

***RIVERSIDE COUNTY TRANSPORTATION COMMISSION***

<b>DATE:</b>	May 12, 2010
<b>TO:</b>	Riverside County Transportation Commission
<b>FROM:</b>	Western Riverside County Programs and Projects Committee Sheldon Peterson, Rail Manager
<b>THROUGH:</b>	Anne Mayer, Executive Director
<b>SUBJECT:</b>	Agreement with Riverside Transit Agency to Repaint the North Main Corona Pedestrian Bridge

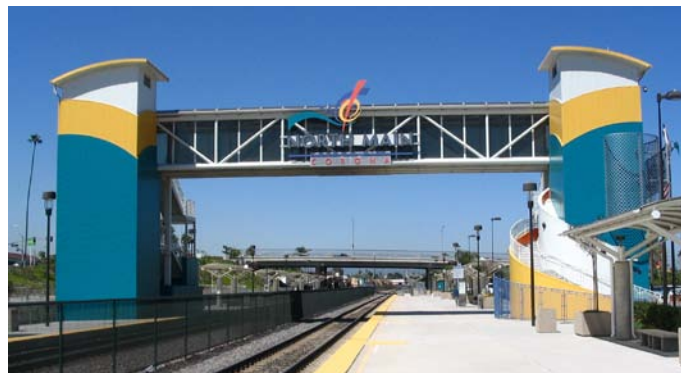
**WESTERN RIVERSIDE COUNTY PROGRAMS AND PROJECTS COMMITTEE AND STAFF RECOMMENDATION:**

This item is for the Commission to:

- 1) Approve Agreement No. 10-25-091-00 for a right of entry and reimbursement agreement with Riverside Transit Agency (RTA) to allow for the painting of the North Main Corona pedestrian bridge for a total contract amount not to exceed \$175,000; and
- 2) Authorize the Chair, pursuant to legal counsel review, to execute the agreement on behalf of the Commission.

**BACKGROUND INFORMATION:**

RTA is currently constructing its Corona Transit Center adjacent to the Commission-owned North Main Corona commuter rail station. As part of the project, there will be a new passenger stairway/elevator tower and pedestrian bridge connecting the transit center to the existing pedestrian bridge at the rail station over the Burlington Northern Santa Fe (BNSF) tracks.



In order to fully integrate the transit center with the rail station, the project team has coordinated an effort to update the paint colors and repaint the entire structure to have a consistent look. The new color scheme has been coordinated and approved by the city of Corona, RTA, and Commission staff. The colors will change the existing yellow color to a softer granite gray and the existing shade of blue to a military blue.

The Commission, as part of the station rehabilitation plan, was already developing a station repainting program and planned on repainting the bridge within the next year. The station rehabilitation plan has developed a new set of painting specifications to be used at the stations and these will be applied to this project.

Staff recommends approval of the right of entry and reimbursement agreement with RTA for the repainting of the North Main Corona pedestrian bridge. This agreement identifies the terms and allows the current RTA construction contractors on site to oversee the repainting of the Commission-owned bridge and structures. It also clarifies the insurance requirements and procedures that need to be followed for safely painting the structure including extensive coordination with BNSF. In addition, the Commission will agree to reimburse RTA for the actual costs of repainting the bridge for a not to exceed amount of \$175,000. The price for the bridge painting was determined using all appropriate FTA and agency procurement guidelines. Competitive quotes were used by RTA to reaffirm the fairness of the price for its contractor to perform the work. The funding for this project will come from previously received Commuter Rail Proposition 1B funds.

Financial Information					
In Fiscal Year Budget:	Yes Yes	Year:	FY 2010/11	Amount:	\$175,000
Source of Funds:	Proposition 1B			Budget Adjustment:	No No
GL/Project Accounting No.:	221 33 81301 4011				
Fiscal Procedures Approved:	<i>Theresa Iuvino</i>			Date:	04/19/10

Attachment: Draft Agreement 10-25-091-00

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION  
RIGHT OF ENTRY AND REIMBURSEMENT AGREEMENT  
WITH RIVERSIDE TRANSIT AGENCY**

This Right of Entry and Reimbursement Agreement (“Agreement”) is entered in this \_\_ day of \_\_\_\_\_, 2010 by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION, a public entity within the State of California (“Commission”) and the RIVERSIDE TRANSIT AGENCY, a joint powers agency organized under the laws of the State of California (“Agency”). Commission and Agency are sometimes individually referred to as “Party” and collectively as “Parties”.

