

**2018-0328**

**INTRODUCED BY: LARRY COCHRAN, PARISH PRESIDENT  
(DEPARTMENT OF PUBLIC WORKS)**

**ORDINANCE NO. 18-12-4**

An ordinance to approve and authorize the Parish President to execute a License for a Limited Access Road Underpass Crossing between St. Charles Parish and Illinois Central Railroad Company to utilize the underpass to access the Wetland Watchers Park in the amount of \$10.00.

**WHEREAS,** Wetland Watcher's Park is a premier learning and recreational site in St. Charles Parish facilitating the educational development of local and national students to Louisiana's wetlands; and,

**WHEREAS,** Mr. Milton Cambre, Mr. Barry Guillot, and students at Harry Hurst Middle School have formed the LaBranche Wetland Watchers which has organized and participated in numerous field day activities including planting of native vegetation, educational seminars, live Cajun music, reenactments of historical scenes, and scientific experiments; and,

**WHEREAS,** those field days helped to educate and inspire students from surrounding schools as well as those students from Harry Hurst Middle School who helped organize the events; and,

**WHEREAS,** Wetland Watcher's Park has become a premier recreational facility supporting family activities such as picnicking, fishing, crabbing, hiking, canoeing, as well as educational events; and,

**WHEREAS,** local industrial partners such as Shell and DOW have made significant donations and contributions of their resources including corporate personnel to facilitate exposing citizens, families, and students to the Louisiana wetland culture to evolve the Wetland Watcher's Park into being a premiere educational and recreational facility.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That the License for a Limited Access Road Underpass Crossing to access the Wetland Watchers Park, between St. Charles Parish and Illinois Central Railroad Company is hereby approved and accepted in the amount of \$10.00.

**SECTION II.** That the Parish President is hereby authorized to execute said License on behalf of St. Charles Parish.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

**YEAS:** HOGAN, WILSON, CLULEE, GIBBS, WOODRUFF, BELLOCK, FISHER-PERRIER  
**NAYS:** NONE  
**ABSENT:** BENEDETTO, FLETCHER

And the ordinance was declared adopted this 10th day of December, 2018 to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: [Signature]  
SECRETARY: [Signature]  
DLVD/PARISH PRESIDENT: 12-11-18  
APPROVED: [Signature] DISAPPROVED: \_\_\_\_\_  
PARISH PRESIDENT: \_\_\_\_\_  
RETD/SECRETARY: December 13, 2018  
AT: 4:10 pm RECD BY: [Signature]

RECORDED IN THE ST. CHARLES PARISH  
CLERK OF COURT OFFICE  
ON March 20, 2019  
AS ENTRY NO. 439403  
IN MORTGAGE/CONVEYANCE BOOK  
NO. 874 FOLIO 440

**LICENSE FOR A LIMITED ACCESS  
ROAD UNDERPASS CROSSING**

This License for a Limited Access Road Underpass Crossing ("Agreement"), made and entered into as of the 7 day of January, 2019, by and between the ILLINOIS CENTRAL RAILROAD COMPANY (hereinafter referred to as "Railroad Company") whose mailing address is 17641 S. Ashland Avenue, Homewood, Illinois 60430-1345 and ST. CHARLES PARISH (hereinafter referred to as "Licensee") whose mailing address is P.O. Box 302, Hahnville, Louisiana 70057.

WITNESSETH:

IN CONSIDERATION of the mutual covenants and agreements herein set forth, Railroad Company, insofar as it lawfully may, does hereby grant unto Licensee a right or license to construct, maintain and use a limited access vehicular road upon, over and across the property or right-of-way of Railroad Company (passing underneath the track bridge structure located thereon) at McComb Subdivision milepost 892.39 as shown on the print attached hereto as Exhibit A and made a part hereof,

Licensee shall pay to Railroad Company upon execution of this Agreement the sum of **\$10.00** for preparation and handling of this Agreement. Licensee shall at all times conduct its work in accordance with any and all "Special Provisions" which may be appended hereto which, by reference hereto, are hereby made a part hereof.

UPON AND SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. DEFINITIONS.

