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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# Memorandum

MIAMI-DADE COUNTY

**Date:** April 20, 2010

Agenda Item No. 14(A)(4)

**To:** Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

**From:** George M. Burgess
County Manager

**Resolution No. R-451-10**

**Subject:** Resolution Authorizing the First Amendment and Supplemental Estimate for the Existing Agreement Between Miami-Dade County and CSX Transportation, Inc. (CSXT), in an Amount Not to Exceed $834,192 for Construction of the Miami Intermodal Center-Earlington Heights Connector (MIC-EH) Project Adjacent to the South Florida Rail Corridor Tracks, South of NW 25th Street and Along the CSXT Tracks

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## RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the First amendment and supplemental estimate for the existing agreement between Miami-Dade County and CSX Transportation, Inc. (CSXT), in an amount not to exceed $834,192 for the construction of the Miami Intermodal Center-Earlington Heights Connector Project (MIC-EH) adjacent to the South Florida Rail Corridor tracks south of NW 25th Street and along the CSXT tracks.

## SCOPE

The project is physically located within Commission Districts 2, 3, 5 and 6 and will have a county-wide impact benefiting all Metrorail patrons.

## FISCAL IMPACT/FUNDING SOURCE

The $834,192 is budgeted from the MIC-EH Connector Project. The MIC–EH Connector Project is included among the Rapid Transit Improvements listed in the People's Transportation Plan (PTP) approved in November 2002. This Project is funded through a combination of the $100 million from the Florida Department of Transportation (FDOT) and $426 million from the Charter County Transit System Surtax (Surtax) program. The total project budget of $526 million is included in the FY 2010 proposed capital plan.

In addition to the original $100 million contribution, FDOT has committed to participate at 50% of the first $500,000 for this amendment. Should any portion of the remaining $334,192 be required for flagging services, FDOT has agreed to revisit their 50% commitment for the remaining balance.

## TRACK RECORD/MONITOR

Miami-Dade Transit (MDT) has entered into previous agreements with CSXT for Metrorail projects (R-1174-08, R-232-07 & R-151-08). CSXT performance for preliminary engineering services for the MIC-EH Connector project has been satisfactory. In addition, the Public Works Department has also entered into similar construction agreements with CSXT (R-1086-03). The staff person responsible for monitoring this Agreement is Surinder S. Sahota, Miami-Dade Transit (MDT), Chief, Engineering, Planning and Development Construction Division.

## DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the resolution which include authority for the Mayor, or Mayor's designee, to execute and terminate the agreement.

**BACKGROUND**

The Board previously approved a CSXT agreement with Miami-Dade County on November 20, 2008, to construct four overhead bridges, including flagging and engineering services (Resolution No.1174-08). The flagging services were required from CSXT for construction of the elevated Metrorail guideway for the MIC-EH Connector, referred to as "bridges" in the agreement, over four crossings. These crossings were at CSXT Mileposts SX-1036.32, SX-1036.64, SX-1036.81, and SX-1036.832, located south of the Miami River Canal between South River Drive and NW 25th Street.

At the time of the original agreement approval, no flagging services would have been required at the proposed Metrorail station located at Miami Intermodal Center (MIC) because the Florida Department of Transportation's (FDOT) original plans for the construction of the MIC Central Station called for the temporary relocation of the Miami Airport Tri-Rail Station to an interim station located north of NW 25th Street; however, South Florida Regional Transportation Authority (SFRTA) decided not to move their operations to the interim station, but instead to continue to maintain train operations at their current location. This necessitates the use of flagging services from CSXT at the proposed Metrorail station location which was not contemplated in the original agreement.

As a result, CSXT provided MDT with a cost estimate of $834,192 for these additional required services. When combined with the original scope budget of $179,627, the revised total cost is $1,013,819. These services include flagging and construction engineering and inspection at the proposed Metrorail station area by CSXT, as needed for the duration of the station civil construction which is scheduled through the end of 2011.

The FDOT's latest plans for the construction of the MIC Central Station calls for SFRTA operations to be temporarily suspended at the Miami Airport Tri-Rail Station and moved to the existing Tri-Rail Marketplace station, the next station north along the CSX line (with bus shuttle service to be provided by SFRTA to the airport in the interim). FDOT is working with SFRTA to make that relocation occur by December 2010. Therefore, this relocation would reduce the required flagging expenses for MDT and FDOT to a maximum of $500,000. However, should the relocation not occur or occur after December 2010, MDT would need to continue flagging services within the requested $834,192 budget. While FDOT cannot commit at this time to an amount beyond half of the initial $500,000, FDOT has agreed to revisit this commitment for flagging services should these services extend beyond the end of the year.

Below is a comparison of the original agreement scope versus this revised agreement.

| Category | Original Agreement | First Amendment and Supplemental Estimate | Combined Agreements |
|---|---|---|---|
| **Scope** | Flagging services only for 4 bridge crossings | Flagging services for the MIC Metrorail station | Flagging services for 4 bridge crossings and the MIC Metrorail station |
| **No of days & nights** | 260 days | 407 days & 407 nights | 667 days & 407 nights |
| **Flagging Area** | 400 Feet | 2,000 Feet | 2,400 Feet |
| **Cost** | $179,627 | $834,192 | $1,013,819 |

This revised estimate has been fully negotiated between Miami-Dade County and CSXT and we anticipate receipt of the final executed agreement shortly. However, due to the time-sensitivity of activities associated with this project, it is in the best interest of the County to waive Resolution No. 130-06 since the executed document has not yet been received.

Funds for the original agreement expired in March 2010. Approval of this first amendment and revised estimate to the existing agreement between Miami-Dade County and CSX Transportation, Inc. (CSXT) is required to maintain continuous flagging services for the project. Approval of this item is needed to complete the MIC-EH Project by May 2012 as scheduled. A complete breakdown of the service costs are included in the attached Exhibit A.

