

AGREEMENT

BETWEEN

UNION PACIFIC RAILROAD COMPANY

AND

THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF OKLAHOMA
(Acting for and on behalf of the State of Oklahoma)

Covering the demolition of the existing bridge and the construction of a new bridge as part of US Highway 270 over Union Pacific Railroad Company track, on the Oklahoma Subdivision at Mile Post 424.10, DOT No. 600 148N. The project is within the right-of-way of the Union Pacific Railroad Company, located in Section 16, Township 8 North, Range 7 East, near Lima, Seminole County, Oklahoma, as shown on **Exhibit "A"**.

Federal Aid Project No. STPG-267B(072)PM
Job Piece No. 21006(15), Seminole County.

Within the limits of: Federal Aid Project No. STP-167B(122)SS
Job Piece No. 21006(07), Seminole County

THIS AGREEMENT, entered into the day and year last below written, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation hereinafter called the "RAILROAD" and the DEPARTMENT OF TRANSPORTATION OF THE STATE OF OKLAHOMA hereinafter called the "STATE".

RECITALS

- A. The STATE proposes to demolish the existing bridge and construct a new grade separation as part of US Highway 270 over Union Pacific Railroad, at Mile Post 424.10, DOT No. 600 148N, on the Oklahoma Subdivision near Lima, Seminole County in the Section, Township and Range as shown on the cover sheet and on **Exhibit "A"** and attached hereto and made a part hereof. The WORK will include the demolition of existing Bridge and construction of new Bridge, with approach work, over RAILROAD on US Highway 270 and is designated Federal Aid Project Project Number STP-167B(122)SS, hereinafter the "Project".
- B. The STATE and RAILROAD will perform certain work in connection with the construction of the Bridge and the expenses thereof shall be borne as hereinafter provided.
- C. The Federal Aid Policy Guide issued by the Federal Highway Administration on December 9, 1991 and contained in 23 CFR 140 and 23 CFR 646, is hereby approved and accepted as governing in the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RAILROAD and STATE hereby agree as follows:

ARTICLE I

In consideration of the covenants of the STATE hereinafter contained and the faithful performance thereof, the RAILROAD agrees:

1. To license or permit solely to the extent of its right, title, and interest, without compensation other than the faithful performance by the STATE, of all the terms of this AGREEMENT by them required to be performed, the construction, maintenance and use of said Bridge and drainage appurtenant to the project on its right-of-way and over its tracks at the location in accordance with the plans for the proposed project and outlined on **Exhibit "A"** attached, as approved by the parties hereto; reserving, however, to the RAILROAD, its successors, assigns, tenants, or lessees, the right to construct, operate, rearrange, and maintain along or across said right-of-way such tracks and facilities under said highway and such pipelines, communication, signal and electrical transmission lines, either over or under said highway, as the RAILROAD, its successors, assigns, lessees or tenants may find necessary and convenient, provided that any such construction,

reconstruction, rearrangement, etc., does not in any way endanger or impair the use of the highway. Further, the RAILROAD agrees that, within the area to be jointly used and occupied by the RAILROAD and highway, it will not permit (a) the installation of advertising signs visible from the highway or (b) the installation or storage of hazardous, flammable, or explosive materials or structures.

2. To prepare a detailed estimate, a copy of which is hereto attached, marked **Exhibit B** and hereby made a part hereof in the amount of \$00,000.00 (Zero Dollars) for the approval of the State and to furnish all labor and materials for the following items of work in connection with the project.
3. Review and approve the Plans prepared by the STATE's consulting engineer.
4. To provide flagging services as may be required to protect its train movements during construction of bridge in accordance with ODOT's Special Provision for Flagging attached and marked **Exhibit D** and RAILROAD's Contractor's Right of Entry Agreement attached as **Exhibit C**, with each exhibit being attached hereto and hereby made a part hereof. RAILROAD shall bill all flagging expenses to the Contractor.
5. To grant the STATE'S representatives and representatives of the Federal Highway Administration access to all parts of the work at all times.
6. To maintain upon completion and acceptance of the project, at its own expense, the railroad drainage and all other railroad facilities rearranged under the terms of

the AGREEMENT including any installation to carry the railroad drainage.

7. RAILROAD will provide documents or certificates for project procured materials stating compliance with Buy America requirements.

ARTICLE II

In consideration of the covenants of the RAILROAD herein contained and the faithful performance thereof, the STATE, at its expense, agrees to:

1. Prepare plans and submit the Plans to the RAILROAD and the Federal Highway Administration for review and approval, and to construct drainage structures, bridge and all grading and drainage in compliance with the Plans.
2. Require its Contractor, before commencing any work on any RAILROAD right-of-way, to execute the RAILROAD's standard Contractor's Right of Entry Agreement marked **Exhibit C**, attached hereto and hereby made a part hereof, and to obtain and provide the insurance coverage described therein and to comply with all of the other terms and conditions also contained therein.
3. Sample and test all materials used in its portion of the work and to reject all materials which do not conform to the Plans.

4. Require its Contractor to comply with RAILROAD's Document, "Guidelines For Preparation Of A Bridge Demolition And Removal Plan For Structures Over Union Pacific Railroad" marked **Exhibit F**, attached hereto and hereby made a part hereof.
5. Appoint and keep competent inspectors on the work under its supervision.
6. Require its Contractor to give the RAILROAD at least ten (10) days advance notice, in writing, before commencing any work provided for herein in order that it may have a representative present for the purpose of inspecting and flagging thereof, if deemed necessary, and so that it may issue appropriate instructions for operation of trains during construction to avoid undue hazards to railroad operations. In the event its Contractor has no alternative means to haul equipment or material across the RAILROAD's tracks and if it is imperative for the Contractor to move equipment or material across the RAILROAD's tracks as part of the Project work, the Contractor shall make it's own arrangements with the RAILROAD for the necessary contractor's haul road crossing, and all costs incurred in the installation, maintenance, use or protection of such crossing shall be borne by the Contractor. The STATE confirms that the RAILROAD is not obligated to consent to any request made by the Contractor for a haul road crossing.
7. Require its Contractor to maintain at all times all clearances as shown on **Exhibit A**, construction Plans. Said clearances shall at all times be kept free from any falsework, equipment, materials and forms, and upon completion of the work, the

Contractor shall be required to remove from the RAILROAD's right-of-way all temporary structures, rubbish, waste materials, and equipment, and to leave the premises in a condition satisfactory to the RAILROAD.

8. Ensure that the contract or contracts let by the STATE for construction of project shall require its Contractor to (i) cooperate with the RAILROAD to the fullest extent possible, to so conduct its work and handle and store its materials and equipment as to cause the least possible interference with RAILROAD operations, (ii) take such precautions as are necessary to insure the safety of RAILROAD operations, (iii) maintain proper operation of the track drainage system during the construction period, (iv) reimburse the RAILROAD direct for flagging services provided by the RAILROAD under terms of Article I, Section 4 herein, and (v) furnish satisfactory evidence to the STATE that it is carrying insurance of the kinds and amounts set out in the RAILROAD's Contractor Right of Entry Agreement and in ODOT's Special Provision for Railroad Insurance, attached hereto as **Exhibit C** and **Exhibit E** and hereby made apart hereof.

9. Require its Contractor to submit to the RAILROAD for approval, plans of falsework, staging and detailed shoring plans within the live load limits and construct and use same in accordance with the Plans.

10. Adequately inspect, supervise and monitor all work to be performed by the Contractor, and shall not inflict injury to persons or damage to property for the safety of whom or of which the RAILROAD may be responsible, or to property of the RAILROAD. The responsibility of the STATE for safe conduct and adequate

inspection, supervision and monitoring of the Project shall not be lessened or otherwise affected by the RAILROAD's approval of the Plans, or by the RAILROAD's collaboration in performance of any work, or by the presence at the work site of the RAILROAD's representatives, or by compliance by the STATE with any requests or recommendations made by such representatives.

If a representative of the RAILROAD is assigned to the Project, the STATE will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the RAILROAD's property and operations.

11. Not permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the RAILROAD's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the RAILROAD's property or facilities.

12. If at any time the STATE's engineers or the Assistant Vice President Engineering-Design of the RAILROAD or their respective representatives shall be of the opinion that any work of the STATE is being or is about to be done or prosecuted without due regard and precaution for safety and security, the STATE shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

13. Not discharge any explosives on or in the vicinity of the RAILROAD's property without the prior written consent of the RAILROAD's Assistant Vice President

Engineering-Design which shall not be given if, in the sole discretion of the RAILROAD such discharge would be dangerous or would interfere with the RAILROAD's property or facilities. For the purpose hereof, the vicinity the RAILROAD's property shall be deemed to be any place on the RAILROAD's property in such close proximity to the RAILROAD's property that the discharge of explosives could cause injury to the RAILROAD's employees or other persons, or cause damage to or interference with the facilities or operations on the RAILROAD's property. The RAILROAD reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the RAILROAD, in the RAILROAD's sole discretion, may deem to be necessary, desirable or appropriate.

