



OHIO DEPARTMENT OF TRANSPORTATION

CENTRAL OFFICE • 1980 WEST BROAD STREET • COLUMBUS, OH 43223

TED STRICKLAND, GOVERNOR • JOLENE M. MOLITORIS, DIRECTOR

November 24, 2010

Mr. Larry Shaw, P.E.
URS Corporation
One Indiana Square, Suite 2100
Indianapolis, IN. 46204

SUBJECT: **Cleveland, Cuyahoga County, Ohio**
 Broadview Road bridge painting over CSX
 Agency Reference: CUY-480-10.54/VAR
 PID No. 85150

CSX Reference: Cleveland Shortline, Great Lakes Division
 AARDOT # 524293E
 MP QDS-12.72

Larry,

Attached please find 2 copies of the Letter Agreement/Special Clauses for the above-referenced project for your review.

Please provide the appropriate train frequency information on pg. 2 of the Special Clauses, and arrange for signature and execution by CSX. Upon signature by CSX, one executed copy should be returned to me along with any applicable Force Account estimate.

This project is scheduled to file in March, 2011, with a sale date scheduled in 2012.

Should you have any technical questions regarding this project, you can contact John Threat at District 12 at 216-584-2106.

Thank you for your assistance in this matter. Should you have any other questions or concerns, please do not hesitate to contact me at (614) 387-3097, or by email at richard.behrendt@dot.state.oh.us.

Sincerely,

Rich Behrendt
Program Mgr./State Rail Coordinator

c: J.Threat / D12
 file



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TED STRICKLAND, GOVERNOR • JOLENE M. MOLITORIS, DIRECTOR

November 23, 2010

Mr. Chuck Gullackson
Asst. Chief Engineer - Public Projects
CSX Transportation
500 Water Street - J301
Jacksonville, FL. 32202

SUBJECT: Cleveland, Cuyahoga County, Ohio
Broadview Road bridge painting over CSX
Agency Reference: CUY-480-10.54/VAR, PID No. 85150
CSX Reference: Cleveland Shortline, Great Lakes Division
AARDOT # 524293E
MP QDS-12.72

Dear Mr. Gullackson:

This Letter Agreement is authorization for CSX Transportation and/or their consultants to begin engineering-review tasks for the above-referenced project.

The proposed work for this project includes bridge painting at the above-referenced bridge location over CSX in the City of Cleveland, Cuyahoga County, OH.

- 1) No work will commence until the Railway has approved the State's final plans for the project. All work will be performed in accordance with the approved plans, specifications and the attached Special Clauses in the Proposal.
- 2) During the performance of the work, temporary construction clearances of 22'-0" vertically above the top of rail and 13'-0" horizontally from the centerline of a track shall be maintained to any form work, false work or other temporary obstruction.
- 3) The State's Contractor will not be allowed to commence work on or over Railway property until the following conditions have been met:
 - a) The State has received notice from the Railway that the required insurance is satisfactory.
 - b) The State has received written authorization from the Railway to begin work on Railway property. The written authorization will include the name and telephone number of the local representative who must be contacted to arrange for flag protection.

- c) The State shall reimburse the Railway for all necessary force account work to accommodate the project, including but not limited to flagging and construction engineering.
 - d) All obligations of the State provided for in this agreement which require the expenditure of funds by the State shall terminate at the end of the present biennium, being June 30, 2011. If construction covered under said agreement is not completed by June 30, 2011, it is the expressed intention of the parties to renew said obligations for one successive biennium period; with the renewal period beginning July 1, 2011 and ending no later than June 30, 2013; until such time as construction covered under said agreement is complete. Said renewal is conditioned upon the State determining future appropriations will permit the State to renew said obligations.
 - e) Contingent upon meeting requirements indicated above, railroad shall permit the State and/or its contractor to enter upon lands owned or operated by the company to permit construction and/or maintenance referenced herein.
- (4) The State shall reimburse the railroad for applicable construction and engineering costs, based upon project billings rendered from the railroad in accordance with Federal Aid Policy Guide 140(1) of the Federal Highway Administration. The railroad shall render its billings to the State within 90 days in accordance with said rules and regulations, and further agrees to provide and furnish such itemized records and substantiating data for such costs as may be necessary.

If you agree with the terms of this letter, please indicate your concurrence by signing in the space below and return one copy of this letter to me. Please contact Rich Behrendt, Program Mgr./ State Rail Coordinator at (614) 387-3097, or by email at richard.behrendt@dot.state.oh.us if you have any questions or concerns, or wish to discuss this project further.

Sincerely,


Jolene M. Molitoris
Director

Accepted by CSX Transportation:

By: _____

Title: _____

Date: _____

CUYAHOGA COUNTY
CUY-480-10.54/var; PID 85150
CSX TRANSPORTATION INC.

CSX Great Lakes Division, Cleveland Shortline
MP QDS-12.72

SPECIAL CLAUSES IN THE PROPOSAL

The bidder, if awarded the contract for this improvement agrees:

1. To cooperate at all times with the local officials of the railroad company.
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, and to hold his work at all times open to inspection of railroad company inspectors.
4. To cooperate with a public utility, railroad or other organizations having occasion to do work on or in connection with the improvement.
5. To avoid unnecessary use of railroad property without written permission of the railroad company and to leave railroad roadbed and property in a condition acceptable to the Chief Engineer of the railroad company.
6. 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.

 Freight trains per day @ 50 miles per hour.

Additional Terms

1. 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 Neither Agency nor Contractor may 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. The cost of insurance hereinbefore specified in subsection (a) will be a specific bid item.

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.

7. 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
8. 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.

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 operating tracks may present hazards to tracks, train operation, or when equipment does or may infringe upon such limits.

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.

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

The Contractor shall notify the railroad at least 5 working days in advance of suspending or ceasing operations that require a flagger.

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. The Engineer will document such notification in the project diary.

The Contractor will be responsible for protective services provided at his request and not utilized due, in the opinion of the Engineer, to a change in the Contractor's construction schedule or if it is determined by the Engineer 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.

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.

9. 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.
10. If at any time the contractor desires a temporary crossing of the railroad's tracks, he shall make a request for a temporary crossing from the railroad. If approved, he shall arrange with the railroad company, execute its regular form of private grade crossing agreement covering the crossing desired, paying all construction, maintenance, removal, protection and other costs.

11. 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

End of Special Clauses