Assistant County Manager

# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

**DATE:** April 20, 2010

**FROM:** R. A. Cuevas, Jr. County Attorney

**SUBJECT:** Agenda Item No. 14(A)(4)

**Please note any items checked.**

| | |
|---|---|
| _____ | **"3-Day Rule" for committees applicable if raised** |
| _____ | **6 weeks required between first reading and public hearing** |
| _____ | **4 weeks notification to municipal officials required prior to public hearing** |
| _____ | **Decreases revenues or increases expenditures without balancing budget** |
| _____ | **Budget required** |
| _____ | **Statement of fiscal impact required** |
| _____ | **Ordinance creating a new board requires detailed County Manager's report for public hearing** |
| _____ | **No committee review** |
| _____ | **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____ ) to approve** |
| ✓ | **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required** |

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(4)
4-20-10

RESOLUTION NO. **R-451-10**

RESOLUTION AUTHORIZING THE FIRST AMENDMENT AND THE REVISED ESTIMATE TO THE EXISTING AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CSX TRANSPORTATION, INC. (CSXT), IN AN AMOUNT NOT TO EXCEED $834,192 FOR CONSTRUCTION OF THE MIAMI INTERMODAL CENTER-EARLINGTON HEIGHTS CONNECTOR (MIC-EHC) PROJECT ADJACENT TO THE SOUTH FLORIDA RAIL CORRIDOR TRACKS, SOUTH OF NW 25TH STREET AND ALONG THE CSXT TRACKS; AND AUTHORIZING USE OF CHARTER COUNTY TRANSIT SYSTEM SURTAX FUNDS

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board approves and authorizes the First Amendment and supplemental estimate to the existing agreement between Miami-Dade County and CSX Transportation, Inc. (CSXT), in an amount not to exceed $834,192 for construction of the Miami Intermodal Center-Earlington Heights Connector (MIC-EHC) project adjacent to the South Florida Rail Corridor tracks, south of NW 25th Street and along the CSXT tracks in substantially the form attached hereto and made a part hereof; authorizes the use of Charter County Transit System Surtax funds; waives the requirements of Resolution No. R-130-06 and authorizes the Mayor, or his designee, to execute same for and on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner Joe A. Martinez, who moved its adoption. The motion was seconded by Commissioner Rebeca Sosa and upon being put to a vote, the vote was as follows:

| | | | |
|---|---|---|---|
| Dennis C. Moss, Chairman | aye | | |
| Jose "Pepe" Diaz, Vice-Chairman | aye | | |
| Bruno A. Barreiro | aye | Audrey M. Edmonson | aye |
| Carlos A. Gimenez | aye | Sally A. Heyman | absent |
| Barbara J. Jordan | aye | Joe A. Martinez | aye |
| Dorrin D. Rolle | aye | Natacha Seijas | aye |
| Katy Sorenson | aye | Rebeca Sosa | aye |
| Sen. Javier D. Souto | aye | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of April, 2010. This resolution shall become effective as follows: (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, and (2) either i) the Citizens' Independent Transportation Trust (CITT) has approved same, or ii) in response to the CITT's disapproval, the County Commission re-affirms its award by two-thirds (2/3) vote of the Commission's membership and such reaffirmation becomes final.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Bruce Libhaber

## AMENDMENT AGREEMENT TO CONSTRUCTION AGREEMENT

THIS AMENDMENT is made as of this _____day of _____, 2010 (The "Amendment") by and between CSX Transportation, Inc., a Virginia corporation with its principal place of business in Jacksonville, Florida ("CSXT") and Miami-Dade County, a body corporate and political subdivision of the State of Florida ("Agency").

**WITNESSETH**

**WHEREAS**, CSXT and Agency entered into the Construction Agreement dated December 29, 2008; CSX OP No. FL1152, (the "Construction Agreement"), under which Agency proposed to construct, or to cause to be constructed four new Overhead Bridges over CSXT for the MIC Earlington Heights Connector Project (the Project).

**WHEREAS**, CSXT and Agency now desire to amend the Construction Agreement as set forth herein.

**NOW THEREFORE**, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CSXT and Agency agree as follows:

1. Paragraph one of the EXPLANATORY STATEMENT on page one, shall be amended to read as follows:

    1. County has proposed to construct, or to cause to be constructed Four new Overhead Bridges over CSXT and along the South Florida Railroad Corridor for the MIC – Earlington Heights Connector Project (the "Project") a 2.4 mile double-track elevated guideway which crosses over the South Florida Railroad Corridor and will connect the Miami Intermodal Center (MIC), located north of NW 21st Street and east of NW 42nd Avenue, to the existing elevated guideway just west of the Earlington Heights Metrorail station located at NW 41st Street NW 22nd Avenue.

2. This amendment shall be governed by the laws of the State of Florida, exclusive of its choice of law rules.

3. All other terms and conditions of the Construction Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, CSXT and Agency have caused this Amendment to be executed in duplicate, each by its duly authorized officers, as of the date first above-written.

ATTEST:

By:

_____

MIAMI-DADE COUNTY, FLORIDA
a political subdivision of the State of Florida,
BY ITS BOARD OF COMMISSIONERS
By:

_____
Name:
Title:

Approved by Office of County Attorney
As to form and Sufficiency

By:
Assistant County Attorney

Date:_____

CSX TRANSPORTATION, INC.

