



TEMPORARY RIGHT-OF-ENTRY AGREEMENT

SCRRA FORM NO. 6

SCRRA File No.	
SCRRA Project/Task No.	
Subdivision	
Mile Post	

This Temporary Right-of-Entry Agreement (“Agreement”) is between the Southern California Regional Rail Authority (hereinafter referred to as “SCRRA”) and _____ (hereinafter referred to as "Contractor"). This Agreement is for entry upon, over and under SCRRA and Member Agency Right-of-Way (“Right-of-Way”) at or near _____ in the City of _____ or in the Unincorporated County of _____ (as such location is more specifically identified above) for the purpose of _____ (as shown on attached drawings).

1. **Definitions**

- A. Contractor is an individual, firm, partnership or corporation or combination thereof, private, municipal or public, including joint ventures, which are referred to throughout this document by singular number and masculine gender. For purposes of this agreement, Contractor also includes any subcontractor, supplier, agent or other individual entering the Right-of-Way during performance of work.
- B. Indemnitees are SCRRA, Member Agencies and Operating Railroad and their respective officers, commissioners, employees, agents, successors and assigns.
- C. Operating Railroad is/are any specific passenger or freight-related railroad company(s) validly operating on SCRRA and Member Agency track(s). Operating Railroads are any combination(s) of the SCRRA (METROLINK), the National Railroad Passenger Corporation (AMTRAK), the Union Pacific Railroad Company (UPRR) and the BNSF Railway Company.
- D. Right-of-Way is defined herein to mean the real and/or personal property of SCRRA and/or Member Agencies.
- E. SCRRA is a five-county joint powers authority, created pursuant to State of California Public Utilities Code Section 130255 and California Government Code Section 6500 et seq., to build and operate the “Metrolink” commuter train system in the five-county area on rail rights-of-ways owned by the Member Agencies. The five-county Member Agencies (“Member Agency”) are comprised of the following: Los Angeles County Metropolitan Transportation Authority (MTA), Ventura County Transportation Commission (VCTC), Orange County Transportation Authority (OCTA), San Bernardino County Transportation Authority (SBCTA), and Riverside County Transportation Commission (RCTC).
- F. SCRRA Roadway Worker In-Charge (RWIC) is a Southern California Regional Rail Authority employee or contractor (SCRRA General Code of Operating Rules and Territory Qualified) providing warning to Public Agency or Contractor personnel of approaching trains or on track



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equipment and who has the authority to halt work and to remove personnel from the Right-of-Way to assure safe work

- G. SCRRA Safety Trainer is a qualified SCRRA employee or contracted employee (SCRRA General Code of Operating Rules qualified) as authorized by the SCRRA Chief Operating Officer to provide Contractor training.

2. **References**

When working on the Right-of-Way, the Contractor must comply with the rules and regulations contained in the current editions of the following documents which are "references" incorporated in this document as if they were set out in full in this paragraph. The Contractor, by its signature on this Agreement, acknowledges receipt of these documents and agrees to abide by said rules and regulations at all times when on the Right-of-Way. The documents are available on SCRRA's website at www.metrolinktrains.com (About, Engineering and Construction)

- A. Rules and Requirements for Construction on SCRRA Property, SCRRA Form No. 37.
- B. General Safety Regulations for Third Party Construction and Utility Workers on SCRRA Property.
- C. SCRRA SOP 2000.52 Roadway Worker Protection Program (RWPP)
- D. (RWPSM) Roadway Worker Protection Safety Manual
- E. (OTSMRW) On-Track Safety Manual for Roadway Workers
- F. SCRRA Risk Analysis Form SS 01-24-2020

3. **Entry onto Right-of-Way**

As part of the Form 6 application and throughout the approved duration of this Agreement, the contractor must submit for approval and maintain a Site Access Control Plan, making revisions as necessary when work locations change, defining:

- A. Approved and controlled access points onto the railroad Right-of-Way for purposes of construction activities and the approved access routes within the right of way
- B. The control methods in place at these access points to ensure material and equipment deliveries are recorded upon entry and exit and vehicles are safely managed through site to work locations
- C. Any temporary construction crossings as agreed in advance with SCRRA and in compliance with SCRRA Standard ES 4302

The contractor shall additionally submit and maintain a hierarchy table for the senior supervision and key staff on site who are responsible for the control of site safety and operations, stating names, positions and emergency contact phone numbers

No verbal approvals will be granted. The Contractor shall not enter onto the Right-of-Way unless Contractor has arranged for SCRRA safety training as well as protective services (RWIC and/or other protective services to be determined by SCRRA) and has paid all charges and fees. A fully executed copy of this Form 6 must be in the possession of the contractor at the job site and must be produced by Contractor upon request by SCRRA, a law enforcement officer or Member Agency's representative. If said Agreement is not produced, SCRRA has the right to suspend work in the Right-of-Way until Contractor demonstrates possession of Agreement at the job site.



