

April 11, 2007

**EXHIBIT C  
CSXT SPECIAL PROVISIONS**

**DEFINITIONS:**

As used in these Special Provisions, all capitalized terms shall have the meanings ascribed to them by the Agreement, and the following terms shall have the meanings ascribed to them below:

"CSXT" shall mean CSX Transportation, Inc., its successors and assigns.

"Agreement" shall mean the Agreement between CSXT and DEPARTMENT.

"DEPARTMENT" shall mean the South Carolina Department of Transportation.

"Contractor" shall have the meaning ascribed to such term by the Agreement.

"Work" shall mean the Project as described in the Agreement.

**I. WORK TO BE PERFORMED IN ACCORDANCE WITH SPECIAL PROVISIONS, DEPARTMENT/CSXT AGREEMENT AND APPROVED PLANS**

Contractor shall perform all work upon or adjacent to CSXT'S property in accordance with these Special Provisions, the Agreement between DEPARTMENT and CSXT for this Project, and the approved Plans which are incorporated into the Agreement.

**II. AUTHORITY OF CSXT ENGINEER**

The authorized representative of CSXT ("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 DEPARTMENT or its Contractor for methods of construction to avoid interference with CSXT operations and CSXT property and all other matters contemplated by the Agreement and these Special Provisions.

**III. INTERFERENCE WITH CSXT OPERATIONS**

- A. Contractor shall use reasonable care and diligence at all times and cooperate with CSXT officials in order to avoid accidents, damages, or delay to, or interference with, CSXT operations. Contractor shall not work on CSXT'S tracks or allow any of Contractor's equipment or material to encroach or to present a risk of encroachment, in the opinion of CSXT, within the following minimum construction clearances, without first obtaining authority from CSXT'S Chief Engineer or his authorized representative: (a) Horizontal – 25.0 feet, measured at a right angle to the centerline of the nearest track, and (b) Vertical – 23.0 feet above top of the highest rail of CSXT's track.
- B. Contractor shall arrange and conduct its work so that there will be no interference with CSXT operations, including train, signal, telephone and telegraphic services, or damage to CSXT's property, or to poles, wires, and other facilities of tenants on CSXT's Property or right-of-way. Contractor shall store materials so as to prevent trespassers from causing damage to trains, or CSXT Property. Whenever Work is likely to affect the operations or safety of trains, the method of doing such Work shall first be submitted to the CSXT Representative for approval, but such approval shall not relieve Contractor from liability in connection with such Work.

