

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:

00170.00 General - Replace the paragraph that begins "The Contractor shall comply with all laws, ordinances, ..." with the following paragraph:

The Contractor shall comply with all laws, ordinances, codes, regulations, executive orders and administrative rules (collectively referred to as "Laws" in this Section) that relate to the Work or to those engaged in the Work. Where the provisions of the Contract are inconsistent or in conflict, the Contractor shall comply with the more stringent standard.

(Use the following lead-in paragraph and subsection .01(e) on Projects with Railroad involvement. Obtain information from ODOT's Railroad Engineer 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 type of agreement/endorsement that does not apply.)

Add the following subsection:

00170.01(e) Railroads - An (agreement) (endorsement) between the Contractor and the Railroad to Work near or within Railroad property is required for this Project. A copy of the Railroad (agreement) (endorsement) and corresponding requirements is included near the front of this Special Provision booklet. The Railroad (agreement) (endorsement) and requirements are subject to change by the Railroad. The Railroad will provide the actual (agreement) (endorsement) and requirements for execution. The Contractor shall obtain all necessary permits and licenses and pay all fees (see 00170.02). The Contractor shall obtain a fully executed copy of the (agreement) (endorsement) 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 ~~person~~ 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)(4) Owner/Operator Data - Replace this subsection, except for the subsection number and title, with the following:

The Contractor shall furnish data to the Engineer for each owner/operator providing trucking services. Furnish the data before the time the services are performed and include without limitation for each owner/operator:

- Driver's name;
- Present driver license upon request;
- Vehicle identification number;
- Present vehicle registration upon request;
- Motor vehicle license plate number;
- Motor Carrier account number;
- Present ODOT Motor Carrier 1A Permit upon request; and
- Name of owner/operator from the side of the truck.

(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 -

(Include the following commercial automobile liability vehicle transportation for pedestrian circulation bullet when a bid item for Pedestrian Transport Vehicle is included in the estimate or as provided by the Procurement Office Risk and Compliance Analyst, otherwise delete it.)

Add the following bullet under the bullet that begins “Commercial Automobile Liability”

- **Commercial Automobile Liability (pedestrian transport vehicle for pedestrian circulation)** - The Contractor or Subcontractor, whichever is performing the vehicle transportation for pedestrian circulation, shall provide Commercial Automobile Liability Insurance covering all owned, non-owned, and hired vehicles for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance with separate limits for Commercial Automobile Liability and Commercial General Liability. Combined single limit per occurrence shall not be less than the dollar amount specified in this subsection.

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
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(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)
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(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.

00170.70(d) Additional Insured - Replace the paragraph that begins "The liability insurance coverages of 00170.70(a) shall ..." with the following paragraph:

The liability insurance coverages of 00170.70(a) shall include an Additional Insured Endorsement endorsing the “State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents, and employees” as Additional Insureds, but only with respect to the Contractor's activities to be performed under the Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The liability coverages of 00170.70(a) that are permitted by the Agency to be obtained by an appropriate Subcontractor shall include all of the foregoing as Additional Insureds and shall also include the Contractor and its officers and employees as Additional Insureds.

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

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)

00170.70(g) Certificate(s) of Insurance – Replace the bullet that begins “List the “State of Oregon, the Oregon Transportation...” with the following bullet:

- List the “State of Oregon, the Oregon Transportation Commission and the Department of Transportation, and their respective officers, members, agents and employees” as a Certificate holder and endorse as an Additional Insured;

00170.70(h) Agency Acceptance - Replace the paragraph that begins “All insurance and insurance providers are ...” with the following paragraph:

All insurance and insurance providers are subject to Agency acceptance. In addition, all of the following are subject to Agency acceptance and, if requested by Agency, the Contractor shall provide complete copies of the following to Agency’s representatives responsible for verification of the insurance coverages required by the Contract: insurance policies, endorsements, self-insurance documents and related insurance documents.

(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 Builders' Risk Installation Floater insurance is NOT required.)

00170.70(k) Builder's Risk Installation Floater - Delete this subsection.

(Use the following subsection .70(k) when Builders' Risk Installation Floater insurance is required.)

00170.70(k) Builder's Risk Installation Floater - Replace this subsection, except for the subsection number and title, with the following:

The Contractor shall obtain, at its expense, and keep in effect during the term of the Contract, Builder's Risk Installation Floater Insurance covering the Contractor's Materials and Equipment to be used for completion of the Work performed under the Contract. The minimum amount of coverage to be carried shall be equal to the full amount of the Contractor's Equipment, Materials, or fixtures to be installed, in-transit, or stored off-site during the performance of the Contract. This insurance shall include as loss payees the State of Oregon, the Owner, the Contractor and Subcontractors as their interests may appear.

(Fill in the blanks with the dollar amounts from the insurance risk assessment, or as provided by the Procurement Office Risk and Compliance Analyst.)

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)