RECITALS

WHEREAS, the Burlington Northern and Santa Fe Railway Company (“**BNSF**”) owns and operates the San Bernardino Subdivision rail line and rail corridor in the City or Corona, County of Riverside, State of California; and

WHEREAS, BNSF and Commission have entered into that certain Agreement for Passenger Station and Pedestrian Overhead Crossing Improvements dated as of April 10, 2001 (“**RCTC/BNSF Agreement**”), which provided for the construction of the improvements described therein, as well as a license for the Pedestrian Overhead Crossing Improvements; and

WHEREAS, the Passenger Station constructed pursuant to the RCTC/BNSF Agreement is commonly referred to as the “**North Main Corona Station**” and includes those certain property improvements owned and maintained by Commission commonly referred to as the “**Pedestrian Bridge and Tower**” and “**Restroom Building**,” as shown on the attached Exhibit “A”;

WHEREAS, Agency is constructing the “**Corona Transit Station**” in the same City of Corona adjacent to the North Main Corona Station;

WHEREAS, in conjunction with completing the Corona Transit Station, Agency desires to obtain Commission’s permission to enter onto a portion of the North Main Corona Station property, on a temporary basis, to paint the Pedestrian Bridge and Tower, and the Restroom Building (the “**Property**”); and

WHEREAS, the Parties wish to enter into this Agreement whereby Commission shall allow Agency and its agents, employees, and sub-contractors to enter the Property, on a temporary basis, for the purpose of painting the Pedestrian Bridge and Tower, and the Restroom Building (collectively, the “**Project**”), as more particularly described in Exhibits “B”, “C”, and “D” attached hereto and incorporated herein by reference; and

WHEREAS, Commission desires to reimburse Agency for costs associated with the Project; and

WHEREAS, the Parties wish to enter into this Agreement whereby Commission shall reimburse Agency for costs associated with the Project, of which a good faith proposal and estimate of expected costs is attached as Exhibit “D” and incorporated herein by reference.

NOW, THEREFORE, Commission and Agency do hereby agree as follows:

### AGREEMENT

1. Right of Entry. Commission hereby grants to Agency and its agents, employees, and contractors a temporary right to enter onto those portions of the Property and, specifically, to enter into and onto the improvements commonly referred to as the Pedestrian Bridge and Tower, and the Restroom Building, as necessary for the sole purpose of performing the Project. Agency shall be permitted to enter onto and use any portion of the Property reasonably necessary to access and perform the Project, under the limitations expressed in this Agreement.

2. Additional Approval from BNSF. Notwithstanding the right of entry granted in Section 1 above, prior to entering onto the Property to complete any work as specified hereunder, Agency shall also obtain any necessary approvals from and/or enter into any additional agreement required by BNSF.

3. Performance of Project.

A. The Project shall be performed in such a manner so that it shall not unreasonably interfere with or be a source of danger to tracks, roadbeds, or other property of Commission, or use of the Property, generally. The Project shall also be performed in such a manner so that it shall not unreasonably interfere with or be a source of danger to persons present on the Property, or the safe operation of the railroad, trains or other activities on or adjacent to the Property. Agency shall obtain prior written approval from Commission and BNSF for any performance of the Project that may interfere with rail traffic or other uses on the Property beyond the scope and intent of this Agreement.

B. Agency shall ensure that the Project is performed in a skillful and competent manner, consistent with the standards employed by professionals in the State of California in the same discipline as the professionals performing Project. Agency represents and maintains that any contractor performing the Project will be skilled in the professional calling necessary to perform the Project, and will have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Project. Agency shall perform or shall cause to be performed, at no cost to Commission, any work or services necessary to correct errors or omissions which are caused by the failure of Agency or Agency’s contractor to comply with the standard of care provided for herein.

4. Commission Representative. Commission may require that a representative of Commission be present during some or all of the performance of the Project. If Commission’s representative determines that the performance of Project is not being accomplished in accordance with this Agreement, he or she may, but shall not be required

to, halt the work. Notwithstanding the presence of Commission's representative, Agency shall, at all times, retain full liability and responsibility for all aspects of the performance of Project.