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- C. If conditions arising from or in connection with the Project require that immediate and unusual provisions be made to protect train operation or CSXT's property, Contractor shall make such provision. If the CSXT Representative determines that such provision is insufficient, CSXT may, at the expense of DEPARTMENT or its Contractor, require or provide such provision as may be deemed necessary, or cause the Work to cease immediately.
- IV. NOTICE OF STARTING WORK. Contractor shall not commence any work on CSXT Property or rights-of-way until it has complied with the following conditions:
- A. Notify CSXT in writing of the date that it intends to commence Work on the Project. Such notice must be received by CSXT at least ten (10) business days in advance of the date Contractor proposes to begin Work on or within fifty (50) feet of CSXT property or right of way. The notice must identify the Project by reference to the CSXT OP# and Railroad Milepost and SCDOT File No. and Project No., as set forth on the first page of the Agreement. If contract flagging service is required, such notice shall be submitted at least thirty (30) business days in advance of the date scheduled to commence the Work. (See also the provisions for additional notice regarding flagging set forth in Section XI (C) of these Special Provisions.)
  - B. Obtain authorization from the CSXT Representative to begin Work on CSXT property or right-of-way or within fifty (50) feet of railroad property or which affects a CSXT railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing, such authorization to include an outline of specific conditions with which it must comply.
  - C. Obtain from CSXT the names, addresses and telephone numbers of CSXT's personnel who must receive notice under provisions in the Agreement. Where more than one individual is designated, the area of responsibility of each shall be specified.
- V. WORK FOR THE BENEFIT OF THE CONTRACTOR
- A. No temporary or permanent changes to wire lines or other facilities (other than third party fiber optic cable transmission systems) on CSXT property that are considered necessary to the Work are anticipated or shown on the Plans. If any such changes are, or become, necessary in the opinion of CSXT or DEPARTMENT, such changes will be covered by appropriate revisions to the Plans and by preparation of a force account estimate. Such force account estimate may be initiated by either CSXT or DEPARTMENT, but must be approved by both CSXT and DEPARTMENT. DEPARTMENT or Contractor shall be responsible for arranging for the relocation of the third party fiber optic cable transmission systems, at no cost or expense to CSXT.
  - B. Should Contractor desire any changes in addition to the above, then it shall make separate arrangements with CSXT for such changes to be accomplished at the Contractor's expense.
- VI. HAUL ACROSS CSXT
- A. If Contractor desires access across CSXT property or tracks other than at an existing, open public road crossing, Contractor must first obtain the permission of CSXT and shall execute a license agreement or right of entry satisfactory to CSXT, wherein Contractor agrees to bear all costs and liabilities related to such access.
  - B. If at anytime Contractor desires to establish and use a temporary at-grade crossing of CSXT'S tracks, Contractor shall obtain written authority from CSXT and, if required by CSXT, to execute CSXT'S standard form of private grade crossing agreement with respect to the crossing desired.
  - C. Contractor shall not cross CSXT's property and tracks with vehicles or equipment of any kind or character, except at such crossing or crossings as may be permitted pursuant to this Section VI.

VII. COOPERATION AND DELAYS

- A. Contractor shall arrange a schedule with CSXT for accomplishing staged 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.
- B. Contractor may not charge any costs or submit any claims against CSXT for hindrance or delay caused by CSXT traffic, work done by CSXT or other delay incident to or necessary for safe maintenance of CSXT traffic, or for any delays due to compliance with these Special Provisions.
- C. Contractor shall cooperate with others participating in the construction of the Project to the end that all work may be carried on to the best advantage.
- D. Contractor understands and agrees that CSXT does not assume any responsibility for work performed by others in connection the Project. Contractor further understands and agrees that it shall have no claim whatsoever against CSXT for any inconvenience, delay or additional cost incurred by DEPARTMENT or its Contractor on account of operations by others.

VIII. STORAGE OF MATERIALS AND EQUIPMENT

Contractor shall not store its materials or equipment on CSXT's property or where they may potentially interfere with CSXT's operations, unless Contractor has received CSXT Representative's prior written permission. Contractor understands and agrees that CSXT will not be liable for any damage to such materials and equipment from any cause except the negligence, recklessness or intentional wrongdoing of CSXT, or its agents or employees. CSXT may move, or require Contractor to move, such material and equipment, at Contractor's sole expense. To minimize the possibility of damage to the CSXT tracks resulting from the unauthorized use of equipment, all grading or other construction equipment that is left parked near the tracks unattended by watchmen shall be immobilized to the extent feasible so that it cannot be moved by unauthorized persons.

IX. CONSTRUCTION PROCEDURES

A. General

- 1. Construction work on CSXT property shall be subject to CSXT's inspection and approval.
- 2. Construction work on CSXT property shall be in accord with these Special Provisions.
- 3. Contractor shall observe the terms and rules of the CSXT Safe Way manual, which DEPARTMENT and Contractor shall be required to obtain from CSXT, and in accord with any other instructions furnished by CSXT or CSXT's Representative.

B. Blasting

- 1. Contractor shall obtain the prior written approval of CSXT Representative's and DEPARTMENT for use of explosives on or adjacent to CSXT property. If permission for use of explosives is granted, Contractor must comply with the following:
  - a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of the Contractor.
  - b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way train radios.

