolition of all or part of an overhead or adjacent structure; (3) the erection of any structural material, or (4) the performance of any other operation that could obstruct or foul (as described above) the tracks or other facilities of CSXT as determined by CSXT.
7. Minimum overhead and lateral clearances as specified by CSXT shall be maintained during the performance of all work. Existing overhead and lateral clearances shall be maintained during construction unless a temporary reduction in clearance for construction purposes is approved, in writing, by CSXT. The contractor shall erect a highly visible construction fence no closer than fifteen (15) feet from the centerline of the track through the work area to insure that the lateral clearance requirement is being met.
8. The Contractor will not be permitted to operate any of his own equipment on railroad tracks except under an acceptable arrangement with the railroad company. Such equipment and the operation of such equipment, or equipment rented from the railroad company, shall be arranged for by the Contractor with the railroad and the cost for its use, including protection or railroad traffic, shall be borne by the Contractor.

9. The Contractor shall notify the following named individual for each railroad company at least 30 days, or as directed by the authorized representative of the Railroad, in advance of starting any work which might require protection:

Mr. Dave Fette, Regional Director R/W Construction  
CSX Transportation, Inc.  
1717 Dixie Highway, Suite 400  
Fort Wright, KY 41011 - 2785  
Telephone: (859) 344- 8137

10. The Contractor shall notify the railroad at least thirty (30) working days in advance of suspending or ceasing operations that require a flagger.
11. Railroad protective personnel assigned to the project will be responsible for notifying the Engineer upon arrival at the job site on the first working day that protective services begin and on the last day that he performs such services. This will be required for each separate period that such services are provided.
12. The Contractor will document such notification in the project diary. The Contractor will be responsible for protective services provided at his request and not utilized due to a change in the Contractor's construction schedule or if it is determined by the State that the requested services were not necessary. The actual costs for such protective services so assessed to the Contractor will be deducted from the Contract.
13. The minimum hours per day for railroad employees engaged in flagging service shall be eight (8) hours. The overtime rate will be charged for all time in excess of eight (8) hours. Flagmen are paid from the time they leave headquarters until they arrive back at headquarters. The travel time to and from the project site is known as "deadheading" and is paid at full rate of pay, plus travel expense.
14. The decision of the Director of Transportation shall be final in the event of controversy as to the necessity for any protection services provided and not utilized by the Contractor as described in the preceding paragraph.
15. To pay the railroad or owning company for any changes, requested for his convenience, to railroad property, facilities, wire, fiber optic and/or pipe lines other than shown on the plans for the project.
16. If at any time the contractor desires a temporary crossing of the railroad's tracks at other than an existing and open public road crossing, or included in the plans and approved by the railroad, he shall make a request for a temporary crossing from the railroad. If approved, he shall arrange with the railroad company, and execute a license agreement or right-of-entry agreement as deemed necessary by the railroad, covering the crossing desired, paying all construction, maintenance, removal, protection and other costs.
17. Methods and procedures for performing work on property of **CSX Transportation, Inc.** must be approved by:

David J. Fette, Regional Director Right of Way Construction  
CSX Transportation, Inc.  
1717 Dixie Highway, Suite 400  
Fort Wright, KY 41011-2785  
Phone: (859) 344-8137

18. Contractor shall arrange a schedule with CSXT for accomplishing stage construction involving work by CSXT. In arranging its schedule, Contractor shall ascertain, from CSXT, the lead time required for assembling crews and materials and shall make due allowance therefor.
19. Contractor may not charge any costs or submit any claims against CSXT for hindrance or delay caused by railroad traffic; work done by CSXT or other delay incident to or necessary for safe maintenance of railroad traffic; or for any delays due to compliance with these Special Clauses.
20. Contractor understands and agrees that CSXT does not assume any responsibility for work performed by others in connections with the Project. Contractor further understands and agrees that they shall no claim whatsoever against CSXT for any inconvenience, delay or additional cost incurred by CSXT on account of operations by others.

End of Special Clauses