SECTION 00170 - LEGAL RELATIONS AND RESPONSIBILITIES

(Follow all instructions and make all edits with "Track Changes" turned on. If there are no instructions [orange text] above a subsection, paragraph, sentence, or bullet, then include it in the Project. Delete all orange text before preparing the final document. All other modifications to this Section will require State Specifications Engineer approval and the State Specifications Engineer will obtain approval from the Department of Justice.)

Comply with Section 00170 of the Standard Specifications modified as follows:

(Use the following lead-in paragraph and subsection .01(e) on Projects with Railroad involvement. Obtain information from ODOT's State Utility and Railroad Liaison. Use of this subsection requires SP00058_RRS, SP00060_RR_BNSF, SP00061_RR_CBRL, SP00062_RR_CORP, SP00066_RR_PNWR, or SP00068_RR_UPRR, or SP00069_RR_UPRR_End.

Delete the parentheses and fill in the blank with the appropriate type of agreement listed below and provided by ODOT's State Utility and Railroad Liaison.

UPRR agreement types - contractor right of entry, contractor endorsement, haul road permit or right of entry intrusive or non-intrusive.

BNSF agreement types - temporary occupancy permit, or roadway surfacing/resurfacing permit.

G&W agreement type – right of entry

All other railroads not listed only have agreements. Delete parenthesis and language within the parenthesis.)

Add the following subsection:

00170.01(e) Railroads - An agreement(and _____) between the Contractor and the Railroad to Work near or within Railroad property is required for this Project. A copy of the Railroad agreement(and _____) and corresponding requirements is included near the front of this Special Provision booklet. The Railroad agreement(and _____) and requirements are subject to change by the Railroad. The Railroad will provide the actual agreement(and _____) and requirements for execution. The Contractor shall obtain all necessary permits and licenses and pay all fees. The Contractor shall obtain a fully executed copy of the agreement(and _____) and requirements between the Contractor and the Railroad and provide a copy of it to the Engineer before beginning Work near or within the Railroad property or Right-of-Way.

The Railroad contact for this Project is:

(Contact the State Railroad Liaison to complete this subsection.)

____(enter name)____
____(enter address)____
____(enter city, state and zip)____
____(enter phone number)____
____(enter website)____

The USDOT Number for this Project is ____(enter USDOT No.)____.
Railroad company owning the track: ____(enter railroad company.)____.
Operating Railroad company at track: ____(enter operating railroad company)____.
Railroad MP: ____(enter railroad MP.)____.
Railroad Subdivision: ____(enter railroad subdivision.)____.
City: ____(enter City)____.
County: ____(enter County)____.

(Use the following paragraph when Union Pacific Railroad Company property is within Project limits.)

The Union Pacific Railroad Folder Number is ____(enter UP Folder Number.)____.

(Use one of the following options when Railroad flagger services are required. Delete the option that does not apply. Check with the State Utility and Railroad Liaison.)

[Option 1 - Use the following paragraph when Railroad flagger services are required on any Railroad, except for UPRR when a third party vendor will be used for flagging.]

When Railroad flagger services are required, the Agency will pay the flagger services costs up to a total of _____(enter number of hours or Days)_____. If this value is exceeded and additional flagging services are needed, the Contractor shall pay the Agency an amount of ____(enter dollar amount)____ per __(enter "hour" or "Day")__ for each __(enter "hour" or "Day")__ in excess of the total value identified above.

[Option 2 - Use the following paragraph when Railroad flagger services are required on a UPRR Railroad and the Contractor is required to use a third party vendor for flagging. Include SP00068_RR_UPRR or SP00069_RR_UPRR_END and subsections 00223.35, .80(a)(4), & .90 in SP00223.]

The Railroad requires a third party flagging vendor when Work occurs near or within Railroad property. When Railroad flagger services are required, the Contractor shall provide flagger services from a third party flagging vendor from Union Pacific's approved third party list according to 00223.35.

(Use the following lead-in paragraph and subsection .06 on all Federal funded Projects.)

Add the following subsection:

00170.06 Federal-Aid Participation - This Project is to be conducted according to the regulations applying to Federal-Aid Highway Projects.

00170.65(b)(1) Minimum Wage Rates – Replace the paragraph that begins "The Bureau of Labor and Industries (BOLI) …" with the following paragraph:

The Bureau of Labor and Industries (BOLI) determines and publishes the existing State prevailing wage rates in the publication *Prevailing Wage Rates for Public Works Contracts*. The Contractor shall pay workers not less than the specified minimum hourly wage rate according to ORS 279C.838 and ORS 279C.840, and shall include this requirement in all subcontracts.

(The following subsection .65(e) is required only on Federal-Aid Projects that do not require Davis-Bacon prevailing wages. Use according to the following:

- ***Do not use this subsection on Projects that are funded by the Safe Routes to School Program.***
- ***Do not use this subsection on Projects that are required by an environmental document, even if the Project is away from the Federal-aid highway Right-of-Way. Example: wetland mitigation. (This type of project is linked to, or dependent upon, the Federal aid highway Project.)***
- ***Use this subsection on Projects that have a Functional Classification of 08 rural minor collector, 09 rural local, or 19 urban local. (Obtain the Functional Classification from the Project Insurance Risk Assessment.)***
- ***Use this subsection on Projects that are not located within the Federal-Aid highway right-of-way, and are not linked to, nor dependent upon, the Federal-Aid highway. Examples:***
  - ***Restoration of a historic Railroad station***
  - ***Construction of an independent bike path***
  - ***A landscaping or scenic beautification Project that is not on the Federal-Aid highway Right-of-Way and is not required because of a Federal-aid highway Project***

For questions about application of this section contact the ODOT State Specifications Engineer.)

00170.65(e) Additional Requirements When Federal Funds are Involved - Replace this subsection, except for the subsection number and title, with the following:

For this Federal-Aid Project, the Contractor shall comply with 00170.65(a) through 00170.65(d) and the provisions of FHWA Form 1273, *Required Contract Provisions Federal-Aid Construction Contracts*, except Section IV of FHWA Form 1273 does not apply.

(Complete the following subsection .70(a) based on the insurance risk assessment. Obtain risk assessment information from the following:

- ***For Region designed projects, contact the Transportation Project Manager***
- ***For Consultant designed projects, contact the ODOT Resident Engineer Consultant Projects***

- ***For Local Agency designed projects, contact the ODOT Transportation Project Manager)***

00170.70(a) Insurance Coverages -

Add the following to the end of this subsection:

The following insurance coverages and dollar amounts are required pursuant to this subsection:

Insurance Coverages	Combined Single Limit per Occurrence	Annual Aggregate Limit

(Fill in the blanks with the dollar amounts from the insurance risk assessment.)

Commercial General Liability	$_____	$_____
Commercial Automobile Liability	$_____	(aggregate limit not required)

(Include the following commercial automobile liability vehicle transportation for pedestrian circulation item only when it is required by the insurance risk assessment, otherwise delete it.)

Commercial Automobile Liability (pedestrian transport vehicle)	$5,000,000	(aggregate limit not required)

(Include the following pollution liability item and fill in the blanks with the dollar amounts from the insurance risk assessment only when it is required by the insurance risk assessment, otherwise delete it.)

Pollution Liability	$_____	$_____

(Include one or both of the following bullets only when they are required by the insurance risk assessment. Delete them if they are not required.)

- With Asbestos Liability Endorsement or separate coverage
- With Lead Liability Endorsement or separate coverage

(Include the following commercial automobile liability with pollution liability item and fill in the blanks with the dollar amount from the insurance risk assessment only when it is required by the insurance risk assessment, otherwise delete it.)

Commercial Automobile Liability with Pollution Coverage	$_____	(aggregate limit not required)

(Marine Coverage - Include the following marine liability item and fill in the blanks with the dollar amounts from the insurance risk assessment, or as provided by the Procurement Office Risk and Compliance Analyst only when it is required by the insurance risk assessment, otherwise delete it.)

Marine Liability insurance with a minimum limit of $_____ per occurrence for bodily injury and property damage is required.

(Marine Coverage - Include the following protection and indemnity insurance item and fill in the blanks with the dollar amounts from the insurance risk assessment, or as provided by the Procurement Office Risk and Compliance Analyst only when it is required by the insurance risk assessment, otherwise delete it.)

Protection and Indemnity Insurance coverage shall be evidenced on the SP-23 form or equivalent, including, by endorsement or otherwise, collision liability, tower's liability, specialist operations, and liability for seepage, pollution, containment and cleanup, with extensions for marine contractual liability, with a minimum limit of liability of $_____.

(Marine Coverage - Include the following pollution liability insurance item and fill in the blanks with the dollar amounts from the insurance risk assessment, or as provided by the Procurement Office Risk and Compliance Analyst only when it is required by the insurance risk assessment, otherwise delete it.)

Pollution Liability Insurance - With a minimum limit of $_____, if pollution coverage is provided outside of a P&I Club entry or outside of Protection and Indemnity Insurance coverage evidenced on the SP-23 form or equivalent.

(Use the following subsection .70(d) when Project management or inspection duties are performed by other than ODOT forces. Fill in the blanks. Delete "(s)" or parentheses as applicable.)

00170.70(d) Additional Insured -

Add the following paragraph and bullet*(*s*)* to the end of this subsection:

Add the following as Additional Insureds under the Contract:

(Use the following two bullets on a local agency projects when the city will be performing project management or inspection duties on the Project Site.)

- The City of _____ and its officers, agents, and employees
- _____ City Council

(Use the following two bullets on a local agency project when the county will be performing project management or inspection duties on the Project Site.)

- _____ County and its officers, agents, and employees
- _____ County Board of Commissioners

(Use the following bullet when a consultant will be performing project management or inspection duties on the Project Site.

- _____(Consultant)_____

(Use the following bullet when a sub-consultant will be performing project management or inspection duties on the Project Site.

- _____(Sub-consultant)_____

(Use the following subsection .70(j) when Builder's Risk is required. Fill in the blank with the dollar amount from the insurance risk assessment, or as provided by the Procurement Office Risk and Compliance Analyst.)

00170.70(j) Builder's Risk – Add the following to the end of this subsection:

Provide Builder's Risk insurance for an amount equal to at least $_____.

(Use the following sentence, when ODOT is not the owner of the building or Structure and fill in the blank with the owner. Except for the owner, do not make any additions to this sentence. If ODOT is the owner of the Structure, delete the following sentence.)

The policy shall include as loss payee, the Agency and _____(County or City Owner of Building)_____.

(Use the following subsection .70(k) when Builder's Risk installation floater is required. Fill in the blanks with the dollar amounts from the insurance risk assessment, or as provided by the Procurement Office Risk and Compliance Analyst.)

00170.70(k) Builder's Risk Installation Floater - Add the following to the end of this subsection:

Provide Builders' Risk Installation Floater insurance for an amount equal to at least $_____.

(Use the following subsection .72 only when project management is performed by other than ODOT forces. Fill in the blanks. Delete "(s)" or parentheses as applicable.)

00170.72 Indemnity/Hold Harmless - Add the following paragraph and bullet(s) to the end of this subsection:

Extend indemnity, defense and hold harmless to the Agency and the following:

(Use the following two bullets on a local agency projects when the city will be performing project management or inspection duties on the Project Site.)

- The City of _____ and its officers, agents, and employees
- _____ City Council

(Use the following two bullets on a local agency project when the county will be performing project management or inspection duties on the Project Site.)

- _____ County and its officers, agents, and employees
- _____ County Board of Commissioners

(Use the following bullet when a consultant will be performing project management or inspection duties on the Project Site.

- _____(Include on the Project site Consultant only)_____

(Use the following bullet when a sub-consultant will be performing project management or inspection duties on the Project Site.

- _____(Sub-consultant)_____