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- c. No blasting shall be done without the presence of an authorized representative of CSXT. At least 72 hours' advance notice to CSXT Representative is required to arrange for the presence of an authorized CSXT representative and any flagging that CSXT may require.
- d. Contractor must have at the Project site adequate equipment, labor and materials, and allow sufficient time, to (i) clean up (at Contractor's expense) debris resulting from the blasting without any delay to trains; and (ii) correct (at Contractor's expense) any track misalignment or other damage to CSXT's property resulting from the blasting, as directed by CSXT Representative, without delay to trains.
- e. DEPARTMENT and its Contractor shall not store explosives on CSXT property.

2. CSXT Representative will:

- a. Determine the approximate location of trains and advise Contractor of the approximate amount of time available for the blasting operation and clean-up.
- b. Have the authority to order discontinuance of blasting if, in his or her opinion, blasting is too hazardous or is not in accord with these Special Provisions.

X. MAINTENANCE OF DITCHES ADJACENT TO CSXT TRACKS

Contractor shall maintain all ditches and drainage structures free of silt or other obstructions that may result from their operations. Contractor shall provide erosion control measures during construction and use methods that accord with applicable state standard specifications for road and bridge construction, including either (1) silt fence; (2) hay or straw barrier; (3) berm or temporary ditches; (4) sediment basin; (5) aggregate checks; and (6) channel lining. All such maintenance and repair of damages due to Contractor's operations shall be performed at Contractor's expense.

XI. FLAGGING / INSPECTION SERVICE

- A. Contractor shall utilize CSXT flagmen, watchmen, or other protective measures that are required, in the sole opinion of CSXT, to promote safety and/or continuity of CSXT traffic. CSXT has sole authority to determine the need for flagging required to protect its operations and property. In general, flagging protection will be required whenever the Contractor or its equipment are, or are likely to be, working within fifty (50) feet of live track or other track clearances specified by CSXT, or over tracks.
- B. DEPARTMENT shall reimburse CSXT directly for all costs of flagging that is required on account of construction within CSXT property shown in the Plans, or that is covered by an approved plan revision, supplemental agreement or change order.
- C. Contractor shall give a minimum of ten (10) days advance notice to CSXT Representative of anticipated need for flagging service. No work for which flagging service is required shall be undertaken until the flag person(s) is/are at the job site. [The estimated number and classifications of flag-persons are shown in the Estimate.] If it is necessary for CSXT to advertise a flagging job for bid, it may take up to ninety (90) days to obtain this service, and CSXT shall not be liable for the cost of delays attributable to obtaining such service.
- D. CSXT shall have the right to assign an individual to the site of the Project to perform inspection service whenever, in the opinion of CSXT Representative, such inspection may be necessary. DEPARTMENT shall reimburse CSXT for the costs incurred by CSXT for such inspection service. Inspection service shall not relieve DEPARTMENT or its Contractor from liability for its Work.

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- E. CSXT shall render invoices for, and DEPARTMENT shall pay for, the actual pay rate of the flagpersons and inspectors used, plus standard additives, whether that amount is above or below the rate provided in the Estimate. If the rate of pay that is to be used for inspector or flagging service is changed before the work is started or during the progress of the Work, whether by law or agreement between CSXT and its employees, or if the tax rates on labor are changed, bills will be rendered by CSXT and paid by DEPARTMENT using the new rates. Contractor shall perform Work that requires flagging protection or inspection service in such a manner and sequence that the cost of such will be as economical as possible.

XII. UTILITY FACILITIES ON CSXT PROPERTY

Contractor shall arrange to have any utility facilities on or over CSXT Property changed as may be necessary to provide clearances for the proposed trackage.

XIII. CLEAN-UP

Contractor, upon completion of the Project, shall remove from CSXT's Property any temporary grade crossings, any temporary erosion control measures used to control drainage, all machinery, equipment, surplus materials, falsework, rubbish, or temporary buildings belonging to Contractor. Contractor, upon completion of the Project, shall leave CSXT Property in neat condition, satisfactory to CSXT Representative.

