

CDFA # \_\_\_\_\_

12<sup>TH</sup> Street to 15<sup>th</sup> Street  
42 inch SSP Culvert

STATE OF MISSOURI     §

KCSR Contract No. \_\_\_\_\_

COUNTY OF JASPER     §

**CITY OF JOPLIN**

**RAILROAD AGREEMENT**

THIS AGREEMENT, made and entered into on the date hereinafter shown as being fully executed, by and between the **City of Joplin**, hereinafter called "**COJ**", and **The Kansas City Southern Railway Company**, hereinafter called the "**Railroad**", acting by and through their official contracting officers. (COJ and Railroad being each individually referred to herein as a "Party" or together as "Parties").

**W I T N E S S E T H**

WHEREAS, to improve the safety of the traveling public by reducing the risk of flooding, the COJ proposes to install one 42 inch diameter Smooth Steel Pipe (SSP) under the tracks of the Railroad all with a portion of the pipe being within the KCS ROW. Said facilities are hereinafter referred to as the **Storm Drainage Improvements**. The portion of the work that pertains to passage of said facilities under Railroad's tracks and across the Railroad's right-of-way is hereinafter identified as the "**Project**" as shown on the prints marked **Exhibit A** attached hereto and made a part hereof;

WHEREAS, the Project is located 430 feet south of the intersection of 12<sup>th</sup> Street and Railroad's tracks in the City of Joplin, Jasper County, Missouri at Railroad Station 8205+80 and Railroad Milepost K155.4 on the Heavener Subdivision; and,

WHEREAS, all work to be performed and all materials to be provided shall be at COJ's sole expense unless specifically stated otherwise herein.

**A G R E E M E N T**

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the Parties to be by them respectively kept and performed, as hereinafter set forth, it is agreed as follows:

**ARTICLE 1. AGREEMENT PERIOD**

Upon execution by all Parties, this **Agreement** will be in effect and continue thereafter for so long as the Project shown on **Exhibit A** shall be used for the purposes set forth herein; provided, however, if the COJ shall abandon the use of the Storm Drainage Facilities within the Railroad's property, or any part thereof, for such purposes, this license and permission and the rights and privileges granted hereby as to the portion or portions so abandoned shall expire and terminate at the time each such portion shall be so abandoned; whereupon the Railroad shall have the same complete title to the Railroad premises so abandoned as though these presents had never been executed, and

Railroad shall have the right to enter thereon and exclude therefrom the COJ, its successors, and assigns. The COJ's failure to maintain a physical presence of its employees at the Project location shall not be considered as evidence of COJ's desire to abandon the use of the Storm Drainage Facilities.

## **ARTICLE 2. LICENSE & PERMISSION**

a. The Railroad hereby grants license and permission to the COJ to construct, use and maintain Storm Drainage Improvements within the Railroad's Right-of-Way according to the final plans attached hereto as **Exhibit A**. The construction, use, maintenance and removal of the Storm Drainage Improvements will be at the sole cost and expense of the COJ.

b. In consideration of Railroad's plan review, agreement preparation and site inspections of the Project and the issuance of this license, the COJ shall pay Railroad a **non-refundable lump sum fee of Five Thousand and no/100 Dollars (\$5,000.00)** at the time of execution of this Agreement.

c. The license and permission given by this Agreement is subject to the rights of utility companies to maintain poles and operate wire and fiber optic lines on and over Railroad's premises. The COJ will make its own arrangements with the utility companies for any necessary relocation or alteration of any existing utility facilities at the Project location.

d. No legal right which the Railroad now has to reconstruct, maintain, and operate its existing track and appurtenances or to construct, maintain, and operate additional track or tracks and appurtenances upon and across the Railroad premises shown on Exhibit A shall in anywise be affected by the giving of this license. If the proposed Storm Drainage Improvements as authorized by this Agreement at any time substantially conflict, interfere with, inhibit or prevent any work intended by the Railroad in furtherance of its operation as a railroad, the COJ shall modify the Storm Drainage Improvements at the Project site as required to accommodate Railroad's work at COJ's own sole cost with work commencing within 30 days of receiving a written notice from the Railroad. If, at any time, the operation of the Storm Drainage Improvements or the failure of same prevents the operation of trains on Railroad's track, COJ shall immediately repair said Improvements or remedy said failure. If COJ fails to do so, Railroad shall have the right, but shall not be required, to make such repairs itself and to bill COJ therefor.

e. It is agreed that should the property or any portion thereof, which is licensed hereunder, cease to be used for Storm Drainage Improvements, this license, as to the portion so abandoned, shall immediately cease and terminate.

f. This permission is granted solely for the purposes of the COJ, at its sole cost and expense, for the proposed work as shown in the final plans for the Project contained in **Exhibit A**, and is expressly subject and subordinate to the rights stated in paragraph 2.c and 2.d above and to the present and future rights of the Railroad, its successors, assignees, lessees, grantees and licensees, to maintain, use, operate, and renew on, beneath, or above the surface of the Railroad premises any telephone, telegraph, power, communication, or signal lines, poles and/or appurtenances, fiber optic communications, tracks, roadways, pipelines, structures, improvements, or facilities of similar or different character, as now located, and to construct, install, establish, and thereafter maintain, use, operate, and to renew on, beneath, or above the surface of the Railroad premises, any or all said things, provided the same do not interfere with the COJ's use of the Railroad premises as hereinabove provided. For the avoidance of doubt, nothing stated in this license in any way restricts the right of

Railroad, its successors or assigns to maintain or expand railroad facilities at the site of the Project.