5. Project Specifications.

A. Technical Provisions. Agency shall perform Project in conformity with the paint and performance specifications of "TECHNICAL PROVISIONS – MAINTENANCE REPAINTING OF METROLINK STATIONS," as more particularly described in Exhibit "C" attached hereto and incorporated herein by reference.

B. Notification. Agency shall notify both Commission's Property Agent George Salas at 951-453-5037, and BNSF Railway Company's Roadmaster Greg Rousseau 909-553-1736, at least five (5) days prior to commencing performance of Project.

C. Roll and Brush Painting. The Project shall be completed by roll and brush painting instead of spray painting due to previous incidents with overspray on adjacent automobiles, facilities, and buildings.

D. BNSF Flagging. To the extent that lifts and booms are necessary for completion of Project but would interfere with rail operations, as determined in the sole and absolute discretion of Commission and/or the BNSF, or if otherwise required by BNSF for any other reason, Agency shall provide a BNSF Flagger during all painting operations and during any other Project work, as may be required. Agency and its agents, employees, and contractors shall follow all directions of the BNSF Flagger.

E. Plastic Sheeting. Plastic sheeting shall be placed over appropriate areas of the platform at the North Main Corona Station during painting operations in such a manner as to prevent paint from contacting the platform, patrons, other improvements, railways, or any other property at or adjacent to the North Main Corona Station.

F. Restricted Area. Subject to Commission's prior approval, access to the area around the Pedestrian Bridge and Tower, and Restroom Building shall be barricaded where necessary to prevent paint from dripping onto station patrons.

6. Term. The term of this Agreement shall commence as of the date first specified above and shall automatically terminate upon the final acceptance of Commission of the work performed in connection with Project. unless earlier terminated as provided herein. The term may be extended by sending written notice to Commission, which may be approved in the sole and absolute discretion of Commission. This Agreement is subordinate to all prior or future rights and obligations of Commission in the Property, except that Commission shall grant no rights inconsistent with the reasonable exercise by Contractor of its rights under this Agreement.

7. Reimbursement. Commission shall reimburse Agency for pre-approved expenses incurred by Agency for work related to the Project on the Property, including equipment rental, materials and labor costs, BNSF flagging to protect rail traffic during the

performance of Project, bond costs, and for other reasonable expenses incurred by Agency on account of the Project, up to the total not-to-exceed amount of One Hundred Seventy-One Thousand, Eight-Hundred Ninety-Four US Dollars and Eighty-Five Cents (\$171,894.85) (“Total Authorized Costs”). The Parties agree that reimbursement shall not exceed the Total Authorized Costs without prior written approval of Commission. The Parties represent and warrant that the proposal attached hereto as Exhibit “D” is a good faith estimate of the actual costs expected to be reimbursed by Commission, and any revision of the proposal attached hereto as Exhibit “D” shall be approved by Commission in writing before commencement of Project. Payment of approved costs shall occur within forty-five (45) days of receipt by Commission of a written invoice from Agency.

#### OTHER PROVISIONS

8. Indemnification. Agency shall at all times indemnify and save harmless Commission against and pay in full all losses, damages, or expenses that Commission may sustain, incur or become liable for, resulting in any manner from performance of the Project and/or the use and maintenance of the Property during the term of this Agreement, by Agency or its agents, employees, and contractors including, but not limited to, any such losses, damages or expenses arising out of (a) loss of or damage to property, (b) injury to or death of persons, (c) mechanics’ or other liens of any character, (d) taxes or assessments of any kind. It is the intention of the Parties that Commission’s right to indemnity hereunder shall be valid and enforceable against Agency regardless of negligence (whether active or passive) on the part of Commission, its officers, agents and employees, unless such injury is a result of the sole negligence of Commission.