By:_____
Charles E. Gullakson
Assistant Chief Engineer, Public Projects

Project: Miami, Dade County, Florida,
Construct Four (4) Bridges over CSX for the
MIC-Earlington Heights Connector Project,
Jacksonville Division; Miami Sub Division
CSXT OP# FL1152

## CONSTRUCTION AGREEMENT

This Construction Agreement ("**Agreement**") is made as of December 29, 2008, by and between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business in Jacksonville, Florida ("**CSXT**"), and **Miami-Dade County**, a body corporate and political subdivision of the State of **Florida** ("County").

### EXPLANATORY STATEMENT

1. County has proposed to construct, or to cause to be constructed, **four new Over Head Bridges over CSXT's freight easement, hereinafter referred to as CSXT's right of way, for the MIC - Earlington Heights Connector Project** located at **CSXT Mileposts SX-1036.38; SX-1036.64; SX-1036.81 and SX-1036.83** (the "**Project**"). The MIC - Earlington Heights Connector Project (Project No NCP004-TR06-CT2) a 2.4 mile double-track elevated guideway which crosses over the South Florida Railroad Corridor.

2. The parties recognize that the South Florida Rail Corridor is under the ownership of the State of Florida Department of Transportation upon which CSXT retains a freight easement.

3. That the County will have to enter in appropriate agreements and obtain permits with the State of Florida Department of Transportation prior to proceeding with construction of the project within the South Florida Rail Corridor.

4. County has obtained, or will obtain, all authorizations, permits and approvals from all local, state and federal agencies (including County), and their respective governing bodies and regulatory agencies, necessary to proceed with the Project and to appropriate all funds necessary to construct the Project.

5. County acknowledges that: (i) by entering into this Agreement, CSXT will provide services and accommodations to promote public interest in this Project, without profit or other economic inducement typical of other County contractors; (ii) neither CSXT nor its affiliates (including their respective directors, officers, employees or agents) will incur any costs, expenses, losses or liabilities in excess of payments made to CSXT, by or on behalf of County or its contractors, pursuant to this Agreement; and (iii) CSXT retains the paramount right as between the parties to regulate all activities affecting its right of way and operations.

6. It is the purpose of this Agreement to provide for the terms and conditions upon which the Project may proceed.

NOW, THEREFORE, in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. Project Plans and Specifications

1.1 Preparation and Approval. Pursuant to Exhibit A of this Agreement, all plans, specifications, drawings and other documents necessary or appropriate to the design and construction of the Project shall be prepared, at County's sole cost and expense, by County or CSXT or their respective contractors. Project plans, specifications and drawings prepared by or on behalf of County shall be subject, at CSXT's election, to the review and approval of CSXT. Such plans, specifications and drawings, as prepared or approved by CSXT, are referred to as the "**Plans**", and shall be incorporated and deemed a part of this Agreement. Plans prepared or submitted to and approved by CSXT as of the date of this Agreement are set forth in Exhibit B to this Agreement.

1.2 Effect of CSXT Approval or Preparation of Plans. By its review, approval or preparation of Plans pursuant to this Agreement, CSXT signifies only that such Plans and improvements are constructed in accordance with such Plans and improvements constructed in accordance with such Plans satisfy CSXT's requirements. CSXT expressly disclaims all other representations and warranties in connection with the Plans, including, but not limited to, the integrity, suitability or fitness for the purposes of County or any other persons of the Plans or improvements constructed in accordance with the Plans.

1.3 Compliance with Plans. The Project shall be constructed in accordance with the Plans.

2. Allocation and Conduct of Work

Work in connection with the Project shall be allocated and conducted as follows:

2.1 CSXT Work. Subject to timely payment of Reimbursable Expenses as provided by Section 4, CSXT shall provide, or cause to be provided, the services as set forth by Exhibit A to this Agreement. County agrees that CSXT shall provide all services that CSXT deems necessary or appropriate (whether or not specified by Exhibit A) to preserve and maintain its property interest and operations, without impairment or exposure to liability of any kind and in compliance with all applicable federal, state and local regulations and CSXT's contractual obligations, including, but not limited to, CSXT's existing or proposed third party agreements and collective bargaining agreements.

2.2 County Work. County shall perform, or cause to be performed, all work as set forth by Exhibit A, at County's sole cost and expense.

2.3 Conduct of Work. CSXT shall commence its work under this Agreement following: (i) delivery to CSXT of a notice to proceed from County; (ii) payment of Reimbursable Expenses (as provided by Section 4.1) as required by CSXT prior to the commencement of work by CSXT; (iii) issuance of all permits, approvals and authorizations necessary or appropriate for such work; and (iv) delivery of proof of insurance acceptable to CSXT, as required by Section 9. The initiation of any services by CSXT pursuant to this Agreement, including, but not limited to, the issuance of purchase orders or bids for materials or services, shall constitute commencement of work for the purposes of this Section. The parties intend that all work by CSXT or on the South Florida Rail Corridor shall conclude no later than **December 31, 2011**, unless the parties mutually agree to extend such date.

3. Special Provisions. County shall observe and abide by, and shall require its contractors ("**Contractors**") to observe and abide by the terms, conditions and provisions set forth in Exhibit C to this Agreement (the "Special Provisions"). To the extent that County performs Project work

itself; County shall be deemed a Contractor for purposes of this Agreement. County further agrees that, prior to the commencement of Project work by any third party Contractor, such Contractor shall execute and deliver to CSXT Schedule I to this Agreement to acknowledge Contractor's agreement to observe and abide by the terms and conditions of this Agreement.

4. Cost of Project and Reimbursement Procedures

4.1 Reimbursable Expenses. County shall reimburse CSXT for all costs and expenses incurred by CSXT in connection with the Project, including, without limitation: (1) all out of pocket expenses, (2) travel and lodging expenses, (3) telephone, facsimile, and mailing expenses, (4) costs for equipment, tools, materials and supplies, (5) sums paid to CSXT's consultants and subcontractors, and (6) CSXT labor in connection with the Project, together with CSXT labor overhead percentages established by CSXT pursuant to applicable law (collectively, "**Reimbursable Expenses**"). Reimbursable Expenses shall also include expenses incurred by CSXT prior to the date of this Agreement to the extent identified by the Estimate provided pursuant to Section 4.2.