XIV. FAILURE TO COMPLY

If DEPARTMENT or its Contractor violate or fail to comply with any of the requirements of these Special Provisions, (a) CSXT may require DEPARTMENT and/or its Contractor to vacate CSXT Property; (b) CSXT may withhold monies due DEPARTMENT and/or Contractor; and (c) CSXT may cure such failure and the DEPARTMENT shall reimburse CSXT for the cost of curing such failure.

XV. INSURANCE PROVISIONS

A. Insurance Policies:

Contractor shall procure and maintain the following insurance policies:

1. Commercial General Liability coverage at their sole cost and expense with limits of not less than \$5,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name CSXT as an additional named insured, with endorsement CG 24 17 10 01 (Contractual Liability - Railroads), and a waiver of subrogation against CSXT and its affiliates.
2. Statutory Worker's Compensation and Employers Liability Insurance with limits of not less than \$1,000,000, which insurance must contain a waiver of subrogation against CSXT and its affiliates.
3. Business automobile liability insurance with limits of not less than \$500,000 combined single limit for bodily injury and/or property damage per occurrence and such other insurance as CSXT may reasonably require.
4. Railroad protective liability insurance with limits of not less than \$5,000,000 combined single limit for bodily injury and/or property damage per occurrence and an aggregate annual limit of \$10,000,000. Such insurance shall satisfy the following additional requirements:
  - a. The insurer must be financially stable and rated B+ or better in Best's Insurance Reports.

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- b. The CSXT Protective Insurance Policy must be on the ISO/RIMA Form of CSXT Protective Insurance - Insurance Services Office (ISO) Form CG 00 35.
  - c. CSX Transportation must be named as the named insured on the Railroad Protective Insurance Policy.
  - d. Name and Address of Contractor and DEPARTMENT must be shown on the Declarations page.
  - e. Description of operations must appear on the Declarations page and must match the Project description, including project or contract identification numbers.
  - f. Authorized endorsements must include the Pollution Exclusion Amendment - CG 28 31, unless using form CG 00 35 version 96 and later.
  - g. Authorized endorsements may include:
    - (i). Broad Form Nuclear Exclusion - IL 00 21
    - (ii) 30-day Advance Notice of Non-renewal or cancellation
    - (iii) Required State Cancellation Endorsement
    - (iv) Quick Reference or Index - CL/IL 240
  - h. Authorized endorsements may not include:
    - (i) A Pollution Exclusion Endorsement except CG 28 31
    - (ii) A Punitive or Exemplary Damages Exclusion
    - (iii) A "Common Policy Conditions" Endorsement
    - (iv) Any endorsement that is not named in Section 4 (f) or (g) above.
    - (v) Policies that contain any type of deductible
5. Such additional or different insurance as CSXT may require.

**B. Additional Terms**

- 1. Contractor must submit its original insurance policies and two copies and all notices and correspondence regarding the insurance policies, together with completed Insurance Approval Request Form (attached) to:

Deborah A. Tauro  
Risk Manager, Planning & Analysis  
CSX Transportation, Inc.  
500 Water Street – C907  
Jacksonville, FL 32202  
904-366-5088 (Phone)  
904-245-3506 (Fax)
- 2. Contractor may not begin Work on CSXT's property or right-of-way or within fifty (50) feet of railroad property or which affects a CSXT railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing until it has received CSXT's written approval of the required insurance policies.

**XVI. CONTRACTOR'S AGREEMENT**

Prior to commencement of Work on CSXT's property or right-of-way or within fifty (50) feet of railroad property or which affects a CSXT railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing, Contractor shall execute and deliver to CSXT the Contractor's Agreement (Schedule I to the Agreement).

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**INSURANCE APPROVAL REQUEST** - To be sent with required evidence of insurance.