### **ARTICLE 3. SCOPE OF WORK**

a. The COJ agrees to perform the work as shown on the final plans attached as **Exhibit A**. The work will generally consist of constructing the Storm Drainage Improvements as shown in **Exhibit A** and shall include, but is not limited to, the following:

- i. Install one 42" diameter Smooth Steel Pipe under the Railroad's tracks and across the Railroad's premises;
- ii. Restoration of the Railroad's property to its current or better conditions.

b. In order to provide for the safety of rail traffic, the COJ shall provide Railroad-approved flaggers during the period of performance of work in or incident to the proposed Project. No work shall be performed without the presence of Railroad-approved flagger. COJ shall notify the Railroad a minimum of thirty (30) days in advance whenever it is about to perform work within twenty-five feet (25') of any track to enable the Railroad to furnish inspectors or Railroad personnel as might be necessary to ensure safety of railroad operations.

### **ARTICLE 4. PLANS, ESTIMATES, CONSTRUCTION, AND MAINTENANCE**

a. **Exhibit A** contains the final plans for the Project. No changes to such final plans and specifications shall be made without the written approval of such changes by the COJ and the Railroad. Approval of said changes shall not be unreasonably denied.

b. COJ shall not commence any work on Railroad's property involving any change to plans contained in **Exhibit A** until such change to the plans has been approved in writing by the Railroad.

c. The COJ, and its Contractor and subcontractor(s) (collectively referred to herein as Contractor), shall make only those changes or alterations as noted or specified in **Exhibit A**, in the communication, and signal pole and wire lines, pipe sewer and drainage, or other facilities or buildings located upon the Railroad's right-of-way, which may be displaced or required by the construction of the Project, as may be necessary to maintain continuous service and conform them to said construction and restore them to former condition for service either prior to, during, or following construction of said work. All Railroad facilities shall remain fully functional continuously throughout the Project unless specifically approved in writing by the Railroad. In particular, COJ shall accomplish the Project without damaging the 2.8' x 2.5' RCB shown on **Exhibit A** (the "RCB"), so as to allow the RCB to function in tandem with the Storm Drainage Improvements once said Improvements are installed.

d. COJ shall be responsible to pay Railroad's actual costs for any adjustment of signal facilities required to facilitate the construction of the Project.

e. Inspection: Railroad reserves the right to inspect the Project during construction and at any time afterwards. After the Project has been completed and accepted by the Railroad, COJ shall inspect the Storm Drainage Improvements periodically and at least not less often than once per year.

COJ shall advise Railroad of the condition of the Storm Drainage Improvements revealed by inspection by mailing COJ's report of said inspection to Railroad at the following address:

Mr. Sri Honnur, P.E.  
Engineering Department  
The Kansas City Southern Railway Company  
427 West 12<sup>th</sup> Street, Kansas City MO 64105  
Ph: 816-983-1138  
Email: [Shonnur@KCSouthern.com](mailto:Shonnur@KCSouthern.com)

If substantial deficiencies are found in the Storm Drainage Improvements or to the RCB at any time during the Project or at any time afterwards, COJ shall promptly make necessary repairs to same. All such repairs shall be done in accordance with plans and specifications shown in Exhibit A. Any work that would deviate from the plans and specifications in Exhibit A must be submitted to the Railroad for prior approval, and COJ shall not do any work until such work has been reviewed and approved by the Railroad. All costs associated with such repairs shall be at the sole cost of the COJ.

In the event of COJ's failure to do so, repairs may be made by Railroad at COJ's expense, which actual cost COJ expressly agrees to pay within 30 (thirty) days upon presentation of the bill. The COJ shall reimburse the Railroad for repair of Railroad's existing facilities at this location if at any time the railroad embankment settles due to the construction activities of the Project.

f. The COJ's Contractor shall execute the Railroad's then-current Contractor's Right-of-Entry Agreement before commencing any work on the Railroad's property. A Right of Entry Agreement can be obtained by visiting the website <https://kcspermit.jllrpg.com> and submitting the permit application along with required application fees, plans, insurance, etc. Only after execution of this Right of Entry Agreement, shall the Contractor proceed with the construction.

g. The COJ and its Contractor shall furnish material for and perform the work to be done for the Project in accordance with **Exhibit A** and any changes thereto approved in writing by COJ and the Railroad. The COJ and the Contractor shall construct the facilities on the Railroad's right-of-way as shown on the plans and in accordance with approved specifications and shall maintain or arrange for the maintenance of these facilities. All track materials, when not supplied by the Railroad, shall be in accordance with Railroad specifications which will be supplied upon request.