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In accordance with all SCRRRA Rules and Regulations for work upon the Right-of-Way, prior to any work shift commencing, all contractor's and sub-contractors' representatives shall first undertake:

- A. A safety and work briefing with their supervisor to address the tasks and appropriate safety precautions for the work that they will be performing
- B. A railroad operational safety briefing with the RWIC appointed to oversee their workgroup at which they will complete a SCRRRA Job Safety Briefing Form, SCRRRA Risk Analysis Form SS 01-24-2020 and sign-in upon the RWIC's briefing form to acknowledge that they have received and understood the railroad safety briefing, they are aware of their method of protection from railroad operations and that they will comply with the RWIC's instructions.

At any time that a worker leaves the work group with which they have been briefed, to join another work group or to leave site, they must sign-out with the RWIC. At any time that a worker returns to site or joins another work group they must brief with the RWIC overseeing the new work group prior to commencing work, or re-brief with the RWIC overseeing their original work group if rejoining that group.

NOTE: IT IS IMPERATIVE THAT ALL CONTRACTOR'S AND SUBCONTRACTORS' MANAGEMENT REPRESENTATIVES UPHOLD THE REQUIREMENTS FOR THE JOB BRIEFINGS AND RISK ASSESSMENT ENSURING THAT ALL WORKERS COMPLY. FAILURE TO DO SO WILL RESULT IN REFUSAL TO ACCESS TO THE RIGHT-OF-WAY FOR THAT WORKER AND POTENTIALLY REMOVAL OF RWP CERTIFICATION ALLOWING WORK UPON THE SCRRRA IOPERATED RAILROAD.

BY SIGNATURE ON PAGE 10 OF THIS AGREEMENT, THE PRIME CONTRACTOR'S CONTRACT/CONSTRUCTION MANAGER OR EQUIVALENT CONFIRMS THEIR UNDERSTANDING OF THIS REQUIREMENT AND THEIR COMMITMENT TO ENSURING COMPLIANCE FOR THEIR ENTIRE WORKFORCE (CONTRACTORS AND SUB-CONTRACTORS' REPRESENTATIVES).

4. **Termination of Agreement**

SCRRRA or Member Agency reserves the right to terminate or revoke this temporary Agreement at any time upon two hours notice; however, in the event of an unsafe condition on the Right-of-Way, SCRRRA shall have the right to terminate this Agreement immediately, without any advanced notice. Unless subsequently modified, extended, terminated or revoked by SCRRRA, this temporary Agreement shall extend until access to the Right-of-Way is no longer necessary. In any event, however, the Agreement shall be automatically terminated if or when the insurance that the Contractor is required to maintain hereunder lapses or expires. The Contractor agrees to return the Right-of-Way to a condition substantially the same as before work, including replacement, repair, or reinstallation of railroad signs and property. Railroad signs include but are not limited to "No Trespassing", "Speed Limit", "Milepost", "Whistle", "Station Stop" and "Fiber Optics". The Contractor agrees to notify SCRRRA, in writing and orally, when use of the Right-of-Way or work is completed. The Contractor shall also complete and return the Confirmation of Completion form. Under no circumstances shall the temporary right of entry provided for under this Agreement be construed as granting to the Contractor or its Subcontractors and agents any right, title or interest of any kind or character in, on or about any Right-of-Way

At the request of SCRRRA or Member Agency, Contractor shall remove from the Right-of-Way any employee or other individual who has not completed safety training or otherwise fails to conform to the instructions of SCRRRA's or Member Agency's representative in connection with work on the Right-of-Way. Any right of Contractor to enter upon the Right-of-Way shall be suspended until such request of SCRRRA or Member Agency is met. Contractor shall defend, indemnify and hold harmless SCRRRA and Member Agency against any claim arising from the removal of any such employee or other individual from the Right-of-Way.



5. **Indemnification**

Contractor, on behalf of itself and its employees, subcontractors, agents, successors and assigns, agrees to indemnify, defend, by counsel satisfactory to SCRRA and Member Agency, and hold harmless "Indemnitees", and each of them to the maximum extent allowed by law, from and against all loss, liability, claims, demands, suits, liens, claims of lien, damages (including incidental consequential damages), costs and expenses (including, without limitation, any fines, penalties, judgments, actual litigation expenses and experts' and actual attorneys' fees), that are incurred by or asserted against Indemnitees arising out of or connected in any manner with (i) the acts or omissions of the Contractor or its officers, directors, affiliates, subcontractors or agents or anyone directly or indirectly employed by them or for whose acts the foregoing persons are liable (collectively, "Personnel") in connection with or arising from the presence upon or performance of activities by the Contractor or its Personnel with respect to the Right-of-Way, (ii) bodily and/or personal injury or death of any person (including without limitation employees of Indemnitees) or damage to or loss of use of Right-of-Way resulting from such acts or omissions of the Contractor or its Personnel or (iii) non-performance or breach by Contractor or its Personnel of any term or condition of this Agreement, in each case whether occurring during the term of this Agreement or thereafter.

The foregoing indemnity shall be effective regardless of any negligence (whether active, passive, derivative, joint, concurrent or comparative) on the part of Indemnitees, unless caused by the sole negligence or willful misconduct of Indemnitees and is in addition to any other rights or remedies, which Indemnitees may have under the law or under this Agreement.

Claims against the Indemnitees by the Contractor or its Personnel shall not limit the Contractor's indemnification obligations hereunder in any way, whether or not such claims against Indemnitees may result in any limitation of the amount or type of damages, compensation or benefits payable by or for the Contractor or its Personnel under workers' compensation acts, disability benefit acts or other employee benefit acts or insurance.

The provisions of this section shall survive the termination or expiration of this Agreement.

6. **Assumption of Liability**

To the maximum extent allowed by law, the Contractor releases Indemnitees from and assumes any and all risk of loss, damage or injury of any kind to any person or property, including without limitation, the Right-of-Way and any other property of or under the control or custody of, the Contractor or its personnel in connection with any acts undertaken under or in connection with this Agreement. The Contractor's assumption of risk shall include, without limitation, loss or damage caused by defects in any structure or improvements (including easement, lease or license agreements for other existing improvements and utilities) on the Right-of-Way, accident or fire or other casualty on the Right-of-Way or electrical discharge, noise or vibration resulting from SCRRA, Member Agency and Operating Railroad transit operations on or near the Right-of-Way and any other persons or companies employed, retained or engaged by SCRRA or Member Agency. The Contractor, on behalf of itself and its Personnel (as defined in Section 5, "Indemnification") as a material part of the consideration for this Agreement, hereby waives all claims and demands against the Indemnitees for any such loss, damage or injury of the Contractor and/or its Personnel. The Contractor waives the benefit of California Civil Code Section 1542, which provides as follows: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The provisions of this Section shall survive the termination or expiration of this Agreement.



7. **Insurance**

The Contractor, at its sole cost and expense, shall obtain and maintain in full force and effect during the term of this Agreement insurance as required by SCRRA or Member Agency in the amounts, coverage, and terms and conditions specified, and issued by insurance companies as described on Exhibit "A". SCRRA or Member Agency reserve the right, throughout the term of this Agreement, to review and change the amount and type of insurance coverage it requires in connection with this Agreement. Prior to entering the Right-of-Way or performing any work or maintenance on the Right-of-Way, the Contractor shall furnish SCRRA with insurance endorsements or certificates in the form of Exhibit "B", evidencing the existence, amounts and coverage of the insurance and signed by a person authorized by the insurer to bind coverage on its behalf. In most instances, SCRRA and Member Agency do not allow self-insurance; however, if the Contractor can demonstrate assets and retention funds meeting SCRRA and Member Agency self-insurance requirements, SCRRA and Member Agency may in SCRRA's sole and absolute discretion permit the Contractor to self-insure. The right to self-insure with respect to any coverage required hereunder may be granted or revoked at the sole and absolute discretion of SCRRA or any Member Agency. SCRRA or Member Agency shall not be liable for the payment of any premiums or assessments for insurance required to be maintained by the Contractor under this Agreement. Contractor affirms that all subcontractors covered by this Agreement are insured to the same limits required of the Contractor or included in Contractor's policy.

Prior to the expiration of any policy, the Contractor shall furnish SCRRA with certificates of renewal or "binders" thereof. Each certificate shall expressly state that such policies shall not be cancelable or otherwise subject to modification except after thirty (30) days prior written notice to SCRRA and Member Agency.

8. **No Assignment**

The Contractor shall not assign this Agreement or any right hereunder without SCRRA's and Member Agency's prior written consent.

9. **Compliance by Contractor**

The Contractor shall take all steps necessary to assure that its subcontractors comply with the terms and conditions of this Agreement and applicable laws and regulations. The Contractor shall assure that no lien is placed against the Right-of-Way arising from performance of work hereunder by Contractor or any subcontractor, and in the event of such a lien, Contractor shall immediately remove or cause to be removed such lien.

10. **Safety and Protective/Flagging Services Notification**

The Contractor and his subcontractors shall be required to attend a SCRRA Basic Right-of-Way Safety Training Class prior to receiving permission to enter the Right-of-Way. Upon completion of safety training and prior to start of work activities, the Contractor shall notify SCRRA's consultant/contractor, to schedule (EIC) Flagging Services. SCRRA has two contractors who provided SCRRA Basic Right-of-way Safety Training and (EIC) Flagging Services, based on Subdivisions.

JACOBS ENGINEERING Provides Safety Training and (EIC) Flagging for the following Subdivisions:

- Orange**
- Olive**
- San Gabriel (this includes the Redlands branch)**
- Perris Valley Line (including the Riverside layover if necessary)**
- Pasadena**
- Rialto**
- Shortway**



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To schedule Safety Training call Mr. Trevor Williams with Jacobs Engineering at (714) 659-1141. Request safety training at least 72 hours in advance of requested training date. To schedule (EIC) Flagging please reach out to Mr. Justin Duke with Jacobs Engineering at (714) 559-0968 a minimum of fifteen (15) working days prior to beginning work on the Right-of-Way and secure any safety EIC services SCRRRA deems necessary. This prior notification does not guarantee the availability of on-track safety protection for the proposed date of work. In no event shall SCRRRA be liable to Contractor in the event that track safety protection cannot be provided due to force majeure event or for any other reason. SCRRRA will advise Contractor as soon as reasonably practicable once it is determined that track safety protection will be unavailable on a proposed date of construction.

RAILPROS Provides Safety Training and (EIC) Flagging for the following Subdivisions:

**Montalvo
Ventura
Valley
River**

To schedule Safety Training call Mr. Chris Nunez with Railpros Engineering at (909) 816-0852. Request safety training at least 72 hours in advance of requested training date. To schedule (EIC) Flagging please reach out to Mr. Darrin Pock with Railpros Engineering at (909) 706-5280 a minimum of fifteen (15) working days prior to beginning work on the Right-of-Way and secure any safety EIC services SCRRRA deems necessary. This prior notification does not guarantee the availability of on-track safety protection for the proposed date of work. In no event shall SCRRRA be liable to Contractor in the event that track safety protection cannot be provided due to force majeure event or for any other reason. SCRRRA will advise Contractor as soon as reasonably practicable once it is determined that track safety protection will be unavailable on a proposed date of construction.

11. **SCRRRA Safety and Protective Services**

The Contractor must request and arrange for on-track safety protection satisfactory to SCRRRA in the following circumstances:

- A. When the Contractor's work activities are within the right-of-way of SCRRRA.
- B. When the Contractor's work activities are located over or under a track or tracks.
- C. When cranes, pile drivers, drill rigs, concrete pumps, or similar equipment positioned outside of the right-of-way could foul the track in the event of tip-over or other catastrophic occurrence.
- D. When in the opinion of the SCRRRA it is necessary to safeguard the employees, trains, engines and facilities of SCRRRA.
- E. When any excavation is performed below the elevation of the track sub-grade, or track or other railroad facilities may be subject to movement or settlement.
- F. When work in any way interferes with the safe operation of trains at timetable speeds.
- G. When any hazard is presented to railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.
- H. When clearing, grubbing, grading, or blasting is in proximity to the right-of-way which, in the opinion of SCRRRA or representative of an SCRRRA Member Agency, may endanger the right-of-way or operations.
- I. When street work and maintenance activities, located within the right-of-way or in the vicinity of the highway-rail grade crossing, requiring temporary work area traffic control, which may affect or create unsafe conditions for employees, public, trains and vehicles.



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The Contractor, and his subcontractors, shall complete SCRRA's Safety Orientation Class, as instructed in Item 10. Upon completion individuals will receive a safety sticker which shall be adhered to their hardhat while working on railroad Right-of-Way as proof of completion of safety training.

12. Underground Utilities

Signal, communication, fiber-optic, petroleum, natural gas, electric power and other utilities are present in SCRRA right-of-way. The Contractor shall contact the Southern California Underground Service Alert (DigAlert) at 811 to locate underground utilities. SCRRA is not a member of DigAlert. The Contractor shall call SCRRA at (909) 592-1346 a minimum of five days prior to beginning work to mark SCRRA's signal and communication cables and conduits.

Delays and disruptions to service may cause business interruptions involving loss of revenue and profits, danger to train operations, and release of potentially hazardous or flammable compounds.

13. Reimbursement of Costs and Expenditures

The Contractor agrees to reimburse SCRRA or any Member Agency and/or any Operating Railroad for all cost and expense incurred by SCRRA or Member Agency in connection with work and safety services, including without limitation the expense of engineering plan review, administrative costs to process approvals and agreements, annual overhead rates, safety training, utility markings, and SCRRA EIC and protective services as SCRRA deems necessary. Contractor agrees to reimburse SCRRA for all work related services including but not limited to installation and removal of falsework beneath tracks, restoration of railroad roadbed and tracks, installation of appropriate protective devices, temporary and permanent repairs of signal or communication equipment, restoration of the Right-of-Way to a condition satisfactory to SCRRA's and Member Agency's representative.

The Contractor agrees to reimburse SCRRA or any Member Agency actual cost and expense incurred. This includes cost of plan review, administrative, safety training, utility marking, flagging services fees, and work performed in connection with said work, including applicable overhead rates. Refer to SCRRA's Schedule of Fees for more information. SCRRA will charge the Contractor four hours minimum for the mandatory safety training class and for other services four hours or less in duration. SCRRA will charge the Contractor for eight hours minimum if the Contractor cancels SCRRA services after SCRRA EIC or SCRRA Safety Training Officer is on site on the day of the appointment.

The Contractor also agrees to reimburse SCRRA, any Member Agency and/or any Operating Railroad for any and all cost and expense incurred as a result of Contractor's work which may result in (i) unscheduled delay to the trains or interference in any manner with the operation of trains, (ii) unscheduled disruption to normal train operation, (iii) unreasonable inconvenience to the public or private user of the system, (iv) loss of revenue and (v) alternative method of transportation for passengers. SCRRA will submit final bills to the Contractor for cost incurred.

SCRRA will provide the cost of all SCRRA services based on Contractor's input. Prior to commencement of work, the Contractor shall provide deposit representing the estimated expense to be incurred by SCRRA and Member Agency in connection with said work. As the work progresses, SCRRA may require additional progress payments as the scope of work changes or becomes clearer. SCRRA may discontinue services to Contractor pending receipt of progress payments. The deposit and progress payments shall be applied to SCRRA's and Member Agency's actual costs and expenditures. The Contractor shall be responsible to pay any amount exceeding the above payments upon receipt of notice or invoice by SCRRA. SCRRA shall exercise its best efforts to provide final invoicing to Contractor within 90 days following completion of the work; however, Contractor acknowledges that it shall be responsible for payment of all expenses incurred by SCRRA and Member Agency in connection with the work even if the final invoicing is provided to Contractor thereafter. Upon completion of all work, any payments in excess of SCRRA's and Member Agency's costs and expenditures shall be returned to the Contractor within a reasonable time.



If the Contractor stop the work in the right-of-way for three months or longer and then plans to resume the work, he/she shall notify SCRRA as per contact information shown in Section 18 prior to resumption of the work.

14. **Temporary Traffic Control**

Temporary traffic control shall be used when a maintenance or construction activity is located on the Right-of-Way or when the activity is located in the vicinity of a highway-rail grade crossing, which could result in queuing of vehicles across the railroad tracks. Temporary traffic control will comply with the current editions of the CA MUTCD, WATCH and SCRRA Engineering Standard ES4301. Refer to SCRRA's "Temporary Traffic Control Guidelines" for further information on definitions, referenced standards, traffic control plans, submittals, traffic control elements and responsibility/authority for temporary traffic control at highway-rail grade crossings. The guidelines provide acceptable alternatives and procedures, which prescribe appropriate temporary traffic control measures at highway-rail grade crossings. The Contractor must place flagmen in the direction of the flow of traffic for each lane to assure that there is no queuing of traffic over the crossing. If after moving your work area away from the railroad right of way and queuing of traffic persists, flagmen must be reinstated at the crossing to control vehicular traffic over the crossing.

15. **Environmental Health and Safety Plan**

Contractor shall immediately notify SCRRA and the appropriate regulatory agency (ies) of any spill, release, discharge or discovery of any hazardous material or contaminants in, on or under the Right-of-Way. After providing such notice to SCRRA and the appropriate regulatory agency (ies), any contaminated soils or hazardous materials which are spilled, released, discharged or discovered by the Contractor, shall be promptly removed and disposed of by Contractor in accordance with all the applicable laws at Contractor's sole cost and expense. To the extent preexisting contamination or hazardous material, which was not caused or contributed to by Contractor, is discovered or unearthed by Contractor, Contractor shall only be obligated by this provision to removing and disposing of that portion of the contaminated soils or hazardous materials that are unearthed or otherwise disturbed during Contractor's operations. Prior to entry onto the Right-of-Way, Contractor (s) performing trenching, excavations or soil borings may be required by SCRRA to submit a "Hazardous Materials Work Plan." If required, said plan shall include Contractor's site-specific health and safety plan and any other information that SCRRA may require. Contractor shall ensure that all documentation for transportation or disposal of contaminated soils of hazardous materials is prepared in the Contractor's name only and that neither SCRRA nor Member Agency shall have any responsibility or liability therefor. Contractor shall defend and indemnify SCRRA for any spill, release or discharge of contaminants or hazardous materials by Contractor in connection with activities hereunder in accordance with Section 5 Indemnification.

16. **Warranty for Plan Review**

Review and or approval of the plans and calculations by SCRRA shall not relieve the Contractor of responsibility for full compliance with contract requirements, correctness of design drawings and details, proper fabrication and construction techniques and coordination with other government and private permitting agencies, nor shall such review or approval by SCRRA in any way relieve Contractor from, or otherwise modify, Contractors' indemnity obligations (Section 5) or assumption of liability obligations (Section 6). Execution of this right of entry does not imply design warranty or responsible charge on the part of SCRRA engineering employees. The parties expressly agree that SCRRA makes no warranty of any kind and assumes no responsibility therefor.



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17. **Emergency Telephone Numbers**

The Contractor must immediately contact SCRRRA in case of accidents, personal injury, defect in track, bridge or signals or any unusual condition that may affect the safe operation of the railroads. The following are SCRRRA's emergency numbers:

Signal Emergencies and Grade Crossing Problems	(888) 446-9721
Metrolink Chief Dispatcher	(909) 596-3584 or (888) 446-9715
Metrolink Sheriff's Dispatch Center	(323) 563-5280
Signal and Communications Cable Location	(909) 592-1346

18. **Notices**

Except as otherwise provided in this agreement, all notices, statements, demands, approvals or other communications to be given under or pursuant to this agreement will be in writing, addressed to the parties at their respective addresses as provided below and will be delivered in person or by certified or registered mail, postage paid or by telegraph or cable, charges pre-paid.

SCRRRA: Southern California Regional Rail Authority (SCRRRA)
2558 Supply Street
Pomona, CA 91767
Attn: Mr. Christos Sourmelis - ROW Crossings Coordinator
E-mail: sourmelisc@scrra.net
Office Number: (909) 392-8463

Contractor: Contractor's address is shown on the next page.

19. **California Law/Venue**

This agreement shall be construed and interpreted in accordance with and governed by the laws of the State of California. Venue shall be located in courts in Los Angeles County.



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The Contractor hereby agrees to the terms as set forth in this Agreement and hereby acknowledges receipt of this Agreement and of the insurance certificate forms (Exhibits A & B) herein provided.

(Name of Contractor)

(Signature – Construction/Contract Manager or equivalent))

(Address)

(Print Name)

(Title)

(Telephone)

(Contractor's State License No.)

(Fax)

(Email)

Receipt of the foregoing agreement and certificated of insurance furnished by the Contractor are hereby acknowledged on this _day of _____20 ____.

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

By: _____
ROW Crossings Coordinator

By: _____
Assistant Director, Construction

[Approved as To Form by Legal Counsel]



**EXHIBIT "A"
INSURANCE REQUIREMENTS FOR RIGHT OF ENTRY AGREEMENTS**

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to Right-of-Way, which may arise from or in connection with the performance of the work by the Contractor, his agents, representatives, employees or subcontractors.

1. Minimum Scope of Insurance

Coverage shall be at least as broad as:

- Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
- Insurance Services Office form No. CA 0001 (Ed. 1/87) covering Auto. Liability, code 1(any auto).
- Worker's Compensation insurance as required by the State of CA. & Employer's Liability Insurance.
- Course of Construction insurance form providing coverage for "all risks" of loss.
- Property insurance against all risks of loss to any tenant improvements or betterment.
- Contractor's Pollution Liability

2. Minimum Limits of Insurance

Contractor shall maintain limits no less than:

- General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and Property damage.
- If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
- Course of Construction: Completed value of the project.
- Property Insurance: Full replacement cost with no coinsurance penalty provision.
- Contractor's Pollution Liability: \$1,000,000 per occurrence/\$2,000,000 annual aggregate

3. Certificate Holder/Additional Insured

Certificate holder and/or insured will be the following:

Southern California Regional Rail Authority (SCRRA)

Additionally Insured will be the following:

Los Angeles County Metropolitan Trans. Auth. (MTA)
 Burlington Northern Santa Fe Corp. (BNSF)
 Orange County Transportation Authority (OCTA)
 Union Pacific Railroad Company (UPRR)
 Riverside County Transportation Commission (RCTC)
 National Railroad Passenger Corp. (AMTRAK)
 San Bernardino County Transportation Authority (SBCTA)
 Ventura County Transportation Commission (VCTC)

4. Railroad Protective Liability Insurance

- Railroad Protective Liability Insurance

The Contractor shall provide, with respect to the operations they or any of their subcontractors perform on the Right-of-Way, Railroad Protective Liability Insurance, AAR-AASHTO (ISO/RIMA) in the name of the SCRRA with additional insured specified in Section 3 above.

The policy shall have limits of liability of not less than **\$2 million per occurrence**, combined single limit, for coverage and for losses arising out of injury to or death of all persons and for physical loss or



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damage to or destruction of Property, including the loss of use thereof. A **\$6 million annual aggregate** shall apply.

If coverage is provided on the London claims-made form, the following provisions shall apply:

- A. The limits of liability shall be not less than \$3 million per occurrence, combined single limit. A \$9 million aggregate may apply.
- B. Declarations item 6, extended claims made date, shall allow an extended claims made period no shorter than the length of the original policy period plus one year.
- C. If equivalent or better, wording is not contained in the policy form, the following endorsement must be included:

It is agreed that "physical damage to Property" means direct and accidental loss of or damage to rolling stock and their contents, mechanical construction equipment or motive power equipment, railroad tracks, roadbed, catenaries, signals, bridges or buildings.

For certain low-hazard activity, Contractor may request that the SCRRA and Member Agency waive the requirement to provide the Railroad Protective Liability Insurance. If the exposure to the track is physically separated by a building, floor or a continuous fence (no thoroughfares) and the employees of the Contractor are explicitly notified that they are not permitted to have any contact with the track, the Railroad Protective Liability Insurance requirement may be waived by SCRRA's Manager Public Projects or his/her designated representative.

5. **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by SCRRA and Member Agency. At the option of SCRRA, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects SCRRA and Member Agency, its officials and employees or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

6. **Other Insurance Provisions**

The General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

- A. SCRRA and Member Agency, its subsidiaries, officials and employees are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to SCRRA and Member Agency, its subsidiaries, officials and employees.
- B. For any claims related to this work, the Contractor's insurance coverage shall be primary insurance as respects SCRRA and Member Agency, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by SCRRA and Member Agency, its subsidiaries, officials and employees shall be excess of the Contractor's insurance and shall not contribute with it.
- C. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to SCRRA and Member Agency, its subsidiaries, officials and employees.
- D. The Contractor insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- E. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to SCRRA.



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and/or Member Agency.

Course of Construction policies shall contain the following provisions:

- A. SCRRA and Member Agency shall be named as loss payee.
- B. The insurer shall waive all rights subrogation against SCRRA and Member Agency.

7. **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by SCRRA and Member Agency.

8. **Verification of Coverage**

Contractor shall furnish SCRRA with original endorsements evidencing coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by SCRRA. All endorsements are to be received and approved by SCRRA before work commences. As an alternative to SCRRA's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.

9. **Subcontractors**

Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

10. **Train Services**

The train traffic information is available on SCRRA's website at www.metrolinktrains.com (About Us, Engineering and Construction). The following is the direct link to the file.
<http://www.metrolinktrains.com/pdfs/EngineeringConstruction/TrainTrafficDensityExhibitforSCRRASystem.pdf>

11. **Submittal**

The original insurance policy (s) shall be submitted to:

Southern California Regional Rail Authority (SCRRA)
2558 Supply Street
Pomona, CA 91767
Attn: Mr. Christos Sourmelis - ROW Crossings Coordinator
E-mail: sourmelisc@scrra.net
Office Number: (909) 392-8463



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**EXHIBIT "B"
RAILROAD PROTECTIVE LIABILITY POLICY
DECLARATION**

POLICY

Insurance Company: _____

Policy Number: _____

Policy Period: _____

From: _____

To: _____

12:01am Standard time at location

CERTIFICATE HOLDER AND ADDITIONALLY INSURED

Certificate Holder/Insured:

Southern California Regional Rail Authority (SCRRA)

2558 Supply Street, Pomona, CA 91767

Additionally Insured:

Los Angeles County Metropolitan Transportation Authority (MTA)

Orange County Transportation Authority (OCTA)

Riverside County Transportation Commission (RCTC)

San Bernardino County Transportation Authority (SBCTA)

Ventura County Transportation Commission (VCTC)

Burlington Northern Santa Fe Corporation (BNSF)

Union Pacific Railroad Company (UPRR)

National Railroad Passenger Corp. (AMTRAK)

LIMITS OF INSURANCE

Aggregate Limit \$6,000,000

Each Occurrence Limit

\$2,000,000

DESCRIPTION OF WORK AND JOB LOCATION(S)

NAME AND ADDRESS OF DESIGNATED CONTRACTOR

NAME AND ADDRESS OF INVOLVED GOVERNMENT AUTHORITY OR OTHER CONTRACTING PARTY

PREMIUM

Contract Cost _____

Premium Base _____

Rate per 1,000 of _____

Advance Premium _____

FORM OF ENDORSEMENT

Title

Number

COUNTERSIGNATURE

Countersigned by _____

(Authorized Representative)

Date _____



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EXHIBIT "B"

CERTIFICATE OF INSURANCE Southern California Regional Rail Authority (SCRRA)	ISSUE DATE (MM/DD/YY)
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PRODUCER	THIS CERTIFICATE OF INSURANCE IS NOT AN INSURANCE POLICY AND DOES NOT AMEND, EXTEND OR ALTER THIS COVERAGE AFFORDED BY THE POLICY BELOW. COMPANIES AFFORDING COVERAGE COMPANY A LETTER COMPANY B LETTER COMPANY C LETTER COMPANY D LETTER COMPANY E LETTER
INSURED	

COVERAGES
 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENTS, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT. <input type="checkbox"/> OTHER _____				GENERAL AGGREGATE PRODUCTS-COMP/OP AGG. \$ PERSONAL & ADV. INJURY EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$	
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTO <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY				COMBINED SINGLE LIMIT \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$	
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$	
	PROPERTY INSURANCE <input type="checkbox"/> COURSE OF CONSTRUCTION				AMOUNT OF INSURANCE \$	
	WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY				STATUARY LIMITS EACH ACCIDENT \$ DISEASE-POLICY LIMIT \$ DISEASE-EACH EMPLOYEE \$	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

THE FOLLOWING PROVISIONS APPLY:

- None of the above-described policies will be canceled, limited in scope of coverage or nonrenewed until after 30 days' written notice has been given to SCRRA at the address indicated below.
- As respects operations of the named insured performed on behalf of SCRRA, the following are added as additional insured on all liability insurance policies listed above: SCRRA, its Member Agencies, Operating Railroads, its subsidiaries, officials and employees.
- It is agreed that any insurance of self-insurance maintained by SCRRA will apply in excess of and not contribute with, the insurance described above.
- SCRRA is named a loss payee on the property insurance policies described above, if any.
- All rights of subrogation under the property insurance policy listed above have been waived against SCRRA.
- Any failure by the insured to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to SCRRA, its Member Agencies, its subsidiaries, officials and employees.
- The worker's compensation insurer named above, if any, agrees to waive all rights of subrogation against SCRRA for injuries to employees of the insured resulting from work for SCRRA or use of Member Agencies premises or facilities.

CERTIFICATE HOLDER Southern California Regional Rail Authority (SCRRA) 2558 Supply Street, Pomona, CA 91767 ADDITIONAL INSURED MTA, OCTA, RCTC, SBCTA, VCTC, BNSF, UPRR, AMTRAK	AUTHORIZED REPRESENTATIVE SIGNATURE _____ TITLE _____ PHONE NO. _____
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