14. Not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the RAILROAD. The STATE shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the RAILROAD's tracks or facilities. The STATE, at its own expense, shall install and maintain adequate shoring and cribbing for all excavations and/or trenching performed by the STATE in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the RAILROAD's Assistant Vice President Engineering-Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the RAILROAD's operations in the vicinity.

15. Provide and maintain suitable facilities for draining the highway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the RAILROAD. The STATE, at the STATE's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the RAILROAD's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the STATE, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the RAILROAD or any part thereof, or property of others. The STATE shall not obstruct or interfere with existing ditches or drainage facilities. The STATE, at its expense, shall own, maintain, repair and keep free of debris all drainage structures as such drainage structures are shown and named on the Plans.

16. Telephone the RAILROAD during normal business hours (7:00 a.m. to 9:00 p.m. Central time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the RAILROAD's premises to be used by the STATE. If it is, the STATE or its Contractor will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the RAILROAD's right-of-way.

17. STATE shall own the Bridge and STATE, at its expense, shall maintain, repair and renew the entire Bridge structure including, but not limited to, the superstructure, substructure, piers, abutments, walls, approaches and all backfill, grading and

drainage required by the existence of the Bridge as well as all graffiti removal or over painting of the Bridge.

ARTICLE III

1. The STATE shall reimburse the RAILROAD for expenses incurred by the RAILROAD in performance of any work performed by the RAILROAD in connection with the Project, in progress billings sent to the STATE and by a final bill which the RAILROAD shall send to the STATE within one hundred twenty (120) days after the STATE has provided written notice to the RAILROAD that all Project work is complete. Claims shall be supported by the RAILROAD's certified statements of expense incurred by such design and construction, which statements shall be prepared in accordance with rules and regulations of FHWA for such projects and shall be prepared in accordance with the Federal Aid Policy Guide contained in 23 CFR 140, Subpart I and 23 CFR 646, Subparts A and B.

2. The STATE agrees to reimburse the RAILROAD, within thirty (30) days of its receipt of billing, for one hundred percent (100%) of all actual costs incurred by the RAILROAD in connection with the Project including, but not limited to, all actual costs of procurement of materials, manpower (both direct and indirect labor additives), equipment and deliveries to the job site and the RAILROAD's normal and customary additives associated therewith.

3. It is understood and agreed that the Project herein contemplated is proposed to be financed with federal funds made available for expenditure by the STATE under

supervision of the Federal Highway Administration, and that this Agreement and the Plans, estimates of cost, awards of contract, acceptance of work, payments and procedure in general, hereunder shall be prepared or performed in accordance with the Federal Aid Policy Guide contained in 23 CFR 140, Subpart I and 23 CFR 646, Subparts A and B. The STATE shall require its contractor or contractors to reimburse the RAILROAD for expenses incurred by said RAILROAD in performance of work outlined under Section 4 of Article I of this AGREEMENT.

4. The STATE shall pay the entire amount due on the contract or contracts let by it for the construction of the work set forth in Article II.
5. The STATE shall pay all costs of engineering or supervision of the work performed under its portion of this Agreement.
6. Pursuant to the provisions contained in the Federal Aid Policy Guide, the RAILROAD will not be required to participate in or bear any Project costs.
7. The STATE or the STATE's contractor will reimburse the RAILROAD for all expenses related to additional plan reviews and temporary shoring reviews.

ARTICLE IV

The Plans shall govern in the construction of all work within the Project. No changes in the Plans shall be made without the written consent of the respective Engineering Officers of the parties hereto. The general construction and workmanship

shall be subject to the approval of the parties hereto.

ARTICLE V

The STATE agrees that neither it nor any Contractor shall commence any Project work described in this Agreement, nor shall the RAILROAD be obligated to commence any RAILROAD work described in this Agreement until:

- (i) The RAILROAD's Assistant Vice President Engineering-Design or his authorized representative has provided to the STATE the RAILROAD's written approval of the Plans.
- (ii) The RAILROAD's Material and Force Account Estimate has been approved in writing by the STATE.
- (iii) Each Contractor has executed the RAILROAD's Contractor's Right of Entry Agreement and has obtained the insurance coverage contained therein.

This Agreement shall be binding upon and inure to the benefits of the successors or assigns of the parties hereto.

IN WITNESS WHEREOF, the Deputy Director, pursuant to authority vested in him by the State Transportation Commission, has here into subscribed his name as Deputy Director of the Oklahoma Department of Transportation and the Railroad has executed same pursuant to authority prescribed by law.

The **RAILROAD** on this _____ day of _____, 20____, and the **DEPARTMENT** on this _____ day of _____, 20_____.

UNION PACIFIC RAILROAD COMPANY

OKLAHOMA DEPARTMENT OF TRANSPORTATION

RECOMMENDED

**REVIEWED AND APPROVED AS TO
FORM AND LEGALITY**

Rail Programs Division Manager Date

ODOT General Counsel Date

APPROVED

Director of Capital Programs Date

Deputy Director Date

**EXHIBIT A
RAILROAD EXHIBIT**

**EXHIBIT A
RAILROAD EXHIBIT**

FED. ROAD DIST. NO.	STATE	PROJ. NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
5	OKLA.	12-1008(007)	2016	14	57

FINAL PLAN REVIEW
2/10/2016

INDEX OF BRIDGE SHEETS

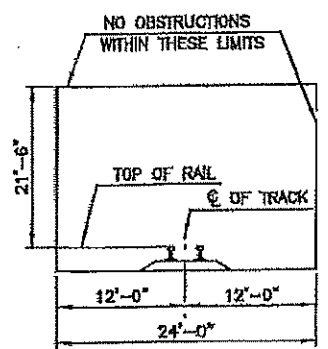
14	GENERAL PLAN AND ELEVATION
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BRIDGE STANDARDS:
 EJ-SK-03E
 EJ-DTL-01E
 FSHP-42-02-00E
 B40-C-TR4-WO-01E
 HPI-2-00E
 RWF3-2-2

DESIGN DATA:
 MATERIALS:
 CLASS A CONCRETE $f'_c=3$ ksi
 CLASS AA CONCRETE $f'_c=4$ ksi
 REINFORCING STEEL (GRADE 60) $F_y=60$ ksi
 STRUCTURAL STEEL (GRADE 50W) $F_y=50$ ksi

LOADING:
 HL-93 OR OKLAHOMA OVERLOAD TRUCK
 20 PSF FUTURE WEARING SURFACE
 5 PSF STAY-IN-PLACE FORMS

DESIGN:
 AASHTO LRFD BRIDGE DESIGN SPECIFICATIONS, 7TH EDITION
 LRFD OPERATION RATING = HS



UPRR CONSTRUCTION CLEARANCE DIAGRAM
 CLEARANCE OF FALSEWORK REQUIRED BY R.R. FOR OPERATION DURING CONSTRUCTION. HORIZONTAL DIMENSIONS SHOWN ARE MEASURED AT RIGHT ANGLES TO ϕ OF R.R. TRACK. VERTICAL DIMENSION SHOWN IS PERPENDICULAR TO PLANE OF TOP OF RAILS.