h. Contractor Plans and Procedures: Before performing any excavation, demolition, blasting, lifting of structural members or construction of falsework on or over Railroad's ROW or adjacent to the Railroad's ROW that may interfere with the safe operation of trains, the Contractor shall submit its excavation, shoring, demolition, blasting, lifting of structural members and falsework plans and relevant procedures to the Railroad's designated engineer for the Project ("Railroad Engineer") for review and approval. These plans and procedures shall be signed and sealed by a Professional Engineer licensed in the State of Missouri. However, such approval shall not relieve the Contractor from any liability relating to this Project. During the course of the Project, the Contractor shall submit any proposed changes to the approved plans and procedures to the Railroad Engineer for review and approval. Any clearing and grubbing to increase the sight distance for safer construction operation, or erection of temporary structures within the Railroad property shall not be done prior to the approval of the Railroad. Should the Railroad Engineer deny the plans and require a resubmittal, the Railroad Engineer shall provide approval or denial and requirement for resubmittal after receipt of the revised

plans.

i. The Contractor shall be required to take special precautions and care in connection with excavating and shoring. Excavations for construction of footings, piers, columns, walls or other facilities that require shoring shall comply with requirements of OSHA, AREMA, and Section IV, Design and Construction of Shoring Adjacent to and on Railroad Right-of-Way contained within the "KCS Guidelines for the Design and Construction of Railroad Overpasses and Underpasses".

j. The Contractor shall abide by the following minimum temporary clearances during the course of construction.

- i. 14.0 feet horizontal from centerline of track
- ii. 22.0 feet vertical above top of the highest rail

k. The COJ shall give the Railroad at least thirty (30) days written notice prior to commencement of any work hereunder. In addition to the office review of construction submittals, site inspections may be performed by Railroad's Designated Representative at milestone events during construction, including but not limited to the following:

- i. Preconstruction meetings.
- ii. All work relevant to the project including excavations, shoring placement/removal, pile driving, drilling of caissons, drilled shafts, etc. adjacent to tracks.
- iii. Reinforcement and concrete placement for near track piers.

l. COJ assumes the entire responsibility for maintenance of the Storm Drainage Improvements and the RCB during and after construction of the Project. For future maintenance work, the Railroad, under terms of this Agreement, gives the COJ permission to enter the Railroad right-of-way to perform routine maintenance and/or emergency work as required. If the maintenance work is being performed by COJ's Contractor, then that Contractor shall be required to execute the Railroad's then-current Contractor's Right-of-Entry Agreement before commencing any work on the Railroad's property. Entry upon Railroad's right of way for future maintenance work is subject to the Railroad Flagging requirements stated in paragraph n, below.

m. The COJ agrees to require the Contractor to notify Railroad prior to entering Railroad's property to perform the Project, any preparatory work for the Project, and any maintenance or inspection of the Storm Drainage Improvements after the Project is complete. Nothing contained herein shall ever be construed to place upon the Railroad any manner of liability for injury to or death of persons, or for damage to or loss of property arising from or in any manner connected with the construction, maintenance, or use of the portion of said Storm Drainage Improvements located upon the Railroad's property.

n. Railroad Flagging: Except as authorized in writing by the Railroad, the Contractor shall not work within the "Minimum Clearance Zone" of any track. The "Minimum Clearance Zone" is defined as an area measured 25 feet, horizontally, on either side of or perpendicular to the centerline of the track, with unlimited vertical distance within the horizontal limits. Additionally, COJ's Contractor will locate all equipment, devices, and materials at a sufficient distance from any track to ensure that no apparatus or part of any equipment, device, or material, such as the boom of a crane or a dragline, could under any circumstances encroach on the "Minimum Clearance Zone" of any track.



A railroad flagger will also be required when any equipment or its attachment or booms, even though stationed outside the Minimum Clearance Zone but within the Railroad's property, has a potential to come within the 25 feet of the nearest rail.

It is understood that the COJ will contract out the work to be performed, as referred to herein, to an independent contractor and in the contract therewith shall specify that it shall be the Contractor's responsibility to contact the Railroad-approved flagging companies to obtain flagging services that will be required during the course of this Project. Such specification shall not, however, relieve COJ of its responsibility to assure that its Contractor complies with such specification.