4.2 Estimate. CSXT has estimated the total Reimbursable Expenses for the Project as shown on Exhibit D (the "**Estimate**", as amended or revised). In the event CSXT anticipates that actual Reimbursable Expenses for the Project may exceed such Estimate, it shall provide County with the revised Estimate of the total Reimbursable Expenses, together with a revised Payment Schedule (as defined by Section 4.3.1), for County's approval and confirmation that sufficient funds have been appropriated to cover the total Reimbursable Expenses of such revised Estimate. CSXT may elect, by delivery of notice to County, to immediately cease all further work on the Project, unless and until County provides such approval and confirmation.

4.3 Payment Terms.

4.3.1 County shall pay CSXT for Reimbursable Expenses in the amounts and on the dates set forth in the Payment Schedule as shown on Exhibit E (the "Payment Schedule", as revised pursuant to Section 4.2). CSXT agrees to submit invoices to County for such amounts and County shall remit payment to CSXT at the later of forty-five (45) days following delivery of each such invoice to County or, the payment date (if any) set forth in the Payment Schedule.

4.3.2 Following completion of the Project, CSXT shall submit to County a final invoice that reconciles the total Reimbursable Expenses incurred by CSXT against the total payments received from County. County shall pay to CSXT the amount by which Reimbursable Expenses exceed total payments as shown by the final invoice, within forty-five (45) days following delivery of such invoice to County. In the event that the payments received by CSXT from County exceed the Reimbursable Expenses, CSXT shall remit such excess to County.

4.3.3 In the event that County fails to pay CSXT any sums due CSXT under this Agreement: (i) County shall pay CSXT interest at the lesser of 1.0% per month or the maximum rate of interest permitted by applicable law on the delinquent amount until paid in full; and (ii) CSXT may elect, by delivery of notice to County: (A) to immediately cease all further work on the Project, unless and until County pays the entire delinquent sum, together with accrued interest; and/or (B) to terminate this Agreement.

4.3.4 All invoices from CSXT shall be delivered to County in accordance with Section 16 of this Agreement. All payments by County to CSXT shall be made by certified check or wire transfer, and mailed to the following address or such other address as designated by CSXT's notice to County:

CSX Transportation, Inc.
P.O. Box 116651
Atlanta, GA 30368-6651

4.4 Effect of Termination. County's obligation to pay to CSXT Reimbursable Expenses in accordance with Section 4 shall survive termination of this Agreement for any reason.

5. Appropriations: County represents to CSXT that: (i) County has appropriated funds sufficient to reimburse CSXT for the Reimbursable Expenses encompassed by the Estimate attached as Exhibit D; (ii) County shall use its best efforts to obtain appropriations necessary to cover Reimbursable Expenses encompassed by subsequent Estimates approved by County; and (iii) County shall promptly notify CSXT in the event that County is unable to obtain such appropriations.

6. Easements and Licenses

6.1 County Obligation. County shall acquire all necessary licenses, permits and easements required for the Project.

6.2 Temporary Construction Licenses. Insofar as it has the right to do so, CSXT hereby grants County a nonexclusive license to access and cross CSXT's freight easement, to the extent necessary for the construction of the Project (excluding ingress or egress over public grade crossings), along such routes and upon such terms as may be defined and imposed by CSXT and such temporary construction easements or permits as may be designated on the Plans approved by CSXT.

6.3 Permanent Easements. Insofar as it has the right to do so, CSXT shall grant, without warranty to County, easements or permits for the use and maintenance of the Project wholly or partly on CSXT freight easement as shown on the Plans approved by CSXT, if any, on terms and conditions and at a price acceptable to the parties. Upon request by CSXT, County shall furnish to CSXT descriptions and parcel sketches for the easements or permits.

7. Permits: At its sole cost and expense, County shall procure all permits and approvals required by any federal, state, or local governments or governmental agencies for the construction, maintenance and use of the Project, copies of which shall be provided to CSXT.

8. Termination

8.1 By County. For any reason, County may, as its sole remedy, terminate this Agreement by delivery of notice to CSXT. County shall not be entitled to otherwise pursue claims for consequential, direct, indirect or incidental damages or lost profits as a consequence of CSXT's default or termination of this Agreement or Work on the Project by either party.

8.2 By CSXT. In addition to the other rights and remedies available to CSXT under this Agreement, CSXT may terminate this Agreement by delivery of notice to County in the event County or its Contractors fail to observe the terms or conditions of this Agreement and such

failure continues more than ten (10) business days following delivery of notice of such failure by CSXT to County.

8.3 Consequences of Termination. If the Agreement is terminated by either party pursuant to this Section or any other provision of this Agreement, the parties understand that it may be impractical for them to immediately stop the Work. Accordingly, they agree that, in such instance a party may continue to perform Work until it has reached a point where it may reasonably and safely suspend the Work. County shall reimburse CSXT pursuant to this Agreement for the Work performed, plus all costs reasonably incurred by CSXT to discontinue the Work and protect the Work upon full suspension of the same, the cost of returning the Railroad corridor to its former condition, and all other costs of CSXT incurred as a result of the Project up to the time of full suspension of the Work. Termination of this Agreement or Work on the Project, for any reason, shall not diminish or reduce County's obligation to pay CSXT for Reimbursable Expenses incurred in accordance with this Agreement. In the event of the termination of this Agreement or the Work for any reason, CSXT's only remaining obligation to County shall be to refund to County payments made to CSXT in excess of Reimbursable Expenses in accordance with Section 4.