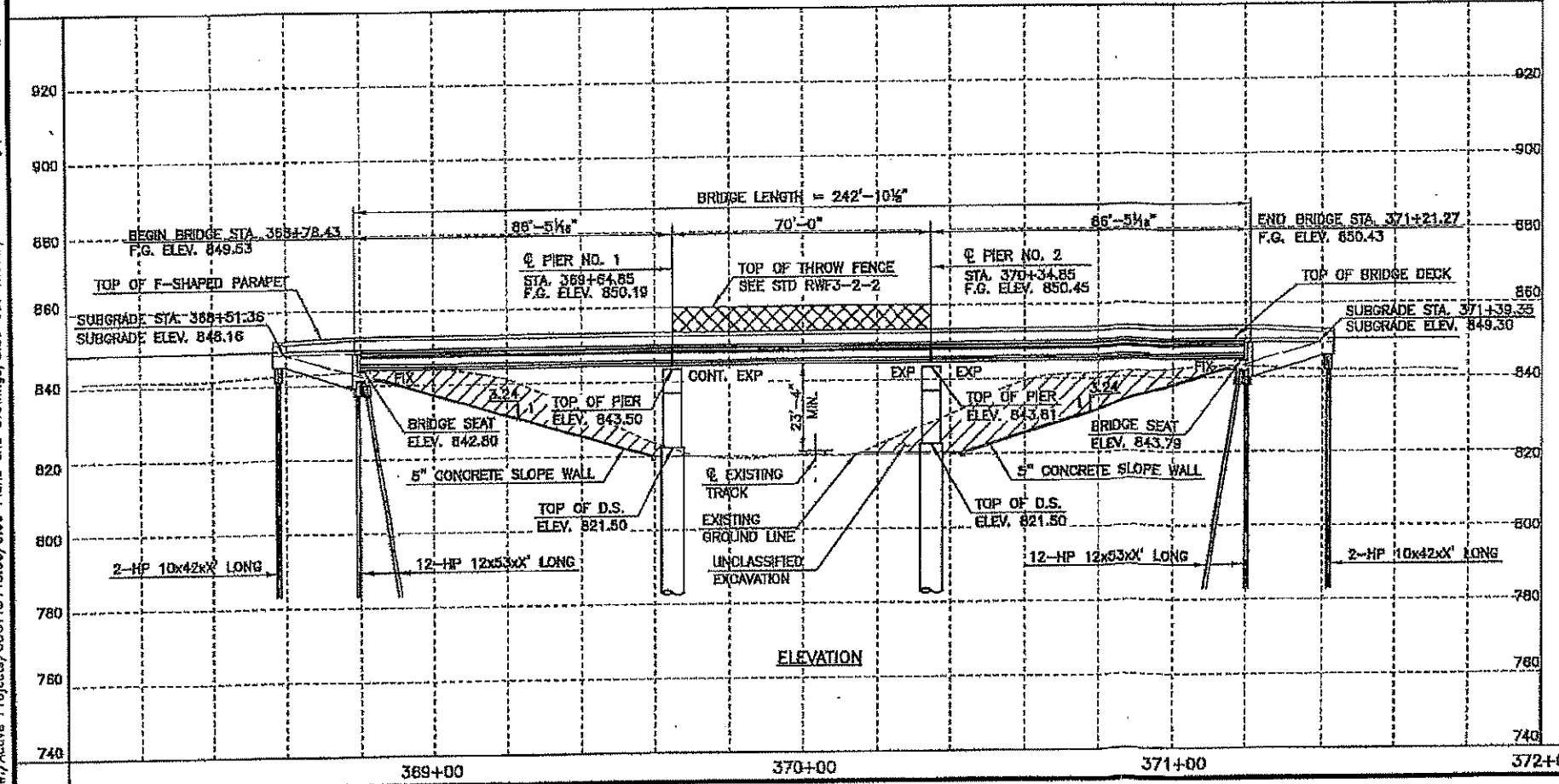
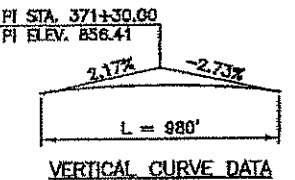
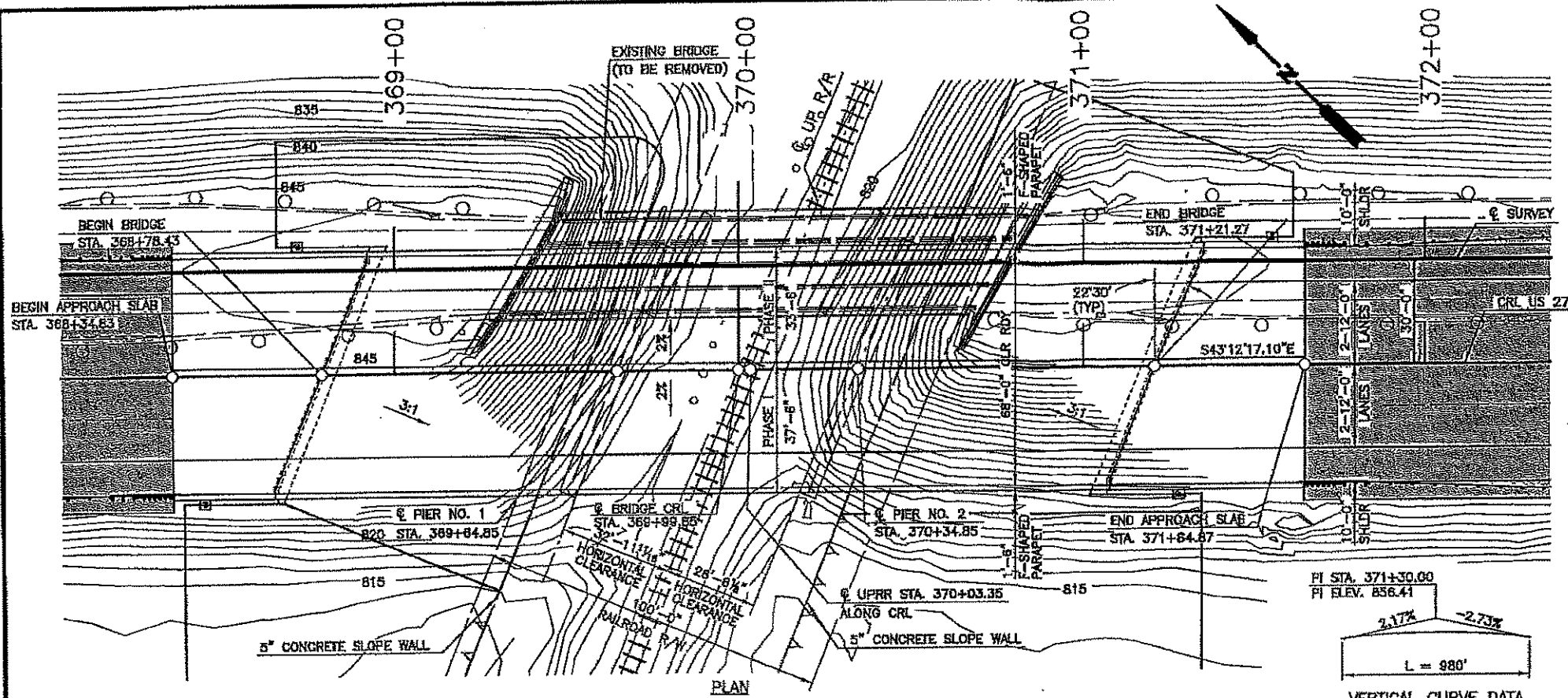
THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT A FINAL SIGNED AND SEALED DOCUMENT.

BRIDGE "A"
US 270

DESIGN: DRG	08/15	SEMINOLE COUNTY
DRAWN: LRJ	08/15	
CHECKED: DWN	08/15	
APPROVED: DWN	08/15	

GENERAL PLAN AND ELEVATION
 CONSTRUCT 85'-70'-85' TYPE IV, PC BEAM SPANS
 SKEWED 22°30' L.F. WITH 68'-0" CLR R/OY AND
 F-SHAPED RAILS ϕ STA. 369+99.85

SHEET 1 OF 1
STATE JOB PIECE NO: 21008(07) SHEET NO. 14



3:06:23 PM
 2/10/2016
 C:\pwworkspace\ANSIB\BIB\BIB\Projects\000113446\00\8.00 Plans and Drawings\8.00 Bridge\21008LA01.dgn

EXHIBIT B
UPRR COST ESTIMATE
Total \$ 0.00

EXHIBIT B
UPRR COST ESTIMATE
Total \$ 0.00

EXHIBIT C
UPRR CONTRACTORS RIGHT OF ENTRY AGREEMENT

EXHIBIT C
UPRR CONTRACTORS RIGHT OF ENTRY AGREEMENT

**CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT**

THIS AGREEMENT is made and entered into as of the _____ day of _____, 20____,
by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Railroad"); and _____
a _____ corporation ("Contractor").

RECITALS:

Contractor has been hired by _____ to perform work relating
to _____

(the "work"), with all or a portion of such work to be performed on property of Railroad in the vicinity of Railroad's Milepost
_____ on Railroad's _____ [Subdivision] [Branch] [at or near DOT No. _____]
located at or near _____, in _____ County, State of _____, as such location is in the general
location shown on the print marked Exhibit A, attached hereto and hereby made a part hereof, which work is the subject of a
contract dated _____ between Railroad and _____

Railroad is willing to permit Contractor to perform the work described above at the location described above subject to
the terms and conditions contained in this Agreement

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between Railroad and Contractor, as follows:

ARTICLE 1 - DEFINITION OF CONTRACTOR.

For purposes of this Agreement, all references in this agreement to Contractor shall include Contractor's contractors,
subcontractors, officers, agents and employees, and others acting under its or their authority.

ARTICLE 2 - RIGHT GRANTED; PURPOSE.

Railroad hereby grants to Contractor the right, during the term hereinafter stated and upon and subject to each and all
of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the property
described in the Recitals for the purpose of performing the work described in the Recitals above. The right herein granted to
Contractor is limited to those portions of Railroad's property specifically described herein, or as designated by the Railroad
Representative named in Article 4.

ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B, C AND D.

The terms and conditions contained in Exhibit B, Exhibit C and Exhibit D, attached hereto, are hereby made a part of
this Agreement.

ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE.

A. Contractor shall bear any and all costs and expenses associated with any work performed by Contractor, or
any costs or expenses incurred by Railroad relating to this Agreement.

B. Contractor shall coordinate all of its work with the following Railroad representative or his or her duly authorized representative (the "Railroad Representative"):

C. Contractor, at its own expense, shall adequately police and supervise all work to be performed by Contractor and shall ensure that such work is performed in a safe manner as set forth in Section 7 of Exhibit B. The responsibility of Contractor for safe conduct and adequate policing and supervision of Contractor's work shall not be lessened or otherwise affected by Railroad's approval of plans and specifications involving the work, or by Railroad's collaboration in performance of any work, or by the presence at the work site of a Railroad Representative, or by compliance by Contractor with any requests or recommendations made by Railroad Representative.

ARTICLE 5 - TERM; TERMINATION.