- (a) Railroad Company's Property. "Railroad Company's Property" shall mean the property shown on the attached print, to the extent owned by Railroad Company, whether owned in full ownership or as a servitude, easement, or right-of-way, including Railroad Company's track, the land on which the track is situated, and any adjacent land of Railroad Company on either side of the track.
- (b) License. "License" shall mean the right granted by Railroad Company to Licensee to construct, maintain and use a limited access vehicular road, under the terms and conditions set forth hereinafter.
- (c) License Area. "License Area" shall mean that portion of Railroad Company's Property over and across which the license is granted. The License Area extends from one edge of the Railroad Company's Property under the track to the opposite edge of the Railroad Company's Property and measures a distance of approximately 37 feet in width, all as more fully shown on the attached print.

- (d) Roadway. "Roadway" shall mean the roadway structure and appurtenances within the License Area including that portion underneath the bridge structure.
- (e) Licensee's Property. "Licensee's Property" shall mean the property or estate of Licensee to and from which this Agreement provides ingress and egress for Licensee's benefit and use.
- (f) Cost. "Cost" shall mean the actual cost of labor, outside services, equipment and materials plus Railroad Company's then current customary additives for overhead and other indirect costs.

## 2. USE.

- (a) This Agreement shall only affect and burden the License Area and no other portion of Railroad Company's Property, and the Roadway shall be constructed, located, and maintained entirely within the License Area. Licensee shall have no right to use or cross any other portion of Railroad Company's Property or to use the Roadway for any purposes other than as expressly permitted herein, and Licensee, as a further consideration, cause, and condition without which this Agreement would not have been granted, agrees to restrict its and its employees', agents' and invitees' use to those purposes and then only to said location and no other for crossing the Railroad Company's Property, including the track.
- (b) Licensee shall not do or permit to be done any act which will in any manner interfere with, limit, restrict, obstruct, damage, interrupt, or endanger Railroad Company's operations or facilities.
- (c) The Roadway shall be used only by Licensee and its employees, agents, contractors, patrons and invitees and then only for ingress to and egress from Licensee's Property.
- (d) The Roadway shall not be used by vehicles of a size, configuration or weight that would damage the bridge structure, tracks, equipment, installations, or facilities of Railroad Company or any equipment, installations, or facilities located on Railroad Company's Property but belonging to third persons unless approved in advance in writing by Railroad Company and then only after suitable precautions have been taken to avoid any such damage.

## 3. TERM.

- (a) This Agreement shall become effective as of the date first written above and shall continue in effect thereafter until terminated in one of the manners set forth below:
  - (i.) Either party may at any time give the other party written notice of termination specifying the date on which termination shall be effective, provided that such notice shall be delivered at least one

hundred and eighty (180) days in advance of the proposed date of termination.

- (ii.) Railroad Company shall have the right to terminate this Agreement immediately upon written notice to Licensee if Licensee at any time breaches or fails to perform any of the terms and conditions hereof;
- (iii.) This Agreement shall terminate in any other manner provided by law.

- (b) Unless the parties mutually agree in writing to leave the Roadway in place after termination, the termination of this Agreement shall not be effective until all removal and restoration is complete. Termination of this Agreement shall not release Licensee from any liability or responsibility and duty which accrued prior to such termination, removal and restoration.

#### 4. CONSTRUCTION.

The construction of the Roadway, including the necessary grading, culverts and drainage on each side of the Railroad Company's bridge structure, shall be performed by Licensee at its own risk and expense, and to the satisfaction of the Railroad Company's authorized representative.

NOTIFICATION TO RAILROAD COMPANY.

At least ten (10) days prior to entering upon the Roadway for the purpose of performing any construction or maintenance work hereunder, Licensee shall notify Railroad Company in writing of the type of work to be performed and the date such work will commence. The notice shall be sent to the following address:

Regional Chief Engineer  
Illinois Central Railroad Company  
17641 South Ashland Avenue  
Homewood, IL 60410

#### 5. RAISING WIRE LINES.

If it should be necessary to raise any wires on Railroad Company's property to provide safe clearance for vehicles, Licensee shall make all arrangements therefor at its own sole risk and expense.

#### 6. MAINTENANCE.

Licensee shall, at its own risk and expense, maintain said Roadway in good and safe condition commensurate with its intended use. Railroad Company shall have the right, but not the duty, to perform at Licensee's sole risk and expense, any repair or maintenance on the Roadway that Railroad Company considers reasonably necessary and Licensee shall pay the cost thereof upon

receipt of a bill whether made at Licensee's request or otherwise. Licensee shall adjust, temporarily remove and replace the Roadway, at its own risk and expense, for any required Railroad Company Bridge repairs or replacement.

7. UNAUTHORIZED USE.

It shall be Licensee's responsibility and duty to prevent all unauthorized persons from using the License Area and nothing herein shall be construed to relieve Licensee of this responsibility and duty.

8. GATES AND FLAGGING.

Licensee shall, at its own risk and expense, install and maintain any gate or other barrier which Railroad Company indicates is reasonably necessary and shall keep the gates closed when the License Area is not in actual use. Licensee shall, at its own risk and expense, provide whatever protective services Railroad Company shall indicate is necessary. Railroad Company shall have the right, but not the duty, to provide any such protection at Licensee's sole risk and expense and Licensee shall prepay the cost thereof. It is further understood and acknowledged by Licensee that Railroad Company has no obligation or duty to determine the need for any gate or other barrier or the need for protective services.

9. SIGNS, SIGNALS AND WARNING DEVICES.

Licensee acknowledges that Railroad Company has no obligation or duty to give audible warning of the approach of a train, nor erect whistle posts, nor reduce the speed of its trains, nor alter its operations in any manner, owing to the presence or existence of the roadway or other use or exercise of the right or license granted herein. Licensee assumes, at its own risk and expense, sole responsibility for determining if any additional signs, signals or other warning devices are necessary or appropriate for the safety of persons using the License Area and specifically acknowledges that Railroad Company has no obligation or duty whatever to make any such determination. If the installation of any signs, signals or warning devices on the License Area is presently or hereafter required by Railroad Company, law or by competent public authority, or is otherwise requested by Licensee, same shall conform to any then currently applicable practices of the Railroad Company for such devices as to design, material and workmanship and all costs incurred by the Railroad Company related to the installation, operation, maintenance, renewal, alteration and upgrading thereof shall be solely borne by Licensee.

**10. INDEMNITY.**

AS A FURTHER CONSIDERATION FOR THE LICENSE HEREIN GRANTED, AND AS A CONDITION WITHOUT WHICH THE LICENSE WOULD NOT HAVE BEEN GRANTED, LICENSEE AGREES TO THE FULLEST EXTENT ALLOWED BY LAW, REGARDLESS OF ANY NEGLIGENCE OR OTHER LEGAL FAULT BY OR ON THE PART OF RAILROAD COMPANY OR ITS OFFICERS, EMPLOYEES OR AGENTS, FULLY TO DEFEND, INDEMNIFY AND SAVE HARMLESS RAILROAD COMPANY AND ITS OFFICERS, EMPLOYEES AND AGENTS, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION, AND TO ASSUME ALL RISK, RESPONSIBILITY AND LIABILITY (INCLUDING ALL LIABILITY FOR EXPENSES, ATTORNEY'S FEES AND COSTS INCURRED OR SUSTAINED BY RAILROAD COMPANY, WHETHER IN DEFENSE OF ANY SUCH CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION OR IN THE ENFORCEMENT OF THE INDEMNIFICATION RIGHTS HEREBY CONFERRED),

- (A) FOR DEATH OF OR INJURY TO ANY AND ALL PERSONS, INCLUDING BUT NOT LIMITED TO THE OFFICERS, EMPLOYEES, AGENTS, PATRONS, INVITEES AND LICENSEES OF THE PARTIES HERETO, AND FOR ANY AND ALL LOSS, DAMAGE OR INJURY TO ANY PROPERTY WHATSOEVER, INCLUDING BUT NOT LIMITED TO THAT BELONGING TO OR IN THE CUSTODY AND CONTROL OF THE PARTIES HERETO, IN WHOLE OR IN PART ARISING FROM, GROWING OUT OF, OR IN ANY MANNER OR DEGREE DIRECTLY OR INDIRECTLY CAUSED BY, ATTRIBUTABLE TO OR RESULTING FROM THE GRANT OR EXERCISE OF THIS LICENSE, THE FAILURE OF LICENSEE TO CONFORM TO THE CONDITIONS OF THIS AGREEMENT, WORK PERFORMED BY RAILROAD COMPANY FOR LICENSEE UNDER THE TERMS OF THIS AGREEMENT, WORK PERFORMED BY LICENSEE UNDER THE TERMS OF THIS AGREEMENT, OR FROM THE CONSTRUCTION, INSTALLATION, MAINTENANCE, REPAIR, RENEWAL, ALTERATION, CHANGE, RELOCATION, EXISTENCE, PRESENCE, USE, OPERATION OR REMOVAL OF ANY STRUCTURE INCIDENT THERETO, AND
- (B) FOR DEATH OF OR INJURY TO THE OFFICERS, EMPLOYEES, AGENTS, PATRONS, INVITEES AND LICENSEES OF LICENSEE AND FOR ANY AND ALL LOSS, DAMAGE OR INJURY TO THEIR PROPERTY, AND TO ANY PROPERTY BELONGING TO OR IN THE CARE, CUSTODY OR CONTROL OF LICENSEE, IN WHOLE OR IN PART ARISING FROM, GROWING OUT OF, OR IN ANY MANNER OR DEGREE DIRECTLY OR INDIRECTLY CAUSED BY, ATTRIBUTABLE TO OR RESULTING FROM THE CONDUCT OF ANY RAILROAD OPERATIONS AT OR NEAR THE AREA IN WHICH THE HEREIN CONFERRED LICENSE IS GRANTED OR EXERCISED.

IT IS THE INTENTION OF THE PARTIES HERETO THAT LICENSEE SHALL BY SOLELY RESPONSIBLE FOR ALL SUCH DESTRUCTION OR DAMAGE TO PROPERTY OR FOR PERSONAL INJURY TO OR DEATH OF ANY

**PERSONS WHICH WOULD NOT HAVE OCCURRED IF SUCH PRIVATE ROAD CROSSING HAD NEVER BEEN CONSTRUCTED OR USED.**

**LICENSEE SHALL AT ITS SOLE EXPENSE JOIN IN OR ASSUME, AT THE ELECTION AND ON DEMAND OF RAILROAD COMPANY, THE DEFENSE OF ANY CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION HEREUNDER ARISING. THE WORD "RAILROAD COMPANY" AS USED IN THIS SECTION SHALL INCLUDE THE ASSIGNS OF RAILROAD COMPANY AND ANY OTHER RAILROAD COMPANY THAT MAY BE OPERATING UPON AND OVER THE TRACKS CROSSING THE LICENSE AREA.**

**11. INSURANCE.**

Licensee shall procure and maintain during the life of this Agreement COMMERCIAL LIABILITY INSURANCE which will insure the indemnity undertaking hereinabove set forth. Such insurance shall have a minimum combined single limit of \$5,000,000 per occurrence with an aggregate limit of \$10,000,000 per annual policy period and said insurance shall be deemed primary as it relates to this Agreement. Licensee shall furnish the Railroad Company at the address shown below in this Section with a certificate evidencing that such insurance is in full force and effect and that the same will not be cancelled, terminated, or not renewed without at least thirty (30) days advance written notice by the insurance carrier to the Railroad Company. Such insurance shall include a complete waiver of subrogation by the insurer, a removal of any railroad exclusion through issuance of endorsement CG 24 17, and inclusion of the Railroad Company as an additional insured. In addition to other information, the certificate shall contain the following language:

Notwithstanding anything contained therein to the contrary, the Commercial Liability Insurance hereinabove referred to is extended to specifically insure the indemnity obligations assumed by \_\_\_\_\_ under Section 13 of an Agreement dated \_\_\_\_\_ with Illinois Central Railroad Company covering use of Railroad Company's Property for a private road crossing. Insurer shall not cancel, terminate, or allow to lapse by reason of nonrenewal the policy without providing Illinois Central Railroad Company at least thirty (30) days' advance written notice, said notice to be sent via certified mail to:

Regional Chief Engineer  
Illinois Central Railroad Company  
17641 Ashland Avenue  
Homewood, Illinois 60430-1345

12. REMOVAL OF ROADWAY AND CROSSING PROPER.

Prior to termination of this Agreement, Licensee shall remove its Roadway from Railroad Company's Property and restore the Railroad Company's Property, as near as may be, to its former condition insofar as such restoration may in the opinion of Railroad Company's duly authorized representative be practical, all at Licensee's sole risk and expense. If Licensee fails to so remove and restore, Railroad Company shall have the right, but not the obligation, to do so at Licensee's sole risk and expense. Upon termination, Railroad Company shall have the right, but not the duty, to remove the Roadway and to restore the Railroad Company's Property, all at Licensee's sole risk and expense. Licensee shall pay the cost of any work performed by Railroad Company upon presentation of a bill. ASSIGNMENT.

Licensee shall not have the right to assign this Agreement without first obtaining the consent in writing of the Railroad Company, which consent will not be unreasonably withheld.

13. TAXES.

The Licensee shall pay all taxes, general and special, license fees or other charges which may become due or which may be assessed against the premises of the Railroad Company because of the construction, existence, operation or use of said Roadway and Crossing Proper, or the business conducted in connection with said facility, and shall reimburse the Railroad Company for any such taxes, license fees or other charges which may be paid by the Railroad Company upon the presentation of bills therefor.

14. BILLS.

All bills submitted by the Railroad Company to Licensee pursuant to the terms of this Agreement shall be paid by Licensee within thirty (30) days of receipt thereof.

15. ENFORCEABILITY.

In the event that any parts, sections or other portions of this Agreement are found unenforceable under the applicable law of any courts having jurisdiction over this Agreement, the remaining parts, sections or other portions thereof and the enforcement of same shall not be affected and shall otherwise remain in full effect and enforceable.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the date first above written.

ILLINOIS, CENTRAL RAILROAD COMPANY

By 

Chad A. Anderson

Regional Chief Engineer Regional Chief

ST. CHARLES PARISH

By 

Larry Cochran

Parish President

## SPECIAL PROVISIONS

### RELATIVE TO FLAGGING AND OTHER PROTECTION OF RAILROAD COMPANY TRAFFIC AND FACILITIES DURING CONSTRUCTION ADJACENT AND ABOVE, ON OR ACROSS, THE PROPERTY OF, OR ON, ABOVE AND BENEATH THE TRACKS OF THE CHICAGO, CENTRAL & PACIFIC RAILROAD COMPANY

The Licensee shall, before entering upon the property of Railroad Company for performance of any work, secure a fully executed right of entry license from Railroad Company's Engineering Manager or their authorized representative for the occupancy and use of Railroad Company's property. Licensee shall confer with Railroad Company relative to requirements for railroad clearances, operation and general safety regulations.

Prior to any entry onto Railroad Company's property, employees and/or contractor(s) of Licensee doing work shall determine by the guidelines hereinafter provided and by the work to be performed the level of safety training to be required.

All employees and/or contractor(s) of Licensee not hired by Railroad Company that will work on CN property are required to have minimum [www.contractororientation.com](http://www.contractororientation.com).

- a. EXCEPTION: Railroad Company has exempted those it classifies as "Delivery Persons" from this training. This will include contractors such as UPS, FedEx, trucking companies, etc. who merely access the property to supply materials or equipment.

All employees and/or contractor(s) of Licensee hired by Railroad Company which will work on Railroad Company property are required to have minimum CN Safety and Security Awareness training, in addition to undergoing a background check. This training and background check must be obtained through the eRailSafe.com website. If not done before, the contractor must contact CN Special Agent James Conroy at 708-332-5947 or James.Conroy@cn.ca to be issued a vendor number prior to accessing the noted website. Minimum information required of the Licensee and/or their contractor when contacting either Special Agent James Conroy or e-RailSafe is Name, Address, Telephone, Contact Person for State Projects, DOT Contract Number, and the AAR/DOT Number. This training is good for a period of two years.

- a. EXCEPTION: Railroad Company has exempted those employees of contractors providing paving services at a road crossing under construction or repair from this requirement.
- b. EXCEPTION: Railroad Company has exempted those it classifies as "Delivery Persons" from this training. This will include contractors such as UPS, FedEx, trucking companies, etc. who merely access the property to supply materials or equipment.

All employees and/or contractor(s) of Licensee hired by Railroad Company, whose duties include and who are engaged in the inspection, construction, maintenance, or repair of railroad track, bridges, roadway, signal and communication systems, roadway facilities, or roadway machinery that will work foul of or have the potential to foul a live track are considered Roadway Workers under FRA regulations and CN Policy. They must complete the On-Track Safety Training course approved by Railroad Company and provided by R.R. Safety – AMR, P.O. Box 75, Lomira, WI 53048, telephone (920) 517-1677, email [rrsafetytraining@yahoo.com](mailto:rrsafetytraining@yahoo.com). This training must be repeated at least once each calendar year.

- a. EXCEPTION: Railroad Company has exempted those employees of contractors providing paving services at a road crossing under construction or repair from this requirement.
- b. EXCEPTION: Railroad Company has exempted those it classifies as "Delivery Persons" from this training. This will include contractors such as UPS, FedEx, trucking companies, etc. who merely access the property to supply materials or equipment.
- c. All the employees and/or contractor(s) of Licensee who will operate on-track machinery or those who will provide protection for other employees and/or contractor(s) of Licensee must also be trained on CN US Operating Rules pertaining to their duties. They must take and pass the required examination. This training is good for a period of two years.
- d. "Potential to foul a live track" is considered, at a minimum, to be working within twenty-five feet of the track; or as otherwise to be determined by CN Design & Construction Department.

The employees, contractor(s) , and/or agents of the Licensee and/or its contractor shall qualify for, and make available for inspection to Railroad Company's employees or other authorized personnel at all times while on Railroad Company property, a photo identification issued by [www.e-railsafe.com](http://www.e-railsafe.com), along with at least one other government-issued form of identification. Licensee and/or their contractor shall bear all costs of compliance with the requirements of this Section. Railroad Company reserves the right to bar any of employees or agents of Licensee and/or their contractor from Railroad Company's property at any time for any reason.

Licensee and/or any contractor engaged on their behalf, shall at all times conduct work in a manner satisfactory to the Engineering Manager of Railroad Company, or their authorized representative, and shall exercise care so as to not damage the property of Railroad Company, or that belonging to any other grantees, licensees, permittees or tenants of Railroad Company, or to interfere with railroad operations.

Engineering Manager of Railroad Company, or their authorized representative, will at all times have jurisdiction over the safety of railroad operations., The decision of the Engineering Manager or their authorized representative as to procedures which may affect the safety of railroad operations shall be final, and Licensee and/or their contractor shall be governed by such decision.

All work shall be conducted in such a manner as will assure the safety of Railroad Company. Railroad Company's authorized representative shall have the right, but not the duty, to require certain procedures to be used or to supervise the work on Railroad Company's property.

Should any damage occur to Railroad Company property as a result of the authorized or unauthorized operations of Licensee and/or their contractor and Railroad Company deems it necessary to repair such damage or perform any work for the protection of its property or operations, the Licensee and/or their contractor, as the case may be, shall promptly reimburse Railroad Company for the actual cost of such repairs or work. For the purpose of these Special Provisions, actual cost shall be deemed to include the direct cost of any labor, materials, equipment, or contract expense plus Railroad Company's current standard additives in each instance.

If the work requires the construction of a temporary grade crossing across the track(s) of Railroad Company, Licensee and/or their contractor shall make the necessary arrangements and execute Railroad Company's temporary grade crossing agreement for the construction, protection, maintenance, and later removal of such temporary grade crossing. The cost of such

temporary grade crossing construction and later removal shall be prepaid to Railroad Company. Additional costs for repairs, maintenance or protection will be paid within thirty (30) days upon receipt of bill(s) therefor.