9. Insurance In addition to the insurance that County requires of its Contractor, County shall acquire or require its Contractor to purchase and maintain insurance in compliance with CSXT's insurance requirements attached to this Agreement as Exhibit F. Neither County nor Contractor shall commence work on the Project until such policy or policies have been submitted to and approved by CSXT's Risk Management Department.

10. Ownership and Maintenance

10.1 By County. County shall own and, without cost to CSXT, shall maintain, repair, replace and renew, or cause same to be done, in good condition and repair to CSXT's satisfaction, the guideway overpass structure, the roadway surfacing, the roadway slopes, the retaining walls, and the drainage facilities. In the event that County fails to properly maintain such structures and improvements, and such failure, in the opinion of CSXT, jeopardizes the safe and efficient operation of its property, CSXT shall be entitled to remedy such failure and recover from County the costs incurred by CSXT in doing so. Upon the cessation of use of the Project by County, County shall remove the bridge structure and restore CSXT's right of way to its original condition, at County's sole cost and expense, to CSXT's satisfaction.

10.2 Alterations. County shall not undertake any alteration, modification or expansion of the Project, without the prior approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require.

11. Indemnification

11.1 Generally. To the maximum extent permitted by applicable law, County and its Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless from and against all claims, demands, payments, suits, actions, judgments, settlements, and damages of every nature, degree, and kind (including direct, indirect, consequential, incidental, and punitive damages), for any injury to or death to any person(s) (including, but not limited to the employees of CSXT, its affiliates, County or its Contractors), for the loss of or damage to any property whatsoever (including but not limited to property owned by or in the care, custody, or control of CSXT, its affiliates, County or its Contractors, and environmental damages and any related remediation brought or recovered against CSXT and its affiliates), arising directly or indirectly

from the negligence, recklessness or intentional wrongful misconduct of the Contractors, County, and their respective agents, employees, invitees, contractors, or its contractors' agents, employees or invitees in the performance of work in connection with the Project or activities incidental thereto, or from their presence on or about CSXT's right of way. The foregoing indemnification obligation shall not be limited to the insurance coverage required by this Agreement, except to the extent required by law or otherwise expressly provided by this Agreement.

11.2 Compliance with Laws. County shall comply, and shall require its Contractors to comply, with any federal, state, or local laws, statutes, codes, ordinances, rules, and regulations applicable to its construction and maintenance of the Project. County's Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless with respect to any fines, penalties, liabilities, or other consequences arising from breaches of this Section.

11.3 "CSXT Affiliates". For the purpose of this Section 11, CSXT's affiliates include CSX Corporation and all entities, directly or indirectly, owned or controlled by or under common control of CSXT or CSX Corporation and their respective officers, directors, employees and agents.

11.4 Notice of Incidents. County and its Contractor shall notify CSXT promptly of any loss, damage, injury or death arising out of or in connection with the Project work.

11.5 Survival. The provisions of this Section 11 shall survive the termination or expiration of this Agreement.

12. Independent Contractor: The parties agree that neither County nor its Contractors shall be deemed either agents or independent contractors of CSXT. Except as otherwise provided by this Agreement, CSXT shall exercise no control whatsoever over the employment, discharge, compensation of, or services rendered by County or County's Contractors, or the construction practices, procedures, and professional judgment employed by County or its Contractor to complete the Project. Notwithstanding the foregoing, this Section 12 shall in no way affect the absolute authority of CSXT to prohibit County or its Contractors or anyone from entering CSXT's right of way, or to require the removal of any person from its property, if it determines, in its sole discretion, that such person is not acting in a safe manner or that actual or potential hazards in, on or about the Project exist.

13. "Entire Agreement" This Agreement embodies the entire understanding of the parties, may not be waived or modified except in a writing signed by authorized representatives of both parties, and supersedes all prior or contemporaneous written or oral understandings, agreements or negotiations regarding its subject matter. In the event of any inconsistency between this Agreement and the Exhibits, the more specific terms of the Exhibits shall be deemed controlling.

14. Waiver: If either party fails to enforce its respective rights under this Agreement, or fails to insist upon the performance of the other party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.

15. Assignment: CSXT may assign this Agreement and all rights and obligations herein to a successor in interest, parent company, affiliate, or future affiliate. Upon assignment of this Agreement by CSXT and the assumption of CSXT's assignee of CSXT's obligations under this Agreement, CSXT shall have no further obligation under this Agreement. County shall not assign its rights or obligations under this Agreement without CSXT's prior consent, which consent may be withheld for any reason.

16. Notices: All notices, consents and approvals required or permitted by this Agreement shall be in writing and shall be deemed delivered upon personal delivery, upon the expiration of three (3) days following mailing by first class U.S. mail, or upon the next business day following mailing by a nationally recognized overnight carrier, to the parties at the addresses set forth below, or such other addresses as either party may designate by delivery of prior notice to the other party:

If to CSXT:
CSX Transportation, Inc.
500 Water Street J-301
Jacksonville, FL 32202
Attention: Hal A. Gibson, Jr

If to County:
Miami-Dade Transit
701 NW First Court, Suite 1500
Miami, Florida 33136
Attention: Ronald Steiner, Chief of Construction

17. Severability The parties agree that if any part, term or provision of this Agreement is held to be illegal, unenforceable or in conflict with any applicable federal, state, or local law or regulation, such part, term or provision shall be severable, with the remainder of the Agreement remaining valid and enforceable.