TO:

Risk Management/Insurance  
CSX Transportation, Inc.  
500 Water Street, C-907  
Jacksonville, Florida 32202

Date \_\_\_\_\_

CSXT Agreement With: \_\_\_\_\_  
(Name of Public Authority, Private Entity, Etc.) (Date)

Name of Contractor: \_\_\_\_\_  
**(Provide both CSXT and Contract Project Description using CSXT and Contract File Nos. when available)**

Project Description: \_\_\_\_\_

Project involves either passenger rail service or rail shipment of hazardous materials:  
] YES ] NO

Anticipated Starting Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_

Division: \_\_\_\_\_ Sub-Division: \_\_\_\_\_ M. P.: \_\_\_\_\_

Attached are Original Railroad Protective Insurance Policy, in duplicate, required to be furnished to CSXT. Please advise if the attached evidence of insurance is satisfactory and complies with the insurance requirements of the agreement.

**(Public Authority, Private Entity or Contractor must show address below and attach self-addressed, stamped envelope)**

TO: \_\_\_\_\_ Date: \_\_\_\_\_  
File: \_\_\_\_\_

- Approved - this is not authority to proceed with work, entry arrangements must be made with our Division Manager.
- Not Approved.** Reason:
  - General Liability limits inadequate (\$\_\_\_\_\_ required).
  - No** evidence of Contractual Liability Insurance.
  - No** unconditional 30-day notice of cancellation.
  - Other:
- Returned for your further handling.
- Insufficient information provided  
Returned without approval. CSX Transportation, Inc.

cc: Division Manager -Division \_\_\_\_\_  
Risk Management

**SCHEDULE I**

**SCDOT Project No. :** \_\_\_\_\_  
**CSXT OP No.:** \_\_\_\_\_

**CONTRACTOR'S AGREEMENT**

This CONTRACTOR'S AGREEMENT is made as of \_\_\_\_\_, 2004, by \_\_\_\_\_ [Insert Name of Contractor] ("Contractor"), to and for the benefit of CSX Transportation, Inc. ("CSXT") and to induce CSXT to permit Contractor on or about CSXT's property, for the purposes of performing work in connection with the above referenced project for South Carolina Department of Transportation.

In consideration of CSXT's consent to permit Contractor on or about CSXT's property for such purposes, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Contractor, Contractor hereby agrees as follows:

1. CSXT Special Provisions. Contractor agrees to abide by and observe the terms and conditions of the CSXT Special Provisions (which is incorporated by reference into this Agreement).
  
2. Insurance Requirements. Contractor shall acquire and maintain the insurance described by the Special Provisions, and shall submit proof of insurance to CSXT in accordance with the Special Provisions, satisfactory to CSXT, prior to commencement of work on or about CSXT's property.
  
3. Indemnification.

Contractor further specifically agrees as follows:

(a) Contractor shall indemnify, defend and save harmless CSXT and its affiliates from all suits or claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property, in whole or in part, on account of the operations of Contractor or any subcontractor or sub-subcontractor; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials or workmanship in constructing the work; or because of any act or omission, neglect, or misconduct of Contractor or any subcontractor or sub-subcontractor; or because of any claims or amounts recovered from any infringements of patent, trademark or copyright; or for failing to pay, when and as due, all bills and other legitimate charges, including lawful claims for labor performed or materials, equipment and supplies furnished for use in and about the construction of the work under contract; or from any claims or amounts arising or recovered under the Worker's Compensation Act, or any other law, ordinance or decree. The foregoing indemnification obligation shall not be limited to the insurance coverage required by this Agreement.

(b) Contractor shall comply with any federal, state or local laws, statutes, codes ordinances, rules, and regulations applicable to its construction and maintenance of the Project. Contractor shall indemnify, defend, and hold CSXT and its affiliates harmless with respect to any fines, penalties, liabilities, or other consequences arising from breaches of this Agreement.



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(c) For the purpose of this Agreement, CSXT's affiliates include CSX Corporation and all entities, directly or indirectly, owned or controlled by or under common control of CSXT or CSX Corporation and their respective officers, directors, employees and agents.

(d) Contractor shall notify CSXT promptly of any loss, damage, injury or death arising out of or in connection with the Project work.

(e) The provisions of this Agreement shall survive the termination or expiration of the Agreement.

IN WITNESS WHEREOF, Contractor has executed and delivered this Agreement as of the date set forth below.

CONTRACTOR

\_\_\_\_\_

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_