COJ or its Contractor will be responsible for all flagging expenses and for arranging the necessary flagging associated with the Project and while performing inspections and repairs to the Storm Drainage Improvements now or in future. Arrangements for flagging protection can be made by contacting an approved Railroad-qualified flagging contractor at least thirty business days in advance of the commencement of work on or under Railroad's property or as required by the Right of Entry Permit. A list of Railroad – qualified flagging contractors may be obtained from:

Mr. Sri Honnur, P.E.  
Engineering Department  
The Kansas City Southern Railway Company  
427 West 12<sup>th</sup> Street, Kansas City, MO 64105  
Ph: 816-983-1138  
Email: [Shonnur@KCSouthern.com](mailto:Shonnur@KCSouthern.com)

Railroad's designation of a company or individual as a "qualified" flagger or flagger provider shall be construed solely as Railroad's willingness to allow said individual or entity to provide flagging services on Railroad's property without further proof of qualification, and shall not be construed as an endorsement or other verification by Railroad of the abilities or qualifications or said flagger or flagger provider. All flaggers provided hereunder shall be treated solely as independent contractors of COJ or its Contractor for all purposes hereunder, with no relationship to Railroad. COJ and its agents, employees and Contractor will clear the tracks when directed to do so by the flagger. The presence of the flagger will not relieve COJ or its Contractor of their duty to keep all of their agents, employees and contractors clear of the tracks when trains are in dangerous proximity to the Project area.

o. Railroad Safety Training: All employees and supervisors of COJ and its Contractor who will perform work on the Storm Drainage Improvements within Railroad's property, except any personnel employed or assigned by a Railroad-qualified flagging contractor, shall be trained with reference to the Railroad's On Track Safety Rules. COJ or its Contractor shall provide the accommodations for this classroom training at COJ's or the Contractor's own expense, and shall pay any and all applicable fees of the Railroad-certified training consultant for this training. The consultant can be contacted at:

TrackSense Inc.  
308 Durst Dr., Warren, OH 44483

Phone: (330) 847-8661; Cell: (330) 219-4721

Attention: Larry Slater

Email: [lslater@neo.rr.com](mailto:lslater@neo.rr.com)

p. All maintenance required on Railroad tracks or its embankments as a direct or indirect result of the presence of the Storm Drainage Improvements shall be performed by Railroad or its track contractors only. One hundred percent of all actual costs necessary for such maintenance shall be paid by COJ within 30 days of receipt from the Railroad of the invoice for such work. Railroad shall notify COJ of such maintenance work immediately after discovery of the deficiency and shall provide an estimated cost as soon as possible thereafter.

## **ARTICLE 5. INSURANCE & RIGHT-OF-ENTRY REQUIREMENTS**

**a. COJ WARRANTS AND REPRESENTS THAT IT IS INSURED FOR ANY WORK PERFORMED BY THE COJ WITH ITS OWN EMPLOYEES. COJ'S INSURANCE SHALL FULLY PROTECT THE RAILROAD, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND CONTRACTORS AGAINST ANY AND ALL COSTS AND CLAIMS FOR DEATH, BODILY INJURY OR PROPERTY DAMAGE WHICH MAY OCCUR IN THE COURSE OF THE PROJECT AND COJ'S CONSTRUCTION, USE, MAINTENANCE AND REMOVAL OF THE STORM DRAINAGE IMPROVEMENTS AT THE CROSSING.**

b. If the COJ utilizes persons other than its own employees to construct, maintain or remove the Storm Drainage Improvements, the COJ shall require its Contractor who is constructing, maintaining or removing the Storm Drainage Improvements to provide the insurance specified in the Railroad's then-current-standard Contractor's Right-of-Entry Agreement before commencing any work on the Railroad's property. A sample of Railroad's standard Contractor's Right-of-Entry Agreement is attached hereto and identified as **Exhibit B**.

## **ARTICLE 6. [RESERVED]**

## **ARTICLE 7. TERMINATION**

The COJ reserves the right to cancel this Agreement for any reason and at any time prior to the start of the Project.

## **ARTICLE 8. [RESERVED]**

## **ARTICLE 9. EXISTING AGREEMENTS**

It is agreed that this Agreement supersedes and cancels, effective as of the beginning of installation of the Storm Drainage Improvements in Railroad's right-of-way, all earlier unrecorded agreements with respect to the construction, maintenance, use and removal of culvert pipes under Railroad's track at the site of the Project, provided, however, that COJ shall maintain the RCB as elsewhere described herein.

#### **ARTICLE 10. RESPONSIBLE FOR ITS OWN ACTIONS**

The Parties hereto each acknowledge that no Party is an agent, servant, or employee of the other Party, and each Party is responsible for its own acts and deeds and those of its contractors, agents, representatives, and employees during performance of contract work.

#### **ARTICLE 11. PROTECTION OF FIBER OPTIC CABLE SYSTEMS**

Fiber optic cable systems may be buried on the 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. The COJ shall contact the Railroad in writing at least three weeks prior to start of any work on the Storm Drainage Improvements at the Crossing at the address as stated in Article 26 of this Agreement to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Project. The Railroad will make available to the COJ or its contractor such information as is reasonably available to the Railroad about the location of fiber optic cables on the Railroad's premises to be used by the Project, but all such information is provided WITHOUT ANY WARRANTY WHATSOEVER as to its completeness or correctness. The COJ and its Contractor shall also use existing utility location services. The COJ and 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 premises.