18. Applicable Law: This Agreement shall be governed by the laws of the State of **Florida**, exclusive of its choice of law rules. The parties further agree that the venue of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Duval County, Florida, and the parties agree to submit to the personal jurisdiction of any State or Federal court situated in Duval County, Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate, each by its duly authorized officers, as of the date of this Agreement.

**ATTEST**
**HARVEY RUBIN, CLERK**
**State of Florida**

**By:**
**Deputy Clerk**

**Approved by Office of County Attorney**
**as to form and Sufficiency**

**By:**
**Assistant County Attorney**

**MIAMI-DADE COUNTY, FLORIDA**
**a political subdivision of the State of Florida,**
**BY ITS BOARD OF COMMISSIONERS**

**By:**
**Name: George Burgess**
**Title: County Manager**

12/29/08
**Date:**

**CSX TRANSPORTATION, INC.**

**By:**
**Name: Charles E. Gullakson**
**Title: Assistant Chief Engineer, Public Projects**

**EXHIBIT A**
ALLOCATION OF WORK

Subject to Section 2.1, work to be performed in connection with the Project is allocated as follows:

A. County shall let by contract to its Contractors:

1. All guideway work associated with the project and in accordance with the project plans.

B. CSXT shall perform or cause to be performed:

1. Construction engineering and inspection with respect to protection of CSX interests.
2. Flagging and other protective services.
3. Review and comment on construction phase submittals.

**EXHIBIT B**

PLANS AND SPECIFICATIONS

Plans, Specifications and Drawings:

As of the date of this Agreement, the following plans, specifications and drawings have been submitted by County to CSXT for its review and are approved by CSXT:

**Metrorail Extension - MIC - Earlington Heights Connector**
**100% Plans Volumes I - IV of technical specifications and drawings, prepared by URS December 2007, Contract Number NCP004-TR06-CT2**

**EXHIBIT C**

CSXT SPECIAL PROVISIONS

DEFINITIONS:

As used in these Special Provisions, all capitalized terms shall have the meanings ascribed to them by the Agreement, and the following terms shall have the meanings ascribed to them below:

"CSXT" shall mean CSX Transportation, Inc., its successors and assigns.

"CSXT Representative" shall mean the authorized representative of CSX Transportation, Inc.

"Agreement" shall mean the Agreement between CSXT and County dated as of Dec. 29, 2008, as amended from time to time.

"County" shall mean the **Miami-Dade County**.

"County Representative" shall mean the authorized representative of **Miami-Dade County**.

"Contractor" shall have the meaning ascribed to such term by the Agreement.

"Work" shall mean the Project.

"Project" shall mean the construction of four new overhead bridges over CSX for the MIC – Earlington Heights Connector Project located at CSXT Mileposts SX-1036.38; SX-1036.64; SX-1036.81 and SX-1036.83, as described in the Agreement.

I. AUTHORITY OF CSXT ENGINEER

The CSXT Representative shall have final authority in all matters affecting the safe maintenance of CSXT operations and CSXT right of way, and his or her approval shall be obtained by the County or its Contractor for methods of construction to avoid interference with CSXT operations and CSXT right of way and all other matters contemplated by the Agreement and these Special Provisions.

II. INTERFERENCE WITH CSXT OPERATIONS

A. County or its Contractor shall arrange and conduct its work so that there will be no interference with CSXT operations, including train, signal, telephone and telegraphic services, or damage to CSXT's right of way, or to poles, wires, and other facilities of tenants on CSXT's right-of-way. County or its Contractor shall store materials so as to prevent trespassers from causing damage to trains, or CSXT right of way. Whenever Work is likely to affect the operations or safety of trains, the method of doing such Work shall first be submitted to the CSXT Representative for approval, but such approval shall not relieve County or its Contractor from liability in connection with such Work.

B. If conditions arising from or in connection with the Project require that immediate and unusual provisions be made to protect train operation or CSXT's right of way, County or its Contractor shall make such provision. If the CSXT Representative determines that such provision is insufficient, CSXT may, at the expense of County or its Contractor,

require or provide such provision as may be deemed necessary, or cause the Work to cease immediately.

III. NOTICE OF STARTING WORK. County or its Contractor shall not commence any work on CSXT Property or rights-of-way until it has complied with the following conditions:

A. Notify CSXT in writing of the date that it intends to commence Work on the Project. Such notice must be received by CSXT at least ten business days in advance of the date County or its Contractor proposes to begin Work on CSXT right of way. The notice must refer to this Agreement by date. If flagging service is required, such notice shall be submitted at least thirty (30) business days in advance of the date scheduled to commence the Work.

B. Obtain authorization from the CSXT Representative to begin Work on CSXT right of way, such authorization to include an outline of specific conditions with which it must comply.

C. Obtain from CSXT the names, addresses and telephone numbers of CSXT's personnel who must receive notice under provisions in the Agreement. Where more than one individual is designated, the area of responsibility of each shall be specified.

IV. WORK FOR THE BENEFIT OF THE CONTRACTOR

A. No temporary or permanent changes to wire lines or other facilities (other than third party fiber optic cable transmission systems) on CSXT right of way that are considered necessary to the Work are anticipated or shown on the Plans. If any such changes are, or become, necessary in the opinion of CSXT or County, such changes will be covered by appropriate revisions to the Plans and by preparation of a force account estimate. Such force account estimate may be initiated by either CSXT or County, but must be approved by both CSXT and County. County or Contractor shall be responsible for arranging for the relocation of the third party fiber optic cable transmission systems, at no cost or expense to CSXT.

B. Should County or Contractor desire any changes in addition to the above, then it shall make separate arrangements with CSXT for such changes to be accomplished at the County or Contractor's expense.

