

## TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS



### **Requirements for Accessing Railroad Property and Scheduling Procedures**

#### **For All Lessees/Licensees and Non-Railroad Employee Individuals Accessing Railroad Property**

A. A License for Right of Entry Application must be completed and returned to Kelly Gibbons, Manager of Corporate Contracts and Real Estate, 1017 Olive Street, 5<sup>th</sup> Floor, St. Louis, Missouri 63101. Include the following: Certificate of Insurance conforming to the requirements per Exhibit A attached hereto; copies of any plans and specifications for construction and/or maintenance to proposed or existing facilities; Google Earth map depicting the location; and Application and License processing fee of \$1,500.00, payable to Terminal Railroad Association of St. Louis. Applications will not be reviewed until fees are paid.

A Railroad Protective Liability Policy along with your companies General Liability Policy will be required for work on TRRA right of way. Certificates of Insurance should reflect the following information:

- Waiver of Subrogation in favor of TRRA
- TRRA as additional insured
- Waivers of the 50-foot railroad exclusion for Commercial General Liability (Form CG 2417) and Auto Liability (Form CA 2070)
- Coverage should be primary and non-contributory in favor of TRRA.

B. Once the Application, plans and insurance requirements have been reviewed and approved, a License for Right of Entry Agreement will be prepared by TRRA and returned for signature. Anticipate 30 days for processing of paperwork before work can begin. Access to TRRA property lasting longer than 90 days will require additional fees.

C. All contractors and individuals will need to have registered with <https://eshortline.com/> and have an ID badge from E-Shortline before work can be performed. This process can take up to 30 days.

D. A Railroad Employee in Charge (“EIC”) may be required to be on the job site for any and all work being performed within 25 feet of the centerline of the nearest railroad track providing access for on-track protection. TRRA will determine if the EIC will be provided by TRRA, RailPros or Westbelt Railway LLC (a/k/a Patriot Rail) upon review of the project. The cost of an EIC provided by TRRA will be billed at \$1,000.00 per eight (8) hour shift on straight time with each hour after (8) eight hours charged at the rate of \$200.00 per hour. Cancellation fees can be avoided if cancelled prior to 10 am the previous day. Otherwise, partial days will be billed as full days, and if the contractor is rained out or the job is cancelled for any reason, the access for on-track

protection will still be billed to said contractor. EIC provided by RailPros or Westbelt Railway LLC will be billed according to their rates and terms. They can be reached at the following:

RailPros Field Services, Inc., E-Mail: [trra.info@railpros.com](mailto:trra.info@railpros.com) or Phone: 877.315.0513 Ext.116

WestBelt Railway LLC, E-Mail: [ryan.becker@patriotrail.com](mailto:ryan.becker@patriotrail.com) or Phone: 618.429.0009

E. A Work Permit should be submitted to [workpermits@terminalrailroad.com](mailto:workpermits@terminalrailroad.com) with proposed dates of work. Attach any approved work plans and map depicting your location. Permits should be submitted by 12:00 pm the Wednesday prior to the week requesting approval and will be returned by Friday.

**F. NO work will commence until on-track protection is established at the job site.**

G. Access to TRRA right-of-way will not be scheduled until the required License Agreement and Work Permits are in place and the E-Shortline ID badges have been received.

H. All invoices for on-track access must be paid within thirty (30) days of the invoice date. Billing inquiries may be directed to Maury Devos at 618.451.8437.

**EXHIBIT A**

**REQUIRED INSURANCE COVERAGES AND LIMITS**

Contractor shall procure and maintain for the duration of the contract, and for 3 years thereafter, insurance as noted below, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

**Commercial General Liability** Insurance having a limit of not less than \$5,000,000 per Occurrence and \$10,000,000 in the Aggregate applying to each annual period for all loss or liability, including but not limited to attorneys' fees, Products and Completed Operations, Property Damage, Bodily Injury and Personal & Advertising Injury. Coverage must be purchased on Insurance Services Office Occurrence Form CG 00 01 or the equivalent. If the required minimum limits can only be met when applying an umbrella/excess liability policy, the umbrella/excess liability policy must follow form of the underlying policy and be endorsed to "drop down" to become primary in the event the primary limits are exhausted.

Commercial General Liability Policy shall include the following:

- Bodily Injury (including death) and Property Damage
- Definition of bodily injury shall include mental anguish
- Personal Injury and Advertising Injury
- Fire legal liability
- Products and Completed Operations (endorsed for 3 years after completion of work)
- "explosion, collapse, and underground hazard" ("XCU") coverage
- Include a severability of interests provision
- The definition of insured contract must not include any exclusion or other limitation for any services being done within 50 feet of Railroad's tracks (Endorsement CG 2417)
- Policies must not contain any punitive damages exclusion
- A per project aggregate limit must apply
- It is agreed that any workers' compensation exclusion does not apply to Railroad's payments related to the Federal Employers Liability ACT or a Railroad Wage Continuation Program or similar programs and any payments made are deemed not to be either payments made or obligations assumed under any workers' compensation, disability benefits, or unemployment compensation law or similar law.

**Workers Compensation Insurance** must include coverage for:

Contractor's statutory liability under the worker's compensation laws of the state(s) in which the services are to be performed.

Employers' Liability (Part B) with limits of at least \$1,000,000 each accident, \$1,000,000 by disease policy limit, \$1,000,000 by disease each employee.

**Commercial Automobile Liability** insurance must contain the following coverage and limits:

A minimum limit of \$2,000,000 per accident applying to each annual period written on Insurance Services Office Form Number CA 0001 covering Bodily Injury and Property Damage.

Any and all motor vehicles owned, non-owned, used or hired must be covered (Symbol 1) and mobile equipment must be covered to the extent it may be excluded from the general liability insurance.

All policies must be endorsed with the following:

- CA 2070 or equivalent

- MCS-90 endorsement (if applicable for contract)

**Professional Liability Insurance** with limits of not less than \$2,000,000 Per Claim and \$2,000,000 aggregate applying to each annual period, subject to a deductible or self-insured retention not to exceed \$50,000 per occurrence (unless approved in advance by TRRA) covering claims arising out of alleged or actual negligence in the rendering or failure to render professional services related to the Work under this Agreement. Coverage shall be written on a claim-made form with a retroactive date preceding the date this Agreement was executed. Contractor shall use best efforts to renew this coverage with the same terms, conditions and limits for at least three years following the termination of this Agreement. Defense costs shall be included within the limits of liability specified above.

**Contractors Pollution Liability Insurance** of not less than \$10,000,000 Per Claim and \$10,000,000 aggregate applying to each annual period, subject to a deductible or self-insured retention not to exceed \$25,000 per occurrence (unless approved in advance by TRRA) covering bodily injury, property damage including Natural Resource Damage) environmental damage, cleanup costs and defense of third-party claims caused by pollution conditions arising out of the Work under this Agreement. Coverage may be written on an occurrence or claims-made form, but if claims-made coverage is provided, Contractor agrees to use best efforts to renew the coverage with the same terms, conditions and limits for at least three years following the termination of this Agreement. Coverage shall be provided for claims arising out of pollution conditions occurring at non-owned disposal sites and for transportation of materials, including wastes to or from a site where covered operations are conducted.

**Railroad Protective Liability Insurance** having a combined single limit of not less than \$5,000,000 each occurrence and \$10,000,000 in the aggregate applying separately to each annual period. Said policy shall provide coverage for all loss, damage or expense arising from bodily injury and property damage liability, and physical damage to property attributed to acts or omissions at the job site. The standards for the Railroad Protective Liability Insurance are as follows:

- The policy shall be written on a standard ISO form CG 0035 or equivalent.
- The named Insured shall be identified as the Railroad
- Policy shall be endorsed to include broad form coverage for property damage “Physical Damage to Property Definition Amendment”
- Sudden and Accidental Pollution
- Evacuation Expenses

**Property Insurance**, insuring contractor’s property of every kind and description and of persons claiming by or through contractor against those risks normally encompassed in an “all-risk” policy, including, but not limited to, (1) loss or damage by fire; (2) loss or damage from such other risk or hazards now or hereafter embraced by an “extended coverage endorsement, “ (3) loss for flood if the area/property upon which contractor is working is a designated flood or flood insurance area; and (4) such other risks as reasonably prudent owner of similar property in the locality where the work area is located would normally insure against. Such insurance shall provide for the full replacement cost in the event of a total destruction of contractor’s property.

#### **Other Requirements**

- Railroad its officers, officials, employees, and volunteers must be identified as an additional insured on all policies except workers compensation and Professional Liability and be the named insured on the railroad protective policy.
- No Punitive Damages Exclusions: All policies must not contain an exclusion for punitive damages.
- Waivers of Recovery and Subrogation: Contractor agrees to waive its right of recovery against Railroad for all claims and suits against Railroad with the exception of the Professional Liability claims. In addition, its insurers with the exception of the Professional Liability insurers, through the terms of the policy or policy endorsement, must waive their right of subrogation against Railroad for all claims and suits. The certificate of insurance must reflect the waiver of subrogation. Contractor further waives its right of

- recovery, and its insurers must also waive their right of subrogation against Railroad for loss of its owned or leased property or property under contractor's care custody and control.
- Primary and Non-contributory: Contractor's insurance policies through policy endorsement must include wording which states that the policy is primary and non-contributory with respect to any insurance carried by Railroad. The certificate of insurance must reflect that the above wording is included in evidenced policies.
  - Separation of insureds. All policies must contain a separation of insureds provision except workers compensation. Separation of insureds must be indicated on the certificate of insurance.
  - Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the Railroad.

**Acceptability of Insurers:** Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the Railroad.

**Self-Insurance:** Contractor is not allowed to self-insure without the prior written consent of Railroad. If granted by Railroad, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by contractors in lieu of insurance. Any and all Railroad liabilities that would otherwise in accordance with the provisions of the Agreement, be covered by contractor's insurance will be covered as if contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

**Independent Associates, Consultants and Subcontractors:** If any portion of the services are to be subcontracted by contractor, contractor must require that the independent associates consultant and/or subcontractor provide and maintain the insurance coverages set forth herein, naming Railroad as an additional insured and requiring that the independent associate, consultant, and/or subcontractor release, defend and indemnify Railroad to the same extent and under the same terms and conditions as contractor is required to release, defend and indemnify Railroad herein.

**No Limits:** The fact that insurance (including without limitation, self-insurance) is obtained by contractor will not be deemed to release or diminish the liability of contractor including, without limitation, liability under the indemnity provisions of the agreement. Damages recoverable by Railroad will not be limited by the amount of the required insurance.

**Verification of Coverage:** Contractor shall furnish the Railroad with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the Railroad before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Railroad reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.