Licensee and/or their contractor shall at no time cross Railroad Company's property or tracks with vehicles or equipment of any kind or character, except at such temporary grade crossing as may be constructed as outlined herein, or at any existing and open public grade crossing. Operation over such crossing shall be at the direction and method of Railroad Company's Engineering Manager or their authorized representative.

Railroad Company may, at Licensee's and/or their contractor's sole cost, risk and expense, furnish whatever protective services it considers necessary, including, but not limited to, flagger(s), inspector(s), and stand-by personnel. Flagging protection, inspection services, or standby personnel required by Railroad Company for the safety of railroad operations because of work being conducted by Licensee and/or their contractor, or in connection therewith, will be provided by Railroad Company and the cost of Licensee and shall be prepaid to Railroad Company by Licensee and/or their contractor. Flagging protection, inspection services, or standby personnel, necessary or provided in excess of prepayment amounts will be billed at the proper rates and will be promptly paid by overnight delivery.

In the event Railroad Company is unable to furnish protective services at the desired time or on the desired date(s), or if Licensee's prepayment for such services is exhausted and not replenished by Licensee and/or their contractor, Licensee and/or their contractor shall not perform any work on Railroad Company's property until such time and date(s) that appropriate Railroad Company services can be made available and/or appropriate prepayment is received. It is understood that Railroad Company shall not be liable for any delay or increased costs incurred by Licensee and/or their contractor owing to Railroad Company's inability or failure to have appropriate protective services available at the time or on the date requested.

Licensee and/or their contractor shall request and secure flagging protection by written notice to Railroad Company using CN's "Request for Flagging Services" form. This form must be submitted at least ten (10) working days in advance of proposed performance of any work or access to Railroad Company's property.

Flagging protection will be required during any operation involving direct and potential interference with Railroad Company's tracks or traffic. This may include but is not limited to fouling of railroad operating clearances, reasonable proximity of accidental hazard to railroad traffic, work within twenty-five (25) feet horizontally of the nearest centerline of any railroad track, any work over any railroad track, or in any other condition that Railroad Company deems protective services necessary, which may include work on or off Railroad Company's property more than twenty-five (25) feet from the nearest centerline of any railroad track, such as any equipment extension (including but not limited to a crane boom) that will reach or has the potential to reach within twenty-five (25) feet of any track.

Licensee and/or their contractor shall request, prepay, and secure Railroad Company signal facility locates by written notice to Railroad Company along with submission of CN's "Request for Flagging Services" form at least ten (10) working days in advance of proposed performance of any work or access to Railroad Company property. Notice to Railroad Company does not fulfill or satisfy any other notification requirements for utility locates for non-railroad facilities.

Railroad Company may require that prior to digging, trenching, or boring activities on or near Railroad Company property, or beneath any railroad track, an on-site meeting be conducted with Railroad Company's Signal Department representative. No digging, trenching or boring activities shall be conducted in the proximity of any known buried Railroad Company signal cables without Railroad Company's Signal Department representative being present.

The rate of pay for Railroad Company employees will be the prevailing hourly rate for not less than eight (8) hours for the class of labor at regular rates during regularly assigned work hours, and at overtime rates outside of regular hours and in accordance with Labor Agreements or Schedules plus Railroad Company's current standard additives in each instance.

Wage rates are subject to change, at any time, by law or agreement between Railroad Company and employees, and may be retroactive because of negotiations or a ruling by an authorized Governmental Agent. If the wage rates are changed, Licensee and/or their contractor shall pay on the basis of the new rates and/or additives.

No digging, trenching, or boring on Railroad Company property shall be conducted without Railroad Company's written approval of the plans that were furnished to Railroad Company's Engineering Manager at least thirty (30) in advance of the excavation.

The following temporary clearances are the minimum that must be maintained at all times during any operation on or adjacent to Railroad Company property:

Vertical: 22'-0" (7.00 m) above top of highest rail within 12'-0" (3.81 m) of the centerline of any track


Horizontal: 12'-0" (3.81 m) from centerline of the nearest track, measured at right angles thereto

If lesser clearances than the above are required for any part of the work, Licensee and/or their contractor shall secure written authorization from Railroad Company's Engineering Manager for such lesser clearances in advance of the start of that portion of the work.

No materials, supplies, or equipment will be stored within twenty-five (25) feet from the centerline of any railroad track, measured at right angles thereto.

Licensee and/or their contractor will be required upon the completion of the work to remove from within the limits of Railroad Company's property all machinery, equipment, surplus materials, false work, rubbish or temporary buildings, and to leave said property in a condition satisfactory to the Engineering Manager of Railroad Company or their authorized representative.

Nothing in these Special Provisions shall be construed to place any responsibility on Railroad Company for the quality or conduct of the work performed by Licensee and/or their contractor hereunder. Any approval given or supervision exercised by Railroad Company hereunder, or failure of Railroad Company to object to any work done, material used, or method of operation shall not be construed to relieve Licensee and/or their contractor of any obligations pursuant hereto or under the License these Special Provisions are appended to.

Accepted:  \_\_\_\_\_

Print Name: Larry Cochran

# Request for Flagging Services and Cable Location U.S.

Requests and inquiries must be directed to:  
**Flagging-US**  
17641 South Ashland Ave.  
Homewood, IL 60430  
Flagging\_US@CN.CA

Is this a continuation of an existing project? Yes  No

If YES, please provide your Service Order # \_\_\_\_\_

All blanks below must be completely filled in before any flagman request will be honored.

**Work Authorization:**

Right of Entry/License/Permit No.: \_\_\_\_\_ Dated: \_\_\_\_\_ Railroad: \_\_\_\_\_

Does your Right of Entry/License/Permit require a Railroad Cable Locate? Yes  No

*You must have an agreement with a CN railroad subsidiary, such as a Right of Entry, Permit, License or Formal Agreement in addition to any necessary flagging before you may enter CN property.*

**Project Information:**

*Please submit a detailed map of the location where protection is being requested.*

Street Location/Intersection \_\_\_\_\_ City/State \_\_\_\_\_

Railroad Milepost \_\_\_\_\_ Railroad Subdivision \_\_\_\_\_

Description of work being performed: \_\_\_\_\_

Location for flagman to report: \_\_\_\_\_

Name of Site Contact: \_\_\_\_\_ Site Contact Phone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_ Alt: (\_\_\_\_) \_\_\_\_ - \_\_\_\_

**Requested Dates/Times:**

*Dates requested are subject to flagman availability. Minimum 5 business days advance notice required.*

Requested Dates for Flagging Protection: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

Project Starting time: \_\_\_\_\_ Anticipated Ending Time: \_\_\_\_\_ Anticipated # Hours per Day: \_\_\_\_\_

\*Flagmen start and end time may vary based on type of protection required.

**Billing Information:**

*All blanks spaces must be filled out*

Company Name: \_\_\_\_\_ Requestor Name: \_\_\_\_\_

Billing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Company Phone: \_\_\_\_\_ Company Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**CN required online training must be completed before Flagman Protection will be scheduled.**

Prepayment must be received before Flagging Protection will be scheduled. There is an 8 hour minimum per day. The base rate per day for Flagman Protection is \$1,300.00 for 10 hours; this includes 2 overtime hours for flagman to set up/take down protection if needed. Additional overtime hours must be prepaid at the rate of \$150.00 per hour. Weekends and Holidays must be prepaid at the overtime rate with a \$1,500.00 / 10 hour minimum. Any prepayment for additional days or overtime not used can be refunded.

Railroad Cable Location must be prepaid, the cost is \$350.00 per locate.

Separate Checks must be issued for Flagging Protection and Cable Location. Checks should be made payable to the railroad subsidiary listed on your Right of Entry/Permit/License or, Formal Agreement.

If additional days of protection are required they must be prepaid in advance.

Rates Effective January 1<sup>st</sup> 2017.

**THIS COMPLETED FORM MUST BE SENT WITH A MAP, PREPAYMENT CHECK(S), AND PROOF OF INSURANCE TO:  
US-FLAGGING / 17641 SOUTH ASHLAND AVE. HOMEWOOD, IL 60430**

I agree to pay for flagging services as requested: \_\_\_\_\_  
(SIGN AND PRINT NAME)

EXHIBIT A