V. HAUL ACROSS RAILROAD

A. If County or Contractor desires access across CSXT right of way or tracks at other than an existing and open public road crossing in or incident to construction of the Project, the County or Contractor must first obtain the permission of CSXT and shall execute a license agreement or right of entry satisfactory to CSXT, wherein County or Contractor agrees to bear all costs and liabilities related to such access.

B. County and Contractor shall not cross CSXT's right of way and tracks with vehicles or equipment of any kind or character, except at such crossing or crossings as may be permitted pursuant to this section.

VI. COOPERATION AND DELAYS

A. County or Contractor shall arrange a schedule with CSXT for accomplishing stage construction involving work by CSXT. In arranging its schedule, County or Contractor shall ascertain, from CSXT, the lead time required for assembling crews and materials and shall make due allowance therefor.

B. County or Contractor may not charge any costs or submit any claims against CSXT for hindrance or delay caused by railroad traffic; work done by CSXT or other delay incident to or necessary for safe maintenance of railroad traffic; or for any delays due to compliance with these Special Provisions.

C. County and Contractor shall cooperate with others participating in the construction of the Project to the end that all work may be carried on to the best advantage.

D. County and Contractor understand and agree that CSXT does not assume any responsibility for work performed by others in connection with the Project. County and Contractor further understand and agree that they shall have no claim whatsoever against CSXT for any inconvenience, delay or additional cost incurred by County or Contractor on account of operations by others.

VII. STORAGE OF MATERIALS AND EQUIPMENT

County and Contractor shall not store their materials or equipment on CSXT's right of way or where they may potentially interfere with CSXT's operations, unless County or Contractor has received CSXT Representative's prior written permission. County and Contractor understand and agree that CSXT will not be liable for any damage to such materials and equipment from any cause and that CSXT may move, or require County or Contractor to move, such material and equipment at County's or Contractor's sole expense. To minimize the possibility of damage to the railroad tracks resulting from the unauthorized use of equipment, all grading or other construction equipment that is left parked near the tracks unattended by watchmen shall be immobilized to the extent feasible so that it cannot be moved by unauthorized persons.

VIII. CONSTRUCTION PROCEDURES

A. General

1. Construction work on CSXT right of way shall be subject to CSXT's inspection and approval.
2. Construction work on CSXT right of way shall be in accord with CSXT's written outline of specific conditions and with these Special Provisions.
3. Contractor shall observe the terms and rules of the CSXT Safe Way manual, which County and Contractor shall be required to obtain from CSXT, and in accord with any other instructions furnished by CSXT or CSXT's Representative.

B. Blasting

1. County or Contractor shall obtain CSXT Representative's and County Representative's prior written approval for use of explosives on or adjacent to CSXT right of way. If permission for use of explosives is granted, County or

Contractor must comply with the following:

a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of County or Contractor.

b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way train radios.

c. No blasting shall be done without the presence of an authorized representative of CSXT. At least 10 days' advance notice to CSXT Representative is required to arrange for the presence of an authorized CSXT representative and any flagging that CSXT may require.

d. County or Contractor must have at the Project site adequate equipment, labor and materials, and allow sufficient time, to (i) clean up (at County's expense) debris resulting from the blasting without any delay to trains; and (ii) correct (at County's expense) any track misalignment or other damage to CSXT's right of way resulting from the blasting, as directed by CSXT Representative, without delay to trains. If County's or Contractor's actions result in delay of any trains, including Amtrak passenger trains, County shall bear the entire cost thereof.

e. County and Contractor shall not store explosives on CSXT property interest.

2. CSXT Representative will:

a. Determine the approximate location of trains and advise County or Contractor of the approximate amount of time available for the blasting operation and clean-up.

b. Have the authority to order discontinuance of blasting if, in his or her opinion, blasting is too hazardous or is not in accord with these Special Provisions.

## IX. MAINTENANCE OF DITCHES ADJACENT TO CSXT TRACKS

County or Contractor shall maintain all ditches and drainage structures free of silt or other obstructions that may result from their operations. County or Contractor shall provide erosion control measures during construction and use methods that accord with applicable state standard specifications for road and bridge construction, including either (1) silt fence; (2) hay or straw barrier; (3) berm or temporary ditches; (4) sediment basin; (5) aggregate checks; and (6) channel lining. All such maintenance and repair of damages due to County's or Contractor's operations shall be performed at County's expense.

## X. FLAGGING / INSPECTION SERVICE

A. CSXT has sole authority to determine the need for flagging required to protect its operations and property. In general, flagging protection will be required whenever County or Contractor or their equipment are, or are likely to be, working within fifty (50) feet of live track or other track clearances specified by CSXT, or over tracks.

B. County shall reimburse CSXT directly for all costs of flagging that is required on account of construction within CSXT right of way shown in the Plans, or that is covered by an approved plan revision, supplemental agreement or change order.

C. County or Contractor shall give a minimum of 10 days' advance notice to CSXT Representative for anticipated need for flagging service. No work shall be undertaken until the flag person(s) is/are at the job site. If it is necessary for CSXT to advertise a flagging job for bid, it may take up to 90-days to obtain this service, and CSXT shall not be liable for the cost of delays attributable to obtaining such service.

D. CSXT shall have the right to assign an individual to the site of the Project to perform inspection service whenever, in the opinion of CSXT Representative, such inspection may be necessary. County shall reimburse CSXT for the costs incurred by CSXT for such inspection service. Inspection service shall not relieve County or Contractor from liability for its Work.

E. CSXT shall render invoices for, and County shall pay for, the actual pay rate of the flagpersons and inspectors used, plus standard additives, whether that amount is above or below the rate provided in the Estimate. If the rate of pay that is to be used for inspector or flagging service is changed before the work is started or during the progress of the work, whether by law or agreement between CSXT and its employees, or if the tax rates on labor are changed, bills will be rendered by CSXT and paid by County using the new rates. County and Contractor shall perform their operations that require flagging protection or inspection service in such a manner and sequence that the cost of such will be as economical as possible.