#### **ARTICLE 12. LIMITED ACCESS**

The COJ hereby agrees that during the construction of the Project it will keep its employees, material, and machinery within the defined area of the premises unless otherwise specified in **Exhibit A**. There shall be no crossings of the Railroad's tracks except at existing, open, and public crossings, or at locations mutually agreed upon in writing by the COJ and the Railroad.

#### **ARTICLE 13. TRANSFER**

The Parties hereto shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of the other Party, and it is agreed that any transfer or assignment of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void and, at the option of the non-transferring Party, shall terminate this Agreement.

#### **ARTICLE 14. NOTIFICATION**

The COJ agrees to notify the Railroad in writing when all Project work on the Railroad's right-of-way is complete.

#### **ARTICLE 15. [RESERVED]**



## **ARTICLE 16. CONDITIONS**

If in the future, the Railroad provides written justification to the COJ that fencing is needed at the Project site to maintain the safety of rail and storm drainage conveyance operations, the COJ shall provide for the installation and maintenance of said fencing, in accordance with the Railroad's standards.

## **ARTICLE 17. COMPLIANCE WITH LAWS**

The Parties shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, each Party shall furnish the other Party with satisfactory proof of this compliance. Nothing herein is meant to be or will be interpreted to be a waiver of principles of legal preemption or preclusion that may apply to the Railroad because of its status as a common carrier regulated by the federal government.

These Parties shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a) and 29 CFR Section Part 471, Appendix A to Subpart A, if applicable. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

## **Article 18. [RESERVED]**

## **ARTICLE 19. [RESERVED]**

## **ARTICLE 20. [RESERVED]**

## **ARTICLE 21. [RESERVED]**

## **ARTICLE 22. [RESERVED]**

## **ARTICLE 23. [RESERVED]**

## **ARTICLE 24. LEGAL CONSTRUCTION**

The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such

invalid or unenforceable provision was omitted. This Agreement shall be interpreted under the laws of the State of Missouri. Any litigation concerning this Agreement shall be conducted in state or federal courts in the State of Missouri.

## **ARTICLE 25. SIGNATORY WARRANTY**

Each signatory warrants that the signatory has the necessary authority to execute this Agreement on behalf of the entity represented.

## **ARTICLE 26. NOTICES**

For the purposes of this Agreement, all notices, correspondence, billings, and other documentation shall be mailed to the following addresses:

**For the City of Joplin**

Attn: David Hertzberg, P.E.  
Director of Public Works  
City of Joplin  
Engineering Department  
602 S. Main St.  
Joplin, MO 64801  
Ph: (417) 624-0820  
Email: [dhertzbe@joplinmo.org](mailto:dhertzbe@joplinmo.org)

**For The Kansas City Southern Railway Company**

Vice President/Chief Engineer  
The Kansas City Southern Railway Company  
427 West 12<sup>th</sup> Street, Kansas City, MO 64105  
Attn: Sri Honnur, P.E.  
Track and Bridge Construction Director  
Ph: 816-983-1138  
Email: [SHonnur@KCSouthern.com](mailto:SHonnur@KCSouthern.com)

**IN WITNESS WHEREOF**, the COJ and the Railroad have executed duplicate counterparts of this Agreement for this Project on the dates indicated below.

### **THE CITY OF JOPLIN**

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

Name and Title: \_\_\_\_\_ Sam Anselm, City Manager

### **THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

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

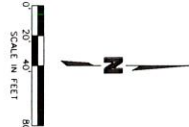
Name and Title: Srikanth Honnur, P.E., Track and Bridge Construction Director

# **Exhibit A**

## **Project Prints**



# GENERAL NOTES:



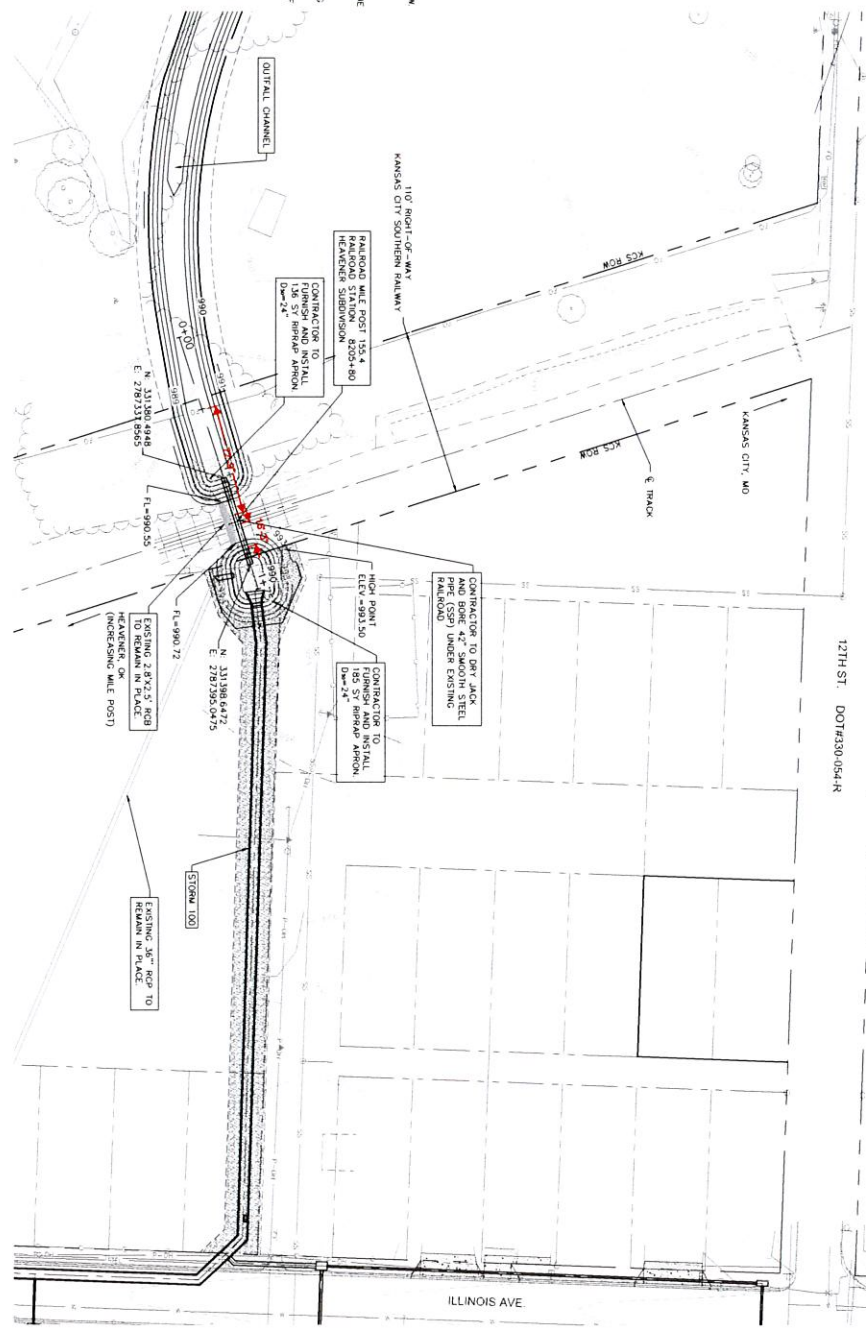
KCS R.O.W. CONSTRUCTION:  
 ALL CONSTRUCTION PERFORMED WITHIN THE KCS R.O.W. EXCLUDING THE  
 EMBANKMENT OF THE RAILROAD, SHALL BE PERFORMED BY THE KCS R.O.W.  
 SUB-CONTRACTOR. ALL WORK DESIGNATED TO BE PERFORMED WITHIN KCS R.O.W.  
 CONTRACTOR/SUB-CONTRACTOR WILL BE RESPONSIBLE FOR ENSURING ALL WORK  
 PERFORMED MEETS KCS STANDARDS.

NO WORK SHALL BEGIN UNTIL A WRITTEN NOTICE TO PROCEED IS GIVEN BY KCS.  
 KCS APPROVAL:  
 A LIST OF APPROVED CONTRACTORS CAN BE OBTAINED BY CONTACTING KCS AT  
 816-983-1136 OR [SPONSOR@KCSOUTER.COM](mailto:SPONSOR@KCSOUTER.COM).  
 ONLY KCS APPROVED MATERIAL SHALL BE USED. ANY SALVAGED MATERIAL AS  
 DETERMINED BY KCS SHALL BE STOCKPILED AT A SITE DESIGNATED BY KCS.  
 CONTRACTOR SHALL NOTIFY KCS NO LATER THAN 30 DAYS IN ADVANCE OF THE  
 SCHEDULED DATE FOR CONSTRUCTION TO BEGIN.

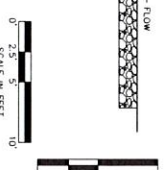
RAILROAD FLAGGING:  
 THE CONTRACTOR SHALL OBTAIN RAILROAD FLAGGING PRIOR TO ENTERING KCS R.O.W.  
 FLAGGING SHALL BE PROVIDED BY THE KCS R.O.W. SUB-CONTRACTOR. THE  
 RAILROAD FLAGGING SHALL BE PERFORMED ONLY BY KCS APPROVED FLAGGING  
 CONTRACTORS. A LIST OF APPROVED FLAGGING CONTRACTORS WILL BE LISTED IN THE  
 RIGHT OF ENTRY PERMIT.

INSURANCE:  
 CONTRACTOR SHALL OBTAIN AND PROVIDE PROOF OF INSURANCE PRIOR TO WORKING  
 WITHIN KCS R.O.W.  
 RIGHT OF ENTRY:  
 CONTRACTOR SHALL OBTAIN RIGHT OF ENTRY PERMIT BY CONTACTING KCS.  
 PERMIT FEES ASSOCIATED WITH OBTAINING THE RIGHT OF ENTRY SHALL BE PAID BY  
 THE CONTRACTOR.