A. The grant of right herein made to Contractor shall commence on the date of this Agreement, and continue until _____ unless sooner terminated as herein provided, or at such time as Contractor has completed its work on Railroad's property, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad's property.

B. This Agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 6 - CERTIFICATE OF INSURANCE.

A. Before commencing any work, Contractor will provide Railroad with the (i) Insurance binders, policies, certificates and endorsements set forth in Exhibit C of this Agreement, and (ii) the insurance endorsements obtained by each subcontractor as required under Section 12 of Exhibit B of this Agreement.

B. All insurance correspondence, binders, policies, certificates and endorsements shall be sent to:

Union Pacific Railroad Company

[Insert mailing address]

Attn: _____

Folder No. _____

ARTICLE 7 - DISMISSAL OF CONTRACTOR'S EMPLOYEE.

At the request of Railroad, Contractor shall remove from Railroad's property any employee of Contractor who fails to conform to the instructions of the Railroad Representative in connection with the work on Railroad's property, and any right of Contractor shall be suspended until such removal has occurred. Contractor shall indemnify Railroad against any claims arising from the removal of any such employee from Railroad's property.

ARTICLE 8 - ADMINISTRATIVE FEE.

Upon the execution and delivery of this Agreement, Contractor shall pay to Railroad _____ Dollars (\$) as reimbursement for clerical, administrative and handling expenses in connection with the processing of this Agreement.

Contractor's ROE (Generic) 05-01-10
Form Approved - AVP Law

ARTICLE 9 - CROSSINGS.

No additional vehicular crossings (including temporary haul roads) or pedestrian crossings over Railroad's trackage shall be installed or used by Contractor without the prior written permission of Railroad.

ARTICLE 10.- EXPLOSIVES.

Explosives or other highly flammable substances shall not be stored or used on Railroad's property without the prior written approval of Railroad.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement in duplicate as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

By: _____
Title: _____

(Name of Contractor)

By: _____
Title: _____

EXHIBIT A

Exhibit A will be a print showing the general location of the work site.

EXHIBIT B
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least thirty (30) working days in advance of proposed performance of any work by Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30)-day notice, the Railroad Representative will determine and inform Contractor whether a flagman need be present and whether Contractor needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Contractor for such expenses incurred by Railroad, unless Railroad and a federal, state or local governmental entity have agreed that Railroad is to bill such expenses to the federal, state or local governmental entity. If Railroad will be sending the bills to Contractor, Contractor shall pay such bills within thirty (30) days of Contractor's receipt of billing. If Railroad performs any flagging, or other special protective or safety measures are performed by Railroad, Contractor agrees that Contractor is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Contractor may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Contractor must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (whether recorded or unrecorded and including those in favor of licensees and lessees of Railroad's property, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of Railroad, including without limitation, the operations of Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's machinery and materials shall be kept at least fifty (50) feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroad's tracks except at existing open public crossings.

B. Operations of Railroad and work performed by Railroad personnel and delays in the work to be performed by Contractor caused by such railroad operations and work are expected by Contractor, and Contractor agrees that Railroad shall have no liability to Contractor, or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of Railroad and third parties so as to avoid interference with railroad operations. The safe operation of Railroad train movements and other activities by Railroad takes precedence over any work to be performed by Contractor.

Section 4. LIENS.

Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of Railroad for any such work performed. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If Contractor fails to promptly cause any lien to be released of record, Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-335-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad's property to be used by Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

b. In addition to other indemnity provisions in this Agreement, Contractor shall indemnify, defend and hold Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of Contractor, its agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this Agreement, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by Contractor. Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. Contractor shall at a minimum comply with Railroad's safety standards listed in Exhibit D, hereto attached, to ensure uniformity with the safety standards followed by Railroad's own forces. As a part of Contractor's safety responsibilities, Contractor shall notify Railroad if Contractor determines that any of Railroad's safety standards are contrary to good safety practices. Contractor shall furnish copies of Exhibit D to each of its employees before they enter the job site.

B. Without limitation of the provisions of paragraph A above, Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. Contractor shall promptly notify Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by Railroad, Contractor shall deliver to Railroad a copy of Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require Contractor to correct any deficiencies in the Safety Plan. The terms of this Agreement shall control if there are any inconsistencies between this Agreement and the Safety Plan.

Section 8. INDEMNITY.

A. To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless Railroad, its affiliates, and its and their officers, agents and employees (individually an "Indemnified Party" or collectively "Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this Agreement by Contractor.

b. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

c. Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Indemnified Parties under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

d. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this Agreement may be relied upon or used by Contractor in any attempt to assert liability against any Indemnified Party.

e. The provisions of this Section 8 shall survive the completion of any work performed by Contractor or the termination or expiration of this Agreement. In no event shall this Section 8 or any other provision of this Agreement be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

Section 9. RESTORATION OF PROPERTY.

In the event Railroad authorizes Contractor to take down any fence of Railroad or in any manner move or disturb any of the other property of Railroad in connection with the work to be performed by Contractor, then in that event Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by Contractor shall in no way impair the right of Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this Agreement shall be effective unless made in writing and signed by Contractor and Railroad. This Agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between Contractor and Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

Contractor shall not assign or subcontract this Agreement, or any interest therein, without the written consent of the Railroad. Contractor shall be responsible for the acts and omissions of all subcontractors. Before Contractor commences any work, the Contractor shall, except to the extent prohibited by law; (1) require each of its subcontractors to include the Contractor as "Additional Insured" in the subcontractor's Commercial General Liability policy and Business Automobile policies with respect to all liabilities arising out of the subcontractor's performance of work on behalf of the Contractor by endorsing these policies with ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage); (2) require each of its subcontractors to endorse their Commercial General Liability Policy with "Contractual Liability Railroads" ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage) for the job site; and (3) require each of its subcontractors to endorse their Business Automobile Policy with "Coverage For Certain Operations In Connection With Railroads" ISO Form CA 20 70 10 01 (or a substitute form providing equivalent coverage) for the job site.

EXHIBIT C
TO
CONTRACTOR'S
RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company
Insurance Provisions For
Contractor's Right of Entry Agreement

Contractor shall, at its sole cost and expense, procure and maintain during the course of the Project and until all Project work on Railroad's property has been completed and the Contractor has removed all equipment and materials from Railroad's property and has cleaned and restored Railroad's property to Railroad's satisfaction, the following insurance coverage:

- A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.
- Designated Construction Project(s) General Aggregate Limit ISO Form CG 26 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

- B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a combined single limit of not less \$5,000,000 for each accident and coverage must include liability arising out of any auto (including owned, hired and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance:

- Coverage For Certain Operations In Connection With Railroads ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Property" as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

- C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:
- Contractor's statutory liability under the workers' compensation laws of the state where the work is being performed.
 - Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Contractor is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy must contain the following endorsement, which must be stated on the certificate of insurance:

- Alternate Employer endorsement ISO form WC 00 03 01 A (or a substitute form providing equivalent coverage) showing "Railroad" in the schedule as the alternate employer (or a substitute form providing equivalent coverage).

- D. **Railroad Protective Liability Insurance.** Contractor must maintain "Railroad Protective Liability" (RPL) insurance written on ISO occurrence form CG 00 36 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement. Contractor shall provide this Agreement to Contractor's insurance agent(s) and/or broker(s) and Contractor shall instruct such agent(s) and/or broker(s) to

procure the insurance coverage required by this Agreement. A BINDER STATING THE POLICY IS IN PLACE MUST BE SUBMITTED TO RAILROAD BEFORE THE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD. [Ken - there is a closed quote in this paragraph but no open quote.]

- E. Umbrella or Excess insurance. If Contractor utilizes umbrella or excess policies, these policies must "follow form" and afford no less coverage than the primary policy.
- F. Pollution Liability insurance. Pollution liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any "hazardous" material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Contractors CGL or RPL. In any form coverage must be equivalent to that provided in ISO form CG 24 15 "Limited Pollution Liability Extension Endorsement" or CG 28 31 "Pollution Exclusion Amendment" with limits of at least \$5,000,000 per occurrence and an aggregate limit of \$10,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Contractor must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

Other Requirements

- G. All policy(ies) required above (except worker's compensation and employers liability) must include Railroad as "Additional Insured" using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad's negligence whether sole or partial, active or passive, and shall not be limited by Contractor's liability under the indemnity provisions of this Agreement.
- H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless the law governing this Agreement prohibits all punitive damages that might arise under this Agreement.
- I. Contractor waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.
- J. Prior to commencing the work, Contractor shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.
- K. All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state where the work is being performed.

The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.

EXHIBIT D
TO
CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of Contractor as well as all employees of any subcontractor or agent of Contractor.

I. Clothing

- A. All employees of Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
- (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
- (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.

- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.

- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

II. Personal Protective Equipment

Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1—latest revision. Hard hats should be affixed with Contractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1—latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:

- 100 feet of a locomotive or roadway/work equipment

- 16 feet of power operated tools

- 150 feet of jet blowers or pile drivers

- 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)

- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

III. On Track Safety

Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations - 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractor must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. Contractor will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

IV. Equipment

- A. It is the responsibility of Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of Contractor's equipment is unsafe for use, Contractor shall remove such equipment from Railroad's property. In addition, Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:

- Familiar and comply with Railroad's rules on lockout/tagout of equipment.
- Trained in and comply with the applicable operating rules if operating any hi-rail equipment on-track.
- Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.

- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

V. General Safety Requirements

- A. Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
- (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.

- (i) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
- (ii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment if the opening is less than one car length (50 feet).
- (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
- (v) Before stepping over or crossing tracks, look in both directions first.
- (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.

E. All employees must comply with all federal and state regulations concerning workplace safety.

EXHIBIT D
SPECIAL PROVISION FOR RAILROAD FLAGGING

EXHIBIT D
SPECIAL PROVISION FOR RAILROAD FLAGGING

**OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISIONS
FOR
RAILROAD FLAGGING**

These Special Provisions revise, amend, and where in conflict, supersede applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

104.18 RAILROAD FLAGGING *(Add the following:)*

Execute and return the right of entry agreement (if required by the railroad) with the contract to the Department within the time period provided for contract execution. Reimburse Union Pacific Railroad Company, hereinafter referred to as the Railroad Company, directly for the cost of all railroad flagging required by the Railroad Company due to construction on their property.

The Railroad Company's requirements for flagging and right of entry may vary significantly from those implied by other contract documents. Therefore be informed of the individual Railroad Company's requirements for flagging and right of entry.

For the purpose of bidding, the following information is furnished by the Railroad Company covering the estimated flagging schedule and the estimated cost thereof:

Flagging Services

Flagging services will be required:

- In the event it is necessary for the Contractor to operate his crane or other heavy machinery in the vicinity of the track, as defined by the Railroad Company, which may endanger railroad operations.
- At any time the Contractor is within 25 feet of the track.
- As specified in the right of entry agreement (if required).
- At any other time deemed appropriate by the Railroad Company.

Flaggers

The total cost per eight hour day for one flagger, supervisory personnel, vacation allowances, and retirement and unemployment insurance is **\$0.00**. This rate is based on current wage scales for an eight hour basic day, including any additional pay for overtime, rest days and holidays, and is subject to any increases which may result from railroad employees-railroad management negotiations, or which may be authorized by Federal authorities. No additional payment will be made for increases in the above rate if such increases should occur.

Furthermore, the Contractor's final estimate will not be paid until satisfactory

evidence that the Railroad Company has been fully reimbursed for their flagging services is provided.

Utilities

Fiber optic, communications, control systems, and other types of cables may be buried on Railroad Company property. Contact **Call Okie at 405-840-9955** to assist in determining if cable systems are buried on Railroad Company property to be used before beginning work. Contact the appropriate personnel to have cables located, and make arrangements with the owner of the facility to ascertain the protective measures that must be adhered to prior to the commencement of any work on the Railroad Company's property.

Railroad Operations

Normal train operations over the crossing consists of zero (0) trains daily. Details regarding train operations required or desired may be obtained by consulting the Railroad Company's office located at **Mr. Jeff Howell, Manager of Track Maintenance, Union Pacific Railroad, 901 N. 4th, Chickasha, OK 73018.**

Measurement of Railroad Flagging

The Engineer will measure *Railroad Flagging (Non-Biddable)* as billed by the Railroad Company prorated to an eight hour day, as a single operation, regardless of the actual number of railroad personnel needed. For example, if the Contractor is billed by the Railroad Company for twelve hours of flagging, this will constitute 1.5 days of *Railroad Flagging*.

For progressive payment to be made, the Contractor will present an original, notarized confirmation that the Railroad Company has been reimbursed for the number of eight hour flagging days billed.

Payment for Railroad Flagging

Approved *Railroad Flagging*, as described above, will be paid for at the contract unit price as follows:

Pay Item:	Pay Unit:
<u><i>RAILROAD FLAGGING (NON-BIDDABLE)</i></u>	<u>Day</u>

Payment for *Railroad Flagging (Non-Biddable)* is considered full compensation for furnishing all materials, equipment, labor, and incidentals to complete the work as specified. Any additional costs incurred for railroad flagging will be included in other

items bid in the Contract.

It is the intent of this provision that the Contractor be reimbursed by the Department at a rate of \$0.00 per eight hour day (approximately 50% of the rate specified in Subsection 104.18.B above).

EXHIBIT E
SPECIAL PROVISION FOR RAILROAD INSURANCE

EXHIBIT E
SPECIAL PROVISION FOR RAILROAD INSURANCE

**OKLAHOMA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISIONS
FOR
RAILROAD INSURANCE**

This special provision amends and where in conflict, supersedes applicable sections of the 2009 Standard Specifications for Highway Construction, English and Metric.

107.12 RESPONSIBILITY FOR DAMAGE CLAIMS

(E) Railroads' Protective Liability and Property Damage Insurance *(Add the following:)*

The amount of insurance to be provided for and on behalf of the Union Pacific Railroad Company is \$2,000,000.00 for all damages arising out of bodily injury, death, and property damage for each occurrence with an aggregate limit of \$6,000,000.00 for the term of the policy.

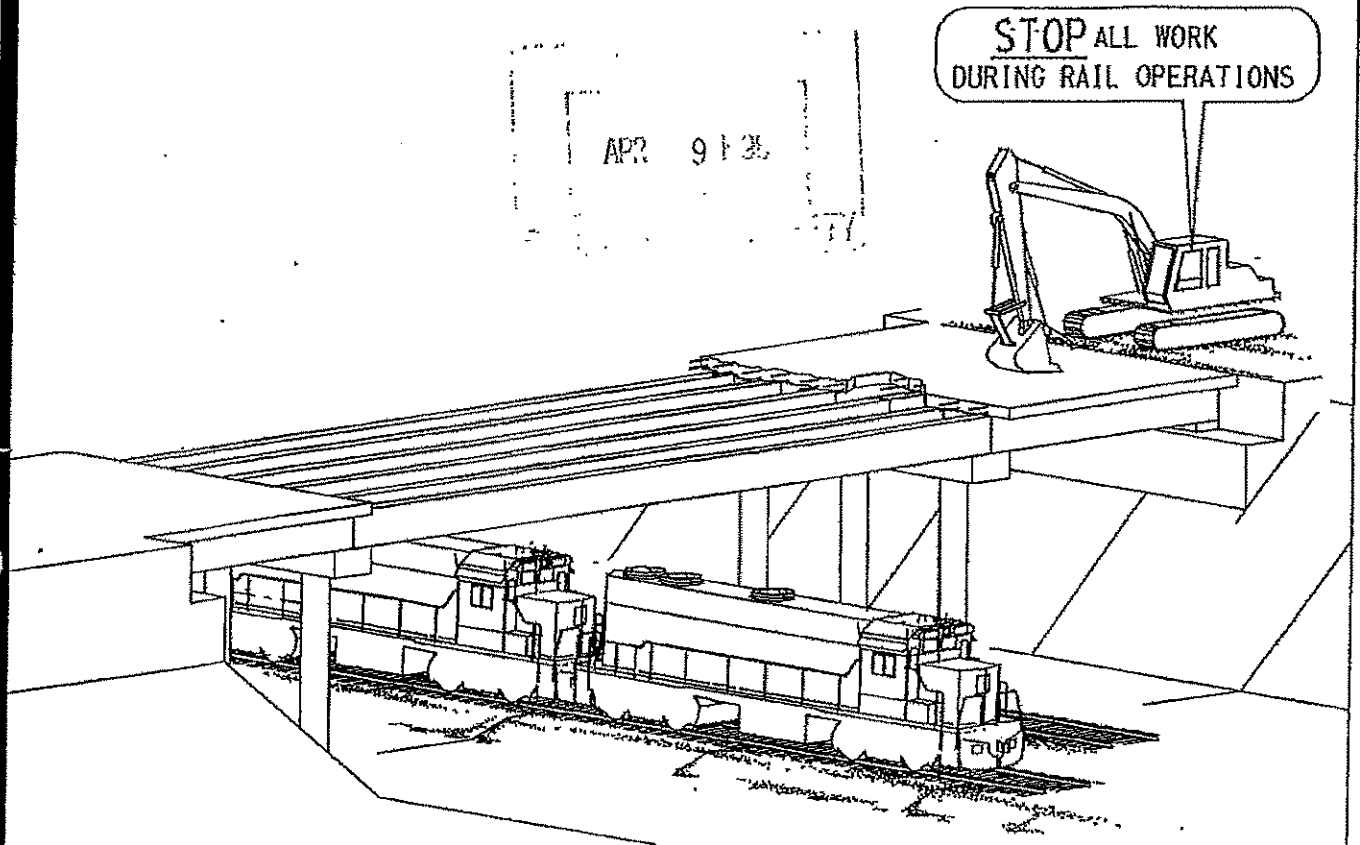
Prior to issuance of the Notice to Proceed, submit the original copy of the insurance policy, along with one additional copy, to:

Oklahoma Department of Transportation
Construction Division
200 NE 21st Street
Oklahoma City, Oklahoma 73105-3204

EXHIBIT F
GUIDELINES FOR BRIDGE DEMOLITION AND REMOVAL
FOR STRUCTURES OVER UNION PACIFIC RAILROAD

EXHIBIT F
GUIDELINES FOR BRIDGE DEMOLITION AND REMOVAL
FOR STRUCTURES OVER UNION PACIFIC RAILROAD

GUIDELINES FOR PREPARATION OF A BRIDGE DEMOLITION AND REMOVAL PLAN FOR STRUCTURES OVER RAILROAD



UNION PACIFIC RAILROAD

OFFICE OF CHIEF ENGINEER DESIGN
1416 DODGE ST.
OMAHA, NE 68179

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I. GENERAL

- A. The Contractor's work shall in no way impede the train operations of the Union Pacific Railroad.
- B. The Contractor shall develop a work plan assuming that minimal track windows will be available.
- C. The Contractor shall be responsible for planning and executing all procedures necessary to remove the overhead bridge in a safe and controlled manner.
- D. The Railroad's tracks and property shall be protected at all times.
- E. The contractor shall ensure the area immediately adjacent to operational tracks shall remain free from stumble or like hazards to the ground Railroad personnel to prevent injuries. Open excavations shall be in accordance with current CE Drawing 106613 and shall be protected by appropriate fencing.
- F. The words "demolition" and "removal" will be used interchangeably.
- G. All removed materials shall be disposed of outside the Railroad right-of-way at no expense to the Railroad.
- H. No work is allowed within 50 feet of the nearest rail when trains pass the work site.
- I. Staged demolition of the portions of structure immediately adjacent to operational tracks will not jeopardize the integrity of the structure over said tracks until actual removal of the portion of the structure over the tracks is being done.
- J. A flagman is required when any work is performed within 25 feet of the nearest rail.
- K. No blasting will be permitted on Railroad's right-of-way.

II. BRIDGE REMOVAL PLAN

- A. The Contractor shall submit a complete Bridge Removal Plan to the Railroad. The Bridge Removal Plan shall include details, procedures and the sequence of staged removal of the bridge, including all steps necessary to remove the bridge in a safe and controlled manner.

- B. The Contractor shall submit to the Railroad; three (3) complete sets of the Bridge Removal Plan for review and comments. The Plan shall be sealed by a Civil or Structural Engineer registered in the state where the proposed demolition will take place. A minimum of three (3) weeks shall be allowed for the Railroad's review after the complete submittal is received. No removal operations will be permitted over the Railroad right of way until the submitted material has been reviewed and comments provided.
- C. Review and comment of the Removal Plan by the Railroad will not relieve the Contractor of the ultimate responsibility and liability for the demolition of the structure.
- D. The Removal Plan shall include the following:
- 1) Plan, elevation and location of the bridge, and the locations of any access roads needed for movement of the equipment. The as-built drawings may be used for the submittal provided the removal steps are clearly marked and legible.
 - 2) Indicate the position of all railroad tracks below the bridge and identify each track as mainline, siding, spur, etc.
 - 3) Bridge removal sequence and procedures for entire bridge including the staging for the removal of the superstructure and substructure.
 - 4) List type and number of equipment required and their locations during demolition operations.
 - 5) Locations and types of temporary supports, shoring or bracing required. These members shall be designed to meet Union Pacific Railroad current standard drawing 106613 "General Shoring Requirements", "Guidelines for Design and Construction of Falsework for Structures Over Union Pacific Railroad", "Guidelines for Design and Construction of Shoring Adjacent to Active Railroad Tracks", and the appropriate local and national building and design code requirements.
 - 6) The proposed vertical and horizontal clearance from all tracks to the temporary and permanent supports. The minimum vertical and horizontal clearances shall be as per attached frame protection details.
 - 7) If any temporary supports interfere with the natural drainage along the Railroad right-of-way, a temporary drainage plan shall be submitted for review and comment prior to constructing temporary supports. The proposed drainage plan shall route all drainage away from the railroad tracks.

- 8) Details, limits, and locations of protective covers or other measures proposed to be used to protect the tracks. This includes any shields or other measures that will protect the tracks from falling debris during removal of the overhead bridge and from any debris rolling down the side slopes or otherwise coming into the area around the tracks which could affect train operations. Design loads, including impact loads, shall be noted. In addition equipment should be on site capable of removing debris and track shield from operational tracks.
- 9) All procedures necessary to remove the bridge in a safe and controlled manner. The estimated time for complete removal over the tracks shall be noted.
- 10) All overhead and underground utilities in the area affected by removal of the bridge shall be located on the drawings, including any fiber optic, railroad signal, and communication lines.
- 11) The location and details of track crossings required for moving of the equipment across the railroad tracks.
- 12) Limits of demolition of substructures.
- 13) Details of on-site fire suppression.

III. PROCEDURE

- A. During removal operations the remaining structure shall be stable during all stages of the removal operations.
- B. Prior to proceeding with bridge removal the sealing Civil or Structural Engineer, or his authorized representative working for the Contractor, shall inspect the temporary support shoring, including temporary bracing and protective coverings, for conformity with the working drawings. The Engineer shall certify in writing to the Railroad that the work is in conformance with the drawings and that the materials and workmanship are satisfactory. A copy of this certification shall be available at the site of work at all times.
- C. Coordinate the removal schedule with the Railroad. All the removal work within the track area shall be performed during the time windows when the trains are not passing the work site.
- D. All substructures shall be removed to at least 3 feet below the final finished grade or at least 2 feet below base of rail whichever is lower, unless otherwise specified by the Railroad.

- E. All debris and refuse resulting from the work shall be removed from the right of way by the contractor and the premises left in a neat and presentable condition.
- F. The work progress shall be reviewed and logged by the Contractor's Engineer. Should an unplanned event occur, the Contractor shall inform the Railroad and submit procedure to correct or remedy the occurrence.
- G. Preferably all demolition and beam removal shall be from above. In the case that the beams require removal from below, the beams may temporarily straddle the tracks. The following steps shall be taken:
 - 1) The work shall be scheduled with the Railroad's Service Unit Superintendent subject to the Railroad's operational requirements for continuous train operations. The beams removed in sufficient time for train passage.
 - 2) The tracks shall be protected and no equipment placed on the tracks.
 - 3) The beams shall be blocked and not come in contact with the tracks. Blocking shall not be placed on the tracks.
 - 4) The beams and all equipment will be moved a minimum of 15 feet from the nearest rail of the tracks when a train is passing.

IV. TRACK PROTECTION

- A. The track protective cover shall be constructed before beginning bridge removal work and may be supported by falsework or members of the existing structure. See the attached Track Shield Detail and Frame Protection Detail for additional requirements. Types of protective covers that may be acceptable methods for protecting the tracks are:
 - 1) A decking supported by the bridge or a suspended cover from the bridge above the track clearance envelope.
 - 2) A track shield cover over the tracks per the attached detail.
 - 3) A framed cover outside the track clearance envelope.
 - 4) A catcher box or loader bucket under decking and parapets overhanging the exterior girders.
- B. Construction equipment shall not be placed on the tracks unless tracks are protected.

C. Temporary haul road crossings shall be of either Section Timbers or Precast Concrete Panels. The type of crossing shall be determined by the Manager of Industry and Public Projects. Solid timbers or ballast with timber headers shall be used between multiple tracks. If temporary crossing is accessible to public crossing shall be protected with barricades or locked gates when contractor is not actively working at the site or weekends.

D. Track protection is required for all equipment including rubber tired equipment operating within 25 ft. or over the tracks.

V. CRANES

A. When cranes are operated near the tracks the following is required:

- 1) Only cranes with the capacity to handle the loads may be used. Front end loaders and backhoes cannot be used to lift over the tracks.
- 2) The Contractor shall verify that the foundations under the crane can support the loads.
- 3) The size and material type of crane mats shall be submitted to the Railroad for review and comment. No mat substitution will be allowed. The mats shall be rigid and of sufficient capacity to distribute the crane loads and prevent tipping of the crane.
- 4) Installation of temporary track crossings for equipment shall be scheduled with the Manager of Industry and Public Projects.
- 5) Additional track protection is required when crossing with a crane. The protection methods shall be submitted to the Railroad for review and comment.
- 6) Equipment shall not place outriggers on the tracks or ballast.
- 7) Cranes shall not be placed within the track clearance envelope without flagman protection.

VI. CUTTING TORCHES

A. When a cutting torch is used near the tracks or any timber, the following steps shall be taken:

- 1) Fire suppression equipment is required on-site.
- 2) Do not use a torch over, between, or adjacent to the tracks unless a steel plate protective cover is used. Care shall be taken to make certain the use of a steel plate does not come in contact with the rails. See "Track Shield Details" for other requirements. Details of the shield shall be submitted to the Railroad for approval.
- 3) Wet the ties and other timber below the cutting area.
- 4) Monitor the work site for at least three hours after cutting for a smoldering fire.

B. Extensive overhead cutting will not be performed over the track area without the proper fire suppression equipment on-site and proper protection.

VII. UTILITIES

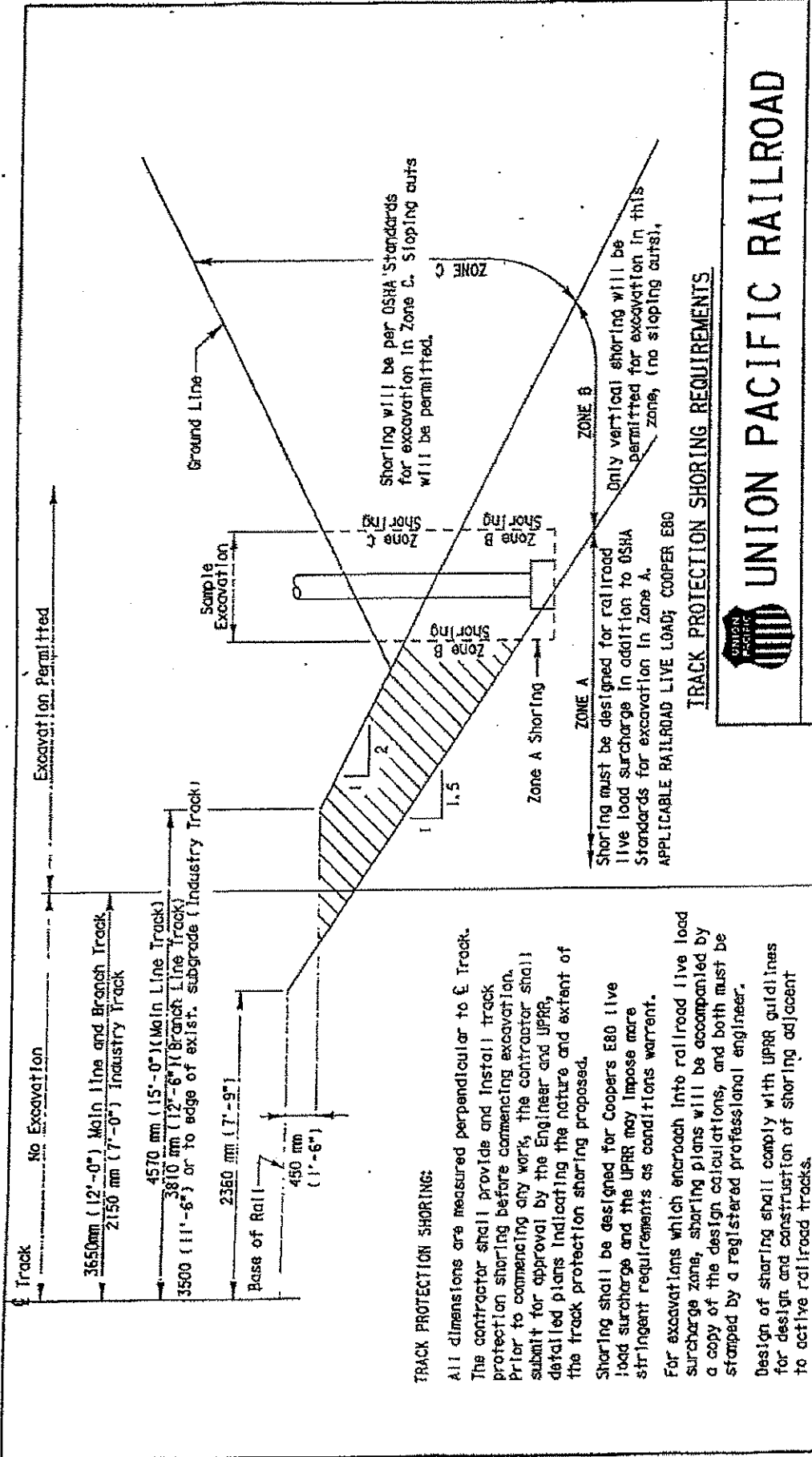
A. The demolition operations shall be planned such that the utility lines are operating safely at all times. The utility lines shall be protected if affected by demolition operations. All the work associated with utility lines should be coordinated by the contractor with the respective utility companies.

VIII. HAZARDOUS MATERIAL

A. If any hazardous materials are found, provide material protection as specified in local hazardous material codes and immediately contact the Railroad.

APPENDIX

- U.P.R.R. STANDARD DRAWING 106613
- TRACK SHIELD DETAIL
- FRAME PROTECTION DETAILS



TRACK PROTECTION SHORING:

All dimensions are measured perpendicular to E Track. The contractor shall provide and install track protection shoring before commencing excavation. Prior to commencing any work, the contractor shall submit for approval by the Engineer and UPRR, detailed plans indicating the nature and extent of the track protection shoring proposed.

Shoring shall be designed for Cooper's E80 live load surcharge and the UPRR may impose more stringent requirements as conditions warrant.

For excavations which encroach into railroad live load surcharge zone, shoring plans will be accompanied by a copy of the design calculations, and both must be stamped by a registered professional engineer.

Design of shoring shall comply with UPRR guidelines for design and construction of shoring adjacent to active railroad tracks.

TRACK PROTECTION SHORING REQUIREMENTS

ZONE A
Shoring must be designed for railroad live load surcharge in addition to OSHA Standards for excavation in Zone A.
APPLICABLE RAILROAD LIVE LOAD; COOPER E80

ZONE B
Only vertical shoring will be permitted for excavation in this zone, (no sloping cuts).

ZONE C
Shoring will be per OSHA Standards for excavation in Zone C. Sloping cuts will be permitted.



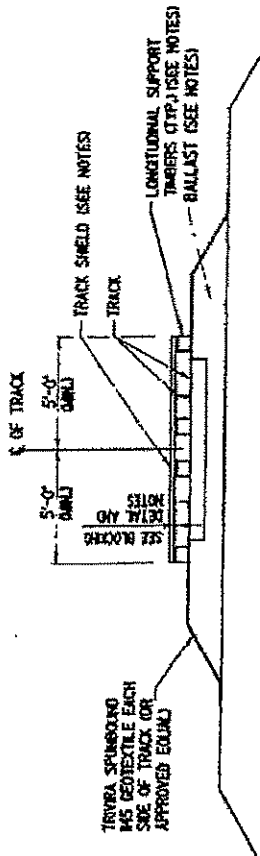
UNION PACIFIC RAILROAD

GENERAL SHORING REQUIREMENTS

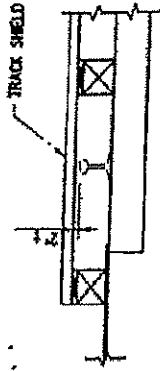
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DATE: 3-31-98 REDRAWN

C.E. 106613



**TRACK SHIELD DETAIL
FOR DEBRIS FALLING FROM BRIDGE DECK REMOVAL
WHEN TRACK TIME WINDOW IS AVAILABLE**



BLOCKING DETAIL

NOTES:

1. A FLAGMAN IS REQUIRED AT ALL TIMES DURING THE USE OF A TRACK SHIELD.
2. THE TRACK SHIELD SHALL BE DESIGNED BY THE CONTRACTOR AND SHALL BE OF SUFFICIENT STRENGTH TO SUPPORT THE ANTICIPATED LOADS, INCLUDING IMPACT. THE SHIELD SHALL PREVENT ANY MATERIALS, EQUIPMENT OR DEBRIS FROM FALLING ONTO THE RAILROAD TRACK. ADDITIONAL LAYERS OF MATERIALS SHALL BE FURNISHED AS NECESSARY TO PREVENT FINE MATERIALS OR DEBRIS FROM SETTING DOWN UPON THE TRACK.
3. THE SHIELD SHOULD PREFERABLY BE PREFABRICATED AND FURNISHED WITH LIFTING HOOKS TO FACILITATE REMOVAL.
4. THE SHIELD SHALL BE OF SUFFICIENT STRENGTH TO SPAN BETWEEN ITS SUPPORTS WITHOUT BEARING UPON THE RAILS AND TO WITHSTAND DROPPING RUBBLE.
5. BEFORE REMOVAL, THE SHIELD SHALL BE CLEANED OF ALL DEBRIS AND FINE MATERIAL.
6. THE TRACK SHIELD SHALL EXTEND AT LEAST 20 FEET BEYOND THE LIMITS OF DEMOLITION TRANSVERSE TO THE EDGE OF THE BRIDGE.
7. LONGITUDINAL SUPPORT TIMBERS FOR THE SHIELD SHALL NOT EXTEND ABOVE THE TOP OF RAIL WHEN THE SHIELD IS REMOVED. BLOCKING FROM THE TOP OF RAIL TO THE BOTTOM OF THE SHIELD MAY BE ATTACHED TO THE SHIELD. REMAINING TIMBERS SHALL BE ANCHORED.
8. FOR TRAIN PASSING, THE RUBBLE SHALL BE REMOVED TO A MINIMUM OF 8" FROM THE NEAREST RAIL AND TO AN ELEVATION NO HIGHER THAN THE TOP OF RAIL.
9. AT THE END OF THE DAY, THE RUBBLE SHALL BE REMOVED COMPLETELY TO A MINIMUM OF 12" FROM THE NEAREST RAIL, AND DOWN TO ORIGINAL GRADE.
10. CARE SHALL BE TAKEN TO NOT PLACE METAL ACROSS THE TRACK RAILS. RAILROAD COMMUNICATIONS ARE SENT THROUGH THE RAILS AND WILL BE DISRUPTED BY A SHORT BETWEEN RAILS.
11. DETAILS SHOWN APPLY FOR TIMBER TIES. SPECIAL DETAILS ARE REQUIRED FOR CONCRETE TIES.



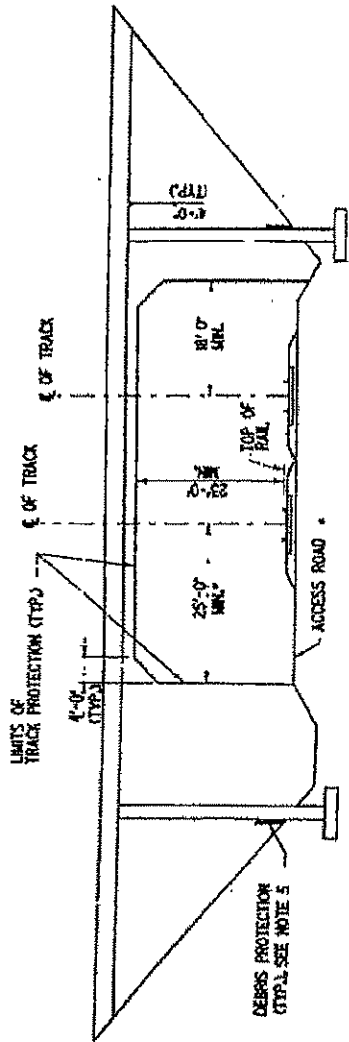
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TRACK SHIELD DETAIL

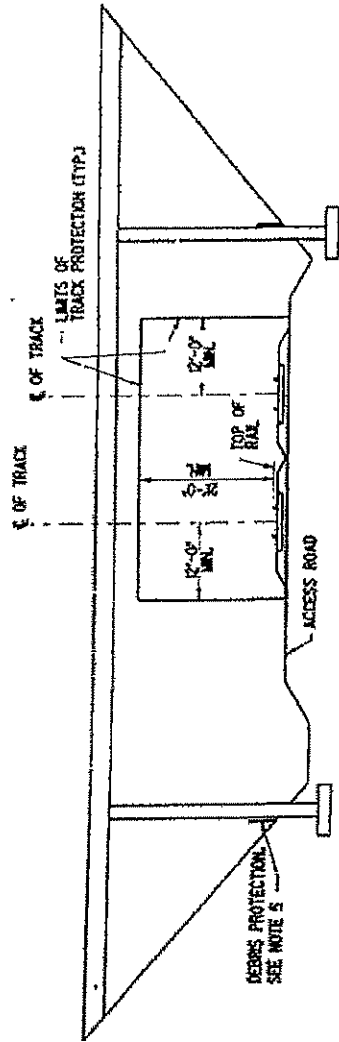
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SHEET 1 OF 1



BRIDGE ELEVATION
STANDARD LIMITS OF PROTECTION FOR FRAME PROTECTION



BRIDGE ELEVATION
MINIMUM LIMITS OF PROTECTION FOR FRAME PROTECTION
(SPECIAL PERMISSION REQUIRED, SEE NOTE 1)

NOTES:

1. THE STANDARD LIMITS OF PROTECTION NOTED ARE THE MIN. CLEARANCES ALLOWED WITHOUT SPECIAL PERMISSION FROM THE RAILROAD. THE REDUCED CLEARANCES NOTED MAY BE ALLOWED BY THE RAILROAD. SPECIAL PERMISSION FOR THE REDUCED CLEARANCES IS REQUIRED FROM THE RAILROAD SERVICE UNIT SUPERINTENDENT.
2. THE PROTECTION FRAME SHALL AS A MINIMUM MATCH THE DEMOLITION LIMITS SHOWN AND EXTEND PAST THE BRIDGE WEIR AS SHOWN ON THE ATTACHED DEMOLITION PLAN SHEET.
3. FOR ADDITIONAL CLEARANCE AND PROTECTION INFORMATION, SEE URBAN PACIFIC RAILROAD STANDARD DRAWING NO. 0065.
4. THE PROTECTION FRAME SHALL PREVENT DEMOLITION DEBRIS, DIRT AND FINE MATERIAL FROM FALLING ONTO THE RAILROAD TRACKS, ACCESS ROAD OR TRAWLS. THE FRAME SHALL BE DESIGNED BY THE CONTRACTOR TO SUPPORT THE ANTICIPATED DEMOLITION LOADS, AND IN ACCORDANCE WITH UNION PACIFIC GUIDELINES FOR DESIGN OF FALSEWORK FOR STRUCTURES OVER THE RAILROAD.
5. DEBRIS PROTECTION IS REQUIRED NEAR THE BASE OF THE SIDE SLOPES AND ADJACENT TO ROADS USED BY DEMOLITION EQUIPMENT TO PREVENT DEBRIS FROM ROLLING ONTO THE TRACK. ACCESS ROAD OR DITCH USE TIMBERS AS REQUIRED TO STOP LARGE PIECES OF ROLLING DEBRIS.
6. ANY ACTIVITY WITHIN 25 FEET OF THE NEAREST RAIL OF A TRACK REQUIRES A FLAGMAN.

* IF NO ACCESS ROAD, USE MIN. DIMENSIONS FROM OTHER SIDE OF DETAIL.



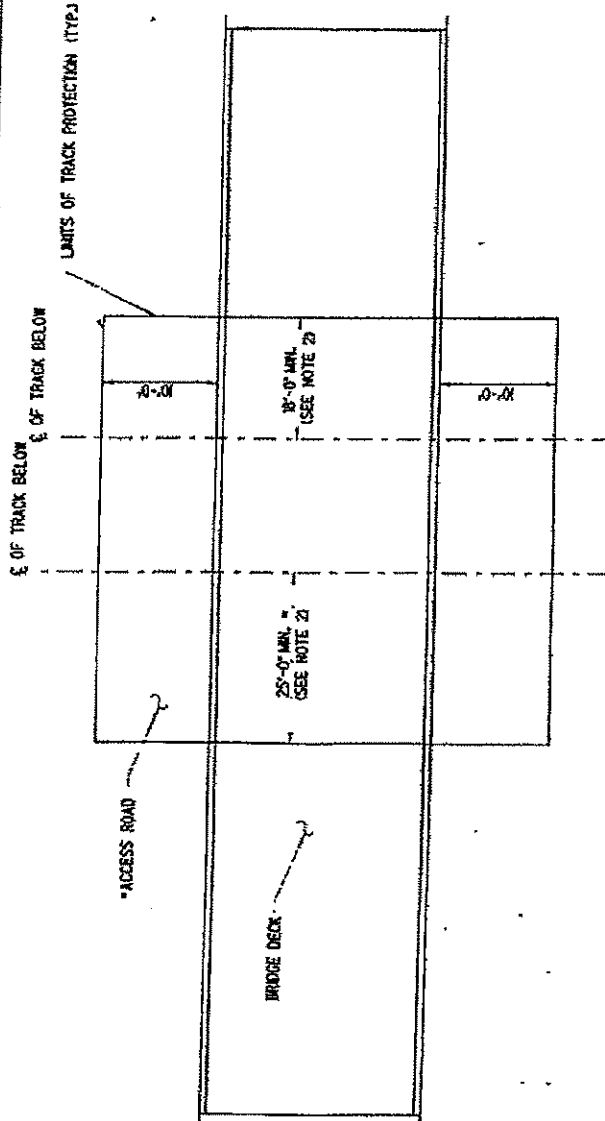
UNION PACIFIC RAILROAD

FRAME PROTECTION DETAILS

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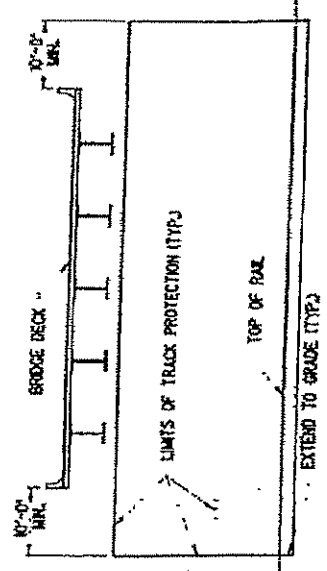
SHEET 1 OF 2



BRIDGE PLAN
STANDARD LIMITS OF PROTECTION FOR FRAME PROTECTION

* IF NO ACCESS ROAD, USE MIN. DIMENSION FROM OTHER SIDE

- NOTES:
1. SEE GENERAL NOTES ON BRIDGE ELEVATION SHEET
 2. STANDARD LIMITS OF PROTECTION ARE SHOWN FOR MIN. LIMITS OF PROTECTION DIMENSIONS, SEE BRIDGE ELEVATION, MINIMUM LIMITS OF PROTECTION.



BRIDGE DECK CROSS SECTION
STANDARD LIMITS OF PROTECTION

* IF NO ACCESS ROAD, USE MIN. DIMENSION FROM OTHER SIDE



UNION PACIFIC RAILROAD

FRAME PROTECTION DETAILS

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DATE: 3-31-98

SHEET 2 OF 7