## XI. UTILITY FACILITIES ON CSXT RIGHT OF WAY

County shall arrange, upon approval from CSXT, to have any utility facilities on or over CSXT right of way changed as may be necessary to provide clearances for the proposed trackage.

## XII. CLEAN-UP

County or Contractor, upon completion of the Project, shall remove from CSXT's right of way any temporary grade crossings, any temporary erosion control measures used to control drainage, all machinery, equipment, surplus materials, falsework, rubbish, or temporary buildings belonging to County or Contractor. County or Contractor, upon completion of the Project, shall leave CSXT right of way in neat condition, satisfactory to CSXT Representative.

## XIII. FAILURE TO COMPLY

If County or Contractor violate or fail to comply with any of the requirements of these Special Provisions, (a) CSXT may require County and/or Contractor to vacate CSXT right of way; and (b) CSXT may withhold monies due County and/or Contractor; and (c) CSXT may cure such failure and the County shall reimburse CSXT for the cost of curing such failure.

**EXHIBIT D**

INITIAL ESTIMATE
ATTACHED

# CSX TRANSPORTATION, INC.
# FORCE ACCOUNT ESTIMATE

**ACCT. CODE : 709 -** FL1152

**ESTIMATE SUBJECT TO REVISION AFTER:** 12/23/2008 **DOT NO.:** TBD
**CITY:** Miami **COUNTY:** Miami-Dade **STATE:** FL
**DESCRIPTION:** Four new MetroRail Guideway Overhead bridges over CSX

**DIVISION:** Jacksonville **SUB-DIV:** Miami **MILE POST:** SX 1036
**AGENCY PROJECT NUMBER:** Project No. NCP004-TR06-CT2

| | | | | |
|---|---|---|---|---|
| **PRELIMINARY ENGINEERING:** | | | | |
| 200 Labor (Non Contract) | | | $ | - |
| 200 Additive | 42.41% | | $ | - |
| 230 Expenses | | | $ | - |
| 212 Contracted & Administrative Engineering Services | | | $ | - |
| **Subtotal** | | | $ | - |
| **CONSTRUCTION ENGINEERING/INSPECTION:** | | | | |
| 200 Labor (Non Contract) | | | $ | 1,350 |
| 200 Additive | 42.41% | | $ | 573 |
| 230 Expenses | | | $ | 235 |
| 212 Contracted & Administrative Engineering Services | | | $ | 49,900 |
| **Subtotal** | | | $ | 52,058 |
| **FLAGGING SERVICE: (Contract Labor)** | | | | |
| 070 Labor (Conductor-Flagman) | | | $ | - |
| 050 Labor (Foreman/Inspector) | | | $ | 61,100 |
| 070 Additive | 74.68% | (Transportation Department) | $ | - |
| 050 Additive | 76.03% | (Engineering Department) | $ | 46,454 |
| 230 Per Diem | (Engineering Department) | | $ | 375 |
| 230 Expenses | | | $ | - |
| **Subtotal** | | | $ | 107,929 |
| **SIGNAL & COMMUNICATIONS WORK:** | | (Details Attached) | $ | - |
| **TRACK WORK:** (Details Attached) | | | $ | - |
| **ACCOUNTING & BILLING:** | | | | |
| 040 Labor | | | $ | 2,000 |
| 040 Additive | 65.54% | | $ | 1,311 |
| **Subtotal** | | | $ | 3,311 |
| **PROJECT SUBTOTAL** | | | $ | 163,298 |
| 900 **CONTINGENCIES:** | 10.00% | | $ | 16,330 |
| **GRAND TOTAL** ********** | | | $ | 179,627 |

**DIVISION OF COST:**

| | | | |
|---|---|---|---|
| Agency | 100.00% | $ | 179,627 |
| Railroad | | $ | - |
| **TOTAL** ********** | | $ | 179,627 |

**NOTE: Estimate is based on FULL CROSSING CLOSURE during work by Railroad Forces.**

This estimate has been prepared based on site conditions, anticipated work duration periods, material prices, labor rates, manpower and resource availability, and other factors known as of the date prepared. The actual cost for CSXT work may differ based upon the agency's requirements, their contractor's work procedures, and/or other conditions that become apparent once construction commences or during the progress of the work

Office of Assistant Chief Engineer Public Projects--Jacksonville, Florida
Estimated prepared by: DEB
DATE: 4/23/2008 REVISED: 4/23/2008
Form Last Revised: December 19, 2006 HAG Project Summary Sheet

# CSX TRANSPORTATION, INC.
# FORCE ACCOUNT ESTIMATE

**ACCT. CODE : 709 -** FL1152
**Pub EB -** **FL** EB3 (FL)

**ESTIMATE SUBJECT TO REVISION AFTER:** **12/23/2008** **DOT NO.:** TBD
**CITY:** Miami **COUNTY:** Miami-Dade **STATE:** FL
**DESCRIPTION:** Four new MetroRail Guideway Overhead bridges over CSX

**DIVISION:** Jacksonville **SUB-DIV:** Miami **MILEPOST:** SX 1036
**DRAWING NO.:** __ **DRAWING DATE:** __ **REGION:** Southern
**AGENCY PROJECT NUMBER:** Project No. NCP004-TR06-CT2

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | **PRELIMINARY ENGINEERING:** | | | | | | |
| 200 | Labor (Non Contract) | | 0 | Days @ | $ 270.00 | $ | - |
| 200 | Additive | 42.41% | | | | $ | - |
| 230 | Expenses | | | | | $ | - |
| 212 | Contracted & Administrative Engineering Services | | | | | $ | