

ENTRY APPLICATION PROCEDURE

Print this page and use as your check list. Permit cannot be issued until all are completed.

Attached are the documents and information needed for the application process. Below are the requirements needed to issue the Right of Entry Permit. Anything that cannot be sent with email (madrr@madisonrailroad.com) should be sent to Madison Railroad, 1121 W JPG Woodfill Rd, Bldg 216, Madison, Indiana 47250.

- ☐ Completed application with scope of work – sketches and drawings are helpful
- ☐ Completed & Signed Flagging Rate Agreement form with the application
- ☐ \$750.00 permit fee payment with the application - make payment to Madison Railroad
- ☐ Certificates of Insurance for both General Liability (CGL) and Railroad Protective Liability (RPL)

See Insurance Requirements attachment, for details of minimums, etc.
- ☐ Certificates should name Madison Railroad, City of Madison Port Authority as the certificate holder for CGL and named insured for RPL
- ☐ Provide the start and stop dates for the work
- ☐ Be familiar with all the information in the Exhibit B
- ☐ Be prepared to give 48 to 72 hour advance notice prior to start of work – 48 hours minimum required when flagging is necessary

Once all the requirements are completed and checked off, the entry permit document can be quickly issued using scanned and emailed signatures.

APPLICATION FOR RIGHT OF ENTRY

1. Name of Licensee: _____

(Name to be shown on document)

2. If a Corporation, name of Corporation: _____

(Exact Name of Corporation)

3. A corporation of the state of _____

(State Of Incorporation)

NOTE: The corporate name of a company should be exactly as stated in its Articles of Incorporation. Type of Corporation, if other than a normal business corporation (this MUST be shown) *Municipal, quasi-municipal, body politic, etc.*)

4. If Individual, name of individual: _____

5. City & State of Individual: _____

6. If Individual or Corporation doing business under a trade name, please tell us

(If Doing Business As or Trade Name)

7. If a Partnership, name of partnership: _____

8. A partnership consisting of:

_____ and _____ all of _____
(City & State)

9. Name, email and mailing address of individual to whom instrument is to be sent for execution: _____

10. Address (billing address) to be shown on document if different than that shown in Item 9:

11. Name, phone number, email, and fax number of individual to contact in event of questions:

12. Time period of your project and use of the Railroad Company's property?

(Proposed start/stop dates).

Start _____ Stop _____

13. When do you need to receive this agreement from the Railroad Company?

(Please allow 30-45 days for processing of this request)

14. Will there be any excavation involved? Yes/No

(If yes, include shoring plans in compliance with attached Railroad Company standards).

15. Site Location *(City, County, & State):*

16. Railroad Site Location Information: *(Railroad Mile Post, Subdivision, or any other pertinent location information. Attach map/site plan)*

17. Purpose of your request: *(This must be detailed and complete, attach engineering plans, shoring plans, if applicable, and details to support)*

The administrative and permit fee of \$750.00 will need to accompany the application. Application will go through approval process and permit will be sent to you upon approval after the Railroad has received all pertinent insurance certificates. Payment and certificates go to Madison Railroad, 1121 W JPG Woodfill Rd, Bldg 216, Madison, Indiana, 47250.

Additional fees and charges may be applicable to your request. These charges cannot be determined until your project is approved.

Signature _____

Title _____

Date _____

Flagging Rate Agreement

When Contractors have men and equipment working within 15 feet on either side of the railroad track centerline, Federal Regulations mandate protection must be provided by qualified railroad flagman. Equipment with extensions, such as a crane boom, that are near enough to reach within 15 feet of the track also requires the proper protection.

A contractor must contact the railroad a minimum of 48-hours unless stipulated in order to schedule and receive approval from the Railroad to provide the protection. Below are the Flagging Rates to be invoiced to the Contractor or the State Agency for flagging work completed within the 25 feet of the Railroad Right-of-Way per the Agreement.

- \$100.00 Per hour with a 4-hour minimum up to eight hours in any week day
- \$135.00 Per hour for all hours over 8-hours in any week day
- \$135.00 Per hour with a 4-hour minimum up to eight hours on Saturday's
- \$135.00 Per hour for all hours over eight on Saturday's or up to eight hours on Sunday's or holidays

Please sign that you acknowledge the rates to be invoice for flagging hours completed by the Railroad.

Company

Signature of Contractor or State Agency

Title

Date

Billing Contact *(name, phone, email) (if different than the applicant of the right-of-entry permit)*

Billing Address *(if different than the applicant of the right-of-entry permit)*

EXHIBIT B TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.**

The Contractor agrees to notify the Railroad Representative at least 48 hours in advance of Contractor commencing its work and at least 24 hours in advance of proposed performance of any work by the Contractor in which any person or equipment will be within 15 feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within 15 feet of any track. Upon receipt of such notice, the Railroad Representative will determine and inform the Contractor whether a flagman need be present and whether the Contractor need implement any special protective or safety measures. If any flagmen or other special protective or safety measures are performed by the Railroad, such services will be provided at Contractor's expense with the understanding that if the Railroad provides any flagging or other services the Contractor shall not be relieved of any of its responsibilities or liabilities set forth herein.

Section 2. NO INTERFERENCE WITH RAILROAD'S OPERATION.

No work performed by Contractor shall cause any interference with the constant, continuous and uninterrupted use of the tracks, property and facilities of the Railroad its lessees, licensees or others, unless specifically permitted under this agreement, or specifically authorized in advance by the Railroad Representative. Nothing shall be done or suffered to be done by the Contractor at any time that would in any manner impair the safety thereof. When not in use, Contractor's machinery and materials shall be kept at least 50 feet from the centerline of Railroad's nearest track, and there shall be no vehicular crossings of Railroad's tracks except at existing open public crossings.

Section 3. MECHANIC'S LIENS.

The Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. The Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of the Railroad for any such work performed. The Contractor shall indemnify and hold harmless the Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished.

Section 4. COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this agreement, the Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Contractor shall use only such methods as are consistent with safety, both as concerns the Contractor, the Contractor's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Contractor (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's property. If any failure by the Contractor to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Contractor shall reimburse and indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorneys' fees, court costs and expenses. The Contractor further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

Section 5. SAFETY INSTRUCTIONS.

Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work pursuant to this agreement. As reinforcement and in furtherance of overall safety measures to be observed by the Contractor (and not by way of limitation), the following special safety rules shall be followed:

a). The Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job. The Contractor shall have proper first aid supplies available on the job site so that prompt first aid services can be provided to any person that may be injured on the job site. The Contractor shall promptly notify the Railroad of any U.S. Occupational Safety and Health Administration reportable injuries occurring to any person that may arise during the work performed on the job site. The Contractor shall have a non-delegable duty to control its employees, while they are on the job site or any other property of the Railroad to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug, narcotic or other substance that may inhibit the safe performance of work by the employee.

b). The employees of the Contractor shall be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing or free use of their hands or feet. Only waist length shirts with sleeves and trousers that cover the entire leg are to be worn. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching. The employees should wear a brightly colored vest (neon

orange preferred), sturdy and protective work boots and at least the following protective equipment:

(1) Protective head gear that meets American National Standard-Z89. 1-latest revision. It is suggested that all hardhats be affixed with Contractor's or subcontractor's company logo or name.

(2) Eye protection that meets American National Standard for occupational and educational eye and face protection, Z87.1-latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, burning, etc.; and

(3) Hearing protection which affords enough attenuation to give protection from noise levels that will be occurring on the job site.

c). All heavy equipment provided or leased by the Contractor shall be equipped with audible back- up warning devices. If in the opinion of the Railroad Representative any of Contractor's or any of its subcontractor's equipment is unsafe for use on the Railroad's right-of-way, the Contractor, at the request of the Railroad Representative, shall remove such equipment from the Railroad's right-of-way.

Section 6. INDEMNITY.

a). As used in this Section, "Railroad" includes other railroad companies using the Railroad's property at or near the location of the Contractor's installation and their officers, agents, and employees; "Loss" includes loss, damage, claims, demands, actions, causes of action, penalties, costs, and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from: (a) injury to or death of persons whomsoever (including the Railroad's officers, agents, and employees, the Contractor's officers, agents, and employees, as well as any other person); and/or (b) damage to or loss or destruction of property whatsoever (including Contractor's property, damage to the roadbed, tracks, equipment, or other property of the Railroad, or property in its care or custody).

b). As a major inducement and in consideration of the license and permission herein granted, the Contractor agrees to indemnify and hold harmless the Railroad from any Loss which is due to or arises from any cause and is associated in whole or in part with the work performed under this agreement, a breach of the agreement or the failure to observe the health and safety provisions herein, or any activity, omission or negligence arising out of performance or nonperformance of this agreement. However, the Contractor shall not indemnify the Railroad when the Loss is caused by the sole negligence of the Railroad.

c). The Contractor shall maintain whatever insurance coverage is necessary to adequately underwrite its general and contractual liability under the terms of this Agreement.

Section 7. INSURANCE REQUIREMENTS

Licensee shall, at its own cost and expense, procure the following kinds of insurance and promptly pay when due all premiums for that insurance. If it so elects, the Railroad shall have the right to obtain such insurance and Licensee shall promptly reimburse Railroad for that expense. The following insurance shall be kept in force during the life of this Agreement:

Comprehensive general liability for at least \$1,000,000.00 combined single limit, bodily injury and property damage per occurrence, \$2,000,000.00 aggregate. The policy shall include: Completed operations liability, Contractual liability which would cover liabilities assumed under the contract with the Railroad, an endorsement deleting all exclusions for work performed near a railroad, an endorsement adding the Railroad as an additional insured and providing the Railroad 30 days' Notice of Cancellation or intent not to renew. Further, Licensee shall maintain a policy of railroad protective liability insurance for the benefit of Railroad in the amount of at least \$5,000,000.00 single limit and \$10,000,000.00 aggregate. Licensee shall furnish certificates to Railroad and provide not less than 30 days' notice of cancellation or materials change in coverage.

Worker's Compensation insurance covering the statutory liability as determined by the compensation laws of the state(s) affected by the Agreement and Employers' Liability. Also, compliance with all laws of states which require participation in the state workers' compensation fund.

The Licensee hereby waives its right to subrogation, as respects the above insurance policy(ies), against Railroad for payments made to or on behalf of employees of Licensee or its agents and for loss of its owned or leased property or property under its care, custody and control while on or near Railroad's right-of-way or other real property. Licensee's insurance shall be primary with respect to any insurance carried by Railroad.

Contractor shall furnish to Railroad certificate(s) of insurance evidencing the required coverage and endorsement(s) and upon request a certified duplicate original of any of those policies. The insurance company(ies) issuing such policy(ies) shall notify Railroad in writing of any material alteration including any change in the retroactive date in any "claim made" policies or substantial reduction of aggregate limits, if such limits apply, or cancellation thereof at least thirty (30) days prior thereto.

The insurance policy(ies) shall be written by a reputable insurance company or companies acceptable to railroad or with a current Best's Insurance Guide Rating of A and Class

VI or better. Such insurance company shall be authorized to transact business in the state(s) affected by this Agreement.

Section 8. RESTORATION OF PROPERTY.

In the event the Railroad authorizes the Contractor to take down any fence of the Railroad or in any manner move or disturb any of the other property of the Railroad in connection with the work to be performed by Contractor, then in that event the Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed.

Section 9. WAIVER OF BREACH.

The waiver by the Railroad of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by the Contractor shall in no way impair the right of the Railroad to avail itself of any remedy for any subsequent breach thereof.

Section 10. ASSIGNMENT - SUBCONTRACTING.

The Contractor shall not assign, sublet or subcontract this agreement, or any interest therein, without the written consent of the Railroad and any attempt to so assign, sublet or subcontract without the written consent of the Railroad shall be void. If the Railroad gives the Contractor permission to subcontract all or any portion of the work herein described, the Contractor is and shall remain responsible for all work of subcontractors and all work of subcontractors shall be governed by the terms of this agreement.

Madison Railroad

Insurance Requirements for Outside Contractors

General Liability Insurance:

The Contractor shall furnish evidence to The Railroad, that with respect to the operations he/she performs, he/she carries Contractor's Comprehensive General Liability Insurance providing for limits of not less than \$1,000,000 per occurrence / \$2,000,000 aggregate. The policy shall include:

- Completed operations liability
- Contractual liability which would cover liabilities assumed under the contract with The Madison Railroad.
- An endorsement deleting all exclusions for work performed near a railroad.
- An endorsement adding **Madison Railroad, A Division of the City of Madison Port Authority** as an additional insured and providing The Railroad 30 days' Notice of Cancellation or intent not to renew.

The Policy shall be placed with an insurer acceptable to The Railroad. If any part of the work is sublet, similar insurance shall be provided by or on behalf of the subcontractors to cover their operations.

The insurance company shall agree to investigate and defend all claims and suits against the Insured for the damages covered, even if groundless, until the insurance company shall elect to effect settlement.

The cost of such insurance shall be distributed over the various prices submitted in the Proposal.

The Contractor shall not cause any policy to be canceled or permit them to lapse and the policy shall not be subject to cancellation or a reduction in the required limits of liability or amounts of insurance until notice has been mailed by registered mail to The Railroad stating when, not less than thirty (30) days thereafter, such cancellation or reduction shall be effective.

Comprehensive General Liability insurance shall be in effect before further work will be permitted at the site by the Contractor.

A Certificate of Insurance (2 copies) shall be furnished prior to award of contract and attached to copies of the contract when executed. A copy of the policy together with all endorsements shall be delivered to the Madison Railroad.

Railroad Protective Liability Insurance:

When working within the Railroad's right of way, your company will be required to obtain Railroad Protective Liability Insurance for the project. **This is a mandatory requirement.** For questions concerning your Right of Entry onto Railroad Property or other related Railroad issues, please contact your Railroad project manager assigned to the specific job.

Railroad Protective Liability Insurance shall conform to the Standard Provisions for General Liability Policies, Railroad Protective Liability Form (State or Federal Highway Projects). These provisions may not be amended and no part may be omitted. Limits of policies to be \$5,000,000 combined single limit Bodily Injury and Property Damage liability each occurrence, \$10,000,000 annual aggregate.

A Railroad Protective Liability Policy shall be issued with the name of the insured being the Railroad. Such a policy shall be furnished by the Contractor covering his own employees as well as those of all subcontractors and those employees of the Railroad having occasion to work as the project site.

Railroad Protective Liability Insurance Policy must define designated employees to include:

- a) Any watchman, flagman, inspector, engineer, maintenance of way employee or similar employee who is employed by the Railroad and is specifically assigned or furnished by the Railroad for work in connection with the project.
- b) Any employee of the Railroad while operating the work trains or other equipment assigned to the project by the Railroad and while engaged in the performance of work directly chargeable to the Contractor.

The original of this policy shall be sent to Madison Railroad.

The Contractor shall not cause any policy to be canceled or permit them to lapse and the policy shall not be subject to cancellation or a reduction in the required limits of liability or amounts of insurance until notice has been mailed by registered mail to the Railroad stating when, not less than thirty (30) days thereafter, such cancellation or reduction shall be effective.

- a) Any watchman, flagman, inspector, engineer, maintenance of way employee or similar employee who is employed by the Railroad and is specifically assigned or furnished by the Railroad for work in connection with the project.
- b) Any employee of the Railroad while operating the work trains or other equipment assigned to the project by the Railroad and while engaged in the performance of work directly chargeable to the Contractor.

The Contractor shall not cause any policy to be canceled or permit them to lapse and the policy shall not be subject to cancellation or a reduction in the required limits of liability or amounts of insurance until notice has been mailed by registered mail to the Railroad stating when, not less than thirty (30) days thereafter, such cancellation or reduction shall be effective.

Equipment of the Contractor to be used adjacent to tracks shall be in first-class condition, so as to fully prevent any failures that would cause delay in the construction of the project or damage to Railroad facilities.

His equipment shall not be placed or put in operation adjacent to tracks without first obtaining permission from the Railroad.

Critical construction operations must be confined to limited periods, determined by the railroad, when such work can be accomplished with minimum interference with train schedules. The Contractor shall abide by the Railroad's schedule.

Workman's Compensation Insurance:

The Contractor shall provide adequate Workman's Compensation Insurance for all employed on the project who may come within the protection of such laws. Said insurance shall be written with such company as may be acceptable to the Railroad and the policy shall be submitted to the Railroad for examination. Satisfactory certificates of said insurance shall be filed with The Railroad prior to the commencement of operations by the Contractors. The Contractor will be charged with the responsibility for proper and adequate Workman's Compensation coverage for all his subcontract operations, and in the event the Contractor's policy does not cover each and every subcontractor, certification of insurance must be issued with companies that may be acceptable to the Railroad covering each and every subcontractor shall be filed with the Railroad prior to the commencement of such subcontract operations.

Automobile Liability Insurance:

Coverage for Contractor's owned, leased, or hired vehicles operating within or around the Railroad's property.

Single Limit Liability \$ 1,000,000

Hired & Non-Owned Liability \$ 1,000,000

Umbrella Liability/ Excess Insurance:

The Contractor shall provide adequate Umbrella Liability/ Excess Insurance with a limit of not less than \$5,000,000 each occurrence and shall follow form of the underlying general liability coverages for employers liability, and auto liability, and general liability (including products/ completed operations).

The Contractor shall have endorsement naming **Madison Railroad, a Division of the City of Madison Port Authority** as additional insured.