9. Assumption of Risk and Waiver. To the maximum extent allowed by law, Agency assumes any and all risk of loss, damage or injury of any kind to any person or property, including without limitation, the Project, the Property, Agency’s personal property and any other property of, or under the control or custody of, Agency and/or its agents, employees, and contractors, which is on or near the North Main Corona Station, the Restroom Building, or the Pedestrian Bridge and Tower. Agency’s assumption of risk shall include, without limitation, loss or damage caused by defects in any structure or improvement on the Property or any other portion of the North Main Corona Station, accident or fire or other casualty on the Property or any other portion of the North Main Corona Station, or electrical discharge, and noise or vibration resulting from transit operations on or near the Property. The term “Commission” as used in this section shall include: (i) any transit or rail-related company operating upon or over Commission’s tracks or other property, and (ii) any other persons or companies employed, retained or engaged by Commission. Agency, on behalf of itself and its Personnel, as a material part of the consideration for this Agreement, hereby waives all claims and demands against Commission for any such loss, damage or injury of Agency and/or its Personnel. In that connection, Agency waives, for itself and its Personnel, the benefit of California Civil Code Section 1542, which provides as follows: “general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor.” The provisions of this section shall survive the termination of this Agreement. As used in this section, “Personnel” means Agency, or its officers,

directors, affiliates, or anyone directly or indirectly employed by Agency or for whose acts Agency is liable.

10. Defense. Upon written notice from Commission, Agency agrees to assume the defense of any lawsuit, administrative action or other proceeding brought against Commission by any public body, individual, partnership, corporation, or other legal entity or person, relating to any matter covered by this Agreement for which Agency has an obligation to assume liability for and/or to indemnify or save and hold harmless Commission. Agency shall pay all the costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation expenses, settlement payments, and amounts paid in satisfaction of judgments. Any and all lawsuits or administrative actions brought or threatened on any theory of relief available at law, in equity or under the rules of any administrative agency shall be covered by this section, including, but not limited to, the theories of intentional misconduct, negligence, breach of statute or ordinance, or upon any theory created by statute or ordinance, state or federal.

11. Attorney's Fees. In any judicial or arbitration proceeding involving performance under this Agreement, or default or breach thereof, the prevailing party shall be entitled to its reasonable attorney's fees and costs.

12. Prevailing Wages. By its execution of this Agreement, Agency certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since the Project is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Agency agrees to fully comply with such Prevailing Wage Laws. Agency shall defend, indemnify and hold Commission, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure of its Contractor to comply with the Prevailing Wage Laws.

13. Insurance Requirements. Agency's Contractor, at its sole cost and expense, shall obtain and maintain in full force and effect or shall require its contractor to maintain insurance as required by Commission in the amounts and coverage specified and issued by insurance companies as described on Exhibit "E". Prior to (i) entering the Property or (ii) performing any work or maintenance on the Project, Agency shall have its Contractor furnish Commission with the insurance endorsements and certificates in the form and amounts specified in Exhibit "E", evidencing the existence, amounts and coverage of the insurance required to be maintained hereunder. Such insurance shall be maintained in the amounts as specified in Exhibit "E" at all times during the term of this Agreement.

14. Compliance with Laws/Permits. Agency shall, in all activities undertaken pursuant to this Agreement, comply and cause its contractors, agents and employees to comply with all federal, state and local laws, statutes, orders, ordinances, rules, regulations, plans, policies and decrees. Without limiting the generality of the foregoing, Agency, at its sole cost and expense, shall obtain any and all permits which may be

required by any law, regulation or ordinance for any activities Agency desires to conduct or have conducted pursuant to this Agreement.

15. Inspection. Commission and its representatives, employees, agents or independent contractors may enter and inspect the Property or any portion thereof or any improvements thereon at any time and from time to time at reasonable times to verify Agency's compliance with the terms and conditions of this Agreement.

16. Not Real Property Interest. It is expressly understood that this Agreement does not in any way whatsoever grant or convey any permanent easement, lease, fee or other interest in the Property to Agency. This Agreement is not exclusive and Commission specifically reserves the right to grant other rights of entry within the vicinity of the Property.

17. Revocable Right of Entry and Termination. Notwithstanding any improvements made by Agency to the Property or any sums expended by Agency in furtherance of this Agreement, the right of entry granted herein is revocable and may be terminated at any time by either party upon five (5) business day's prior notice in writing to be served upon the other party. In cases of an emergency or a breach of this Agreement by Agency, this Agreement may be terminated by Commission immediately.

18. Non-Exclusive Right of Entry. The right of entry granted by this Agreement is not exclusive and Commission specifically reserves the right to grant other rights of entry for the Property.

19. Restoration of the Property. Upon the termination or revocation of this Agreement, Agency shall, at its own cost and expense, restore the Property or any adjacent real or personal property effected adversely by Agency action to the same condition in which it was prior to Agency's entry including, but not limited to, all paint splatters, drops, drips, over-sprays, spills and the like, disposal of any and all excess materials, refuse, and trash, and removal of all equipment and tools. In case Agency shall fail to restore the Property or any adjacent real or personal property to its prior condition within ten (10) business days after the effective date of the termination, Commission may proceed with such work at the expense of Agency.

20. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

21. Successors and Assigns. The covenants and provisions of this Agreement are binding upon and shall inure to the benefit of the successors and assigns of the Parties. Notwithstanding the preceding sentence, no Party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other Party.

22. Interpretation; Severability. To the maximum extent possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited by, or held to be invalid under, applicable law, such provision will be ineffective solely to the extent of such prohibition or invalidity and the remainder of the provision will be enforceable.



23. Assignment. This Agreement and the license granted herein are personal to Agency. Agency shall not assign or transfer (whether voluntary or involuntary) this Agreement in whole or in part without the prior written consent of Commission, which may be withheld in Commission's sole and absolute discretion. Any attempted act in violation of this section shall be void and without effect and give Commission the right to immediately terminate this Agreement.

24. Waiver of Covenants or Conditions. The waiver by Commission of the performance of any covenant or condition under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by it of any other covenant or condition under this Agreement.

25. Amendment. This Agreement may be amended at any time by the written agreement of Commission and Agency. All amendments to this Agreement shall be binding upon the parties despite any lack of legal consideration, so long as the same shall be in writing and executed by the parties hereto.

26. Revocation. If, at any time, Agency shall fail or refuse to comply with or carry out any of the covenants herein contained, Commission may, at its election, immediately revoke and terminate this Agreement unless a longer notice period is specifically provided for elsewhere in this Agreement.

27. Nondiscrimination. Agency certifies and agrees that all persons employed thereby and/or the affiliates, subsidiaries, or holding companies thereof and any contractors retained thereby with respect to Commission's property and the Project are and shall be treated equally without regard to or because of race, religion, ancestry, national origin, or sex, and in compliance with all federal and state laws prohibiting discrimination in employment, including but not limited to the Civil Rights Act of 1964; the Unruh Civil Rights Act; the Cartwright Act; and the California Fair Employment Practices Act.

28. Time of Essence. Time is of the essence in this Agreement.

29. Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

30. Liens. Agency shall not permit to be placed against the Property, or any part thereof, any design professionals', mechanics', materialmen's, contractors' or subcontractors' liens with regard to Agency's actions upon the Property. Agency agrees to hold Commission harmless for any loss or expense, including reasonable attorneys' fees and costs, arising from any such liens which might be filed against the Property.

31. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement by reference as though fully set forth herein.

32. Notice. Any notice provided for herein or concerning this Agreement shall be in writing and will be deemed sufficiently given when sent by certified mail, return receipt requested, to the parties at the following addresses:

Commission:	Agency:
Riverside County	Riverside Transit Agency
Transportation Commission	
4080 Lemon Street, Third Floor	1825 Third Street
Riverside, CA 92501-7141	Riverside, CA 92507
Attention: Sheldon Peterson	Attention: V. Rouzard/Chief Procurement & Logistics Officer
Phone: 951-787-7928	Phone: 951-565-5180
Fax: 951-787-7930	Fax: 951-565-5181

33. Survival of Obligations. All obligations of Agency hereunder not fully performed as of the termination or cessation of this Agreement, in any manner, shall survive the termination of this Agreement including, without limitation, all indemnification and defense obligations.

34. Entire Agreement. This Agreement, including Exhibits and any other documents incorporated herein, is the full and complete agreement between the Parties with respect to the subject matter herein. Notwithstanding the foregoing, this Agreement shall not supersede any related agreement referenced in the recitals hereto and shall be interpreted and enforced in conjunction therewith.

35. Captions. The Captions included in this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement or any provision hereof, or in any way affect the interpretation of this Agreement.

36. Exhibits. All of the Exhibits attached to this Agreement are described as follows:

- Exhibit "A": DESCRIPTION OF PROPERTY;
- Exhibit "B": DESCRIPTION OF PROJECT;
- Exhibit "C": PAINTING SPECIFICATIONS; and
- Exhibit "D": REIMBURSEMENT SCHEDULE; and
- Exhibit "E": INSURANCE PROVISIONS.

**SIGNATURE PAGE  
TO  
RIGHT OF ENTRY AND REIMBURSEMENT AGREEMENT**

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the date first written above.

RIVERSIDE TRANSIT AGENCY

By: \_\_\_\_\_  
Riverside Transit Agency

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Counsel to the Riverside Transit  
Agency

RIVERSIDE COUNTY TRANSPORTATION COMMISSION

By: \_\_\_\_\_  
Riverside County Transportation  
Commission

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Best Best & Krieger LLP  
Counsel to the Riverside County  
Transportation Commission

**EXHIBIT “A”**

**DESCRIPTION OF PROPERTY**

[\*\*Insert Legal and/or Other Pertinent Description of Property\*\*]

**EXHIBIT “B”**

**DESCRIPTION OF PROJECT**

[\*\*Insert KDG Paint Color Presentation Board and/or Other Pertinent Project Descriptions\*\*]

**EXHIBIT “C”**

**PAINTING SPECIFICATIONS**

[\*\*Attach: Technical Provisions – Maintenance Repainting of Metrolink Stations –  
Riverside County Transportation Commission]

**EXHIBIT “D”**

**REIMBURSEMENT SCHEDULE**

[\*\*Insert Sea West Enterprises Proposal As Reference\*\*]

## EXHIBIT "E"

### INSURANCE PROVISIONS

Agency shall obtain, or shall require any consultant or contractor entering Commission's property on its behalf to obtain insurance of the types and in the amounts described below and satisfactory to Commission.

A. Commercial General Liability Insurance. Agency and its contractors shall maintain occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than \$5,000,000 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit. Such insurance shall:

1. Include Commission and the Southern California Regional Rail Authority and its contractors and their officials, officers, employees, agents, and consultants as insureds with respect to the construction of the Project and Commission's property and shall contain no special limitations on the scope of coverage or the protection afforded to these insureds;

2. Be primary with respect to any insurance or self-insurance programs covering Commission, its officials, officers, employees, agents and consultants; and

3. Contain standard separation of insured provisions.

B. Railroad Protective Liability. Agency and its contractors shall, in connection with any construction activities undertaken with respect to the Project either directly by Agency or by its contractors, acquire and keep in force during the period of such construction, railroad protective liability insurance with a combined single limit of \$1,000,000 and a general aggregate of \$1,000,000.

C. Pollution Liability Insurance. If the Project is used to carry Hazardous Materials, Agency and its contractors shall maintain pollution liability insurance in the amount of \$1,000,000.

D. Workers' Compensation Insurance. Agency and its contractors shall maintain workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than \$1,000,000 each accident.

E. Certificates of Insurance. Agency and its contractors shall, prior to entering Commission's property, furnish Commission with properly executed certificates of insurance and, if requested by Commission, certified copies of endorsements and policies, which clearly evidence all insurance required under this Agreement and provide that such insurance shall be not canceled, allowed to expire or be materially reduced in coverage, except on thirty (30) days' prior written notice to Commission. The certificate shall also evidence the insurer's knowledge of the proximity of the operations of Agency and its contractors to active railroad tracks. Commission shall have the sole discretion to



determine whether the certificates and endorsements presented comply with the provisions of this Agreement.

F. Coverage Maintenance. Agency and its contractors shall replace certificates, policies and endorsements for any insurance expiring prior to the termination of this Agreement. Unless otherwise provided for in this Agreement, Agency's contractors shall maintain such insurance from the execution of this Agreement until the construction of Project and all other work related to Project is complete and Commission's property fully restored, except as otherwise provided in this Agreement. Agency shall maintain the insurance required herein, unless otherwise agreed upon in writing by the Parties, until this Agreement is terminated.

G. Licensed Insurer. Agency and its contractors shall place such insurance with insurers having A.M. Best Company ratings of no less than A:VIII and licensed to do business in California, unless otherwise approved, in writing, by Commission.