KANSAS CITY SOUTHERN RAILWAY CONTACTS:  
 SRI HONAN, P.E.  
 TRACK AND BRIDGE CONSTRUCTION DIRECTOR  
 KANSAS CITY, MO 64109  
 SRI@KCSOUTER.COM  
 PH: 816-983-1136  
 DENNIS COOPER, JR.  
 2007 LOU MEIN, DANCE, SUITE 100  
 PH: 817-230-2614  
 dennis.cooper@jfi.com



## CULVERT PROFILE



SHEET 27 of 46	RAILROAD IMPROVEMENTS PLAN AND PROFILE  STORM PROJECT #12 CITY OF JOPLIN  JOPLIN, MISSOURI	REV. NO. DATE REVISIONS DESCRIPTION	2017	90% PLANS NOT FOR CONSTRUCTION		 Chief Associate Engineer - MO State Certificate of Authority #007592 714 S. Main Street JOPLIN, MO 64801 TEL: 417-258-8002 FAX: 417-258-8002 www.molssonassociates.com
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# **Exhibit B**

## **Example of Railroad's Contractor Right-of-Entry Agreement**

**SAMPLE**



THE KANSAS CITY SOUTHERN RAILWAY COMPANY  
427 West 12<sup>th</sup> Street  
Kansas City, Missouri 64105-1403



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## Right-of-Entry Agreement Process Instructions

### How to apply:

In an effort to effectively facilitate the Right-of-Entry agreement process, The Kansas City Southern Railway Company ("KCS") partnered with JLL who is committed to provide professional permitting services. This application is designed to collect all of the information required to apply for a Right-of-Entry agreement with KCS through JLL. If applying online, this application will allow you to upload required documents, and provide a shorter cycle time. You may also return to this application website to monitor the application status.

If you complete your application online, you will be prompted to upload required documents and make online payment for the processing fee as defined below.

If you cannot complete your application online, complete the application, print and mail with the following. Note that this process may cause delays in processing the application.

Complete the application, submit/print and, if mail, with the following:

- \$1,000 non-refundable processing fee made payable to JLL. KCS requires the processing fee be sent with the application or it will be returned. **This processing fee does not include any fees for permit fee, insurance, or flagging. Payment of all additional fees is due prior to any construction.**
- Plans and aerial of the work area, shoring plans and calculations, location plan, construction sequence plans, etc.

**TO:** Sylvia Schmidt – Senior Permit Manager  
JLL – Rail Practice Group  
4300 Amon Carter Blvd., Suite 100  
Fort Worth, TX 76155  
Phone: (817) 230-2688 or Melissa Leal at (817) 230-2614  
Email: sylvia.schmidt@am.jll.com or melissa.leal@am.jll.com

### Process & Requirements:

1. If the information is not complete or is incorrect, it will delay the Right-of-Entry agreement process.
2. Once the application package is received by JLL, it will be forwarded to KCS for review and approval. Ensure all information provided is accurate as it will be used to prepare the agreement.
3. Once KCS approves the application, an agreement will be prepared and emailed to Contractor for original signature. If application is not approved, Contractor will be notified in writing with reason/s for disapproval.
4. Once Contractor receives agreement, Contractor is to forward two (2) signed original agreements and required insurance to JLL, along with all drawings approved by KCS.
5. Agreements signed by Contractor will be presented to KCS for execution, provided permit fee has been received, and insurance is compliant.
6. If Contractor is working on structure, performing maintenance, or construction, i.e. track repairs or work on structures such as bridges, signals that are on KCS property, Contractor shall require its employees, contractors and subcontractors to be trained and certified in KCS' on-track safety in accordance with the Federal Railroad Administration's Roadway Worker Protection regulations before entering KCS's property from TrackSense, Inc. at 330-847-8661 or Rick Stapleton at 765-623-2306. Inspections and Surveys do not require safety training.
7. When Contractor is on KCS property for whatever reason or has a potential to encroach onto KCS property, a qualified railroad flagman is required. It will be Contractor's responsibility to coordinate in obtaining and paying for the flagman from one of the following KCS approved flagging companies:





THE KANSAS CITY SOUTHERN RAILWAY COMPANY  
427 West 12<sup>th</sup> Street  
Kansas City, Missouri 64105-1403



**Railpros, Inc.**

D.J. Ezell	877-315-0513, X189	<a href="mailto:dj.ezell@railprosfs.com">dj.ezell@railprosfs.com</a>
Jennifer Kazner	877-315-0513, X116	<a href="mailto:jennifer.kazner@railprosfs.com">jennifer.kazner@railprosfs.com</a>
Gabe Medina	877-315-0513, X168	<a href="mailto:gabe.medina@railprosfs.com">gabe.medina@railprosfs.com</a>

**Railroad Protective Services**

Glen Ray Bowman	318-553-3500	<a href="mailto:grb@rrprotective.com">grb@rrprotective.com</a>
Dave Shaffer	904-588-3433	<a href="mailto:drs@rrprotective.com">drs@rrprotective.com</a>
Jennifer Weithman	904-416-3062	<a href="mailto:jen@rrprotective.com">jen@rrprotective.com</a>

8. Once the agreement is executed, arrangements for flagging will be confirmed by JLL. Once confirmed, a copy will be emailed so work can begin and one (1) original will be returned to the Contractor.
9. Average time period for completion of this process is three (3) weeks from the time application is received. Every effort will be made to complete this process in a timely manner.
10. Contractor agrees to notify JLL in writing when work has been completed its work on KCS property.
11. Right-of-Entry Permits are typically valid for six (6) months from the time of execution. If longer duration is required, please note in this application.

**Insurance Requirements:**

Contractor shall provide, and shall require any subcontractors employed by it in the performance of the work to provide, in addition to any other form of insurance or bond required by statute, insurance of the following kinds and amounts:

**Show The Kansas City Southern Railway Company and its Affiliates, 427 W. 12<sup>th</sup> St., Kansas City, MO 64105-1403 as a Certificate Holder for the following:**

- Comprehensive General Liability & Contractual Liability Insurance. \$2,000,000 per occurrence and an aggregate of \$4,000,000 minimum limits;
- Automobile Liability Insurance. \$1,000,000 combined single limit;
- Workers Compensation Insurance. Minimum statutory worker's compensation coverage for all covered employees who are on KCS's property;
- Policy will be endorsed to give 30 day's written notice of its intent to cancel or materially alter to KCS and its Affiliates;
- Commercial General Liability naming KCS and its Affiliates as additional insured;
- Waiver of subrogation in favor of KCS and its Affiliates;
- All policies will be primary to any insurance or self-insurance KCS and its Affiliates may maintain for acts or omissions of Contractor or anyone for whom Contractor is responsible.

**Show The Kansas City Southern Railway Company and its Affiliates, 427 W. 12<sup>th</sup> St., Kansas City, MO 64105-1403 as an Insured for the following:**

- Railroad Protective Liability Insurance naming KCS and its Affiliates as insured with \$2,000,000 per occurrence and \$6,000,000 aggregate. Visit [www.123ocp.com](http://www.123ocp.com) to obtain.

These limits are subject to change at any time without notice. An agreement will be provided to Contractor, which contains details concerning insurance requirements.





Application for Right of Entry Agreement

**1. Contractor Information:**

Contractor: \_\_\_\_\_

Attn.: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_ Cell: \_\_\_\_\_

Email: \_\_\_\_\_

**2. Scope of Work:**

Project Name: \_\_\_\_\_

Area to occupy: \_\_\_\_\_ feet by \_\_\_\_\_ feet

Time Period: From \_\_\_\_\_ (MM/DD/YY) to \_\_\_\_\_ (MM/DD/YY)

Type of work (check all that apply): ☐ Bridge ☐ Road Resurface ☐ Survey ☐ Drainage

☐ Utility ☐ Inspection ☐ Other (specify): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Purpose of occupancy and type of work to be done (be specific and detailed; add separate sheet if needed):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3. Location:**

City: \_\_\_\_\_, Parish/County \_\_\_\_\_, State \_\_\_\_\_

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

DOTD#: \_\_\_\_\_ (see below)

To obtain DOTD#: (<http://safetydata.fra.dot.gov/OfficeofSafety/PublicSite/Crossing/Crossing.aspx>)

KCS Subdivision \_\_\_\_\_ Distance from centerline of nearest street: \_\_\_\_\_



THE KANSAS CITY SOUTHERN RAILWAY COMPANY  
427 West 12<sup>th</sup> Street  
Kansas City, Missouri 64105-1403



Latitude: \_\_\_\_\_ Longitude: \_\_\_\_\_

KCS Mile Post \_\_\_\_\_ + \_\_\_\_\_ feet

If parallel, closest perpendicular distance from centerline of track:

KCS Mile Post Beginning: \_\_\_\_\_ + \_\_\_\_\_ feet and KCS Mile Post Ending \_\_\_\_\_ + \_\_\_\_\_ feet

If spur, distance from point of switch \_\_\_\_\_ feet

Is work to be performed within 25' of tracks ☐ Yes ☐ No

Will a crossing be required? ☐ Yes (additional review time and fees may apply) ☐ No

If yes, at what Mile Post location? \_\_\_\_\_ + \_\_\_\_\_ feet

I/We submit this Right-of-Entry Permit application for your approval for work as described in this application.

By submitting this application, I/we understand that KCS is under no obligation to grant this request and KCS may deny this request for any reason, including but not limited to safety and engineering considerations and operating convenience.

I/We understand that submission of this application does not authorize permanent occupancy on KCS property.

**By typing/signing below and submitting this application, I/we agree to all of the terms and conditions of this application and agree to pay all fees defined for this work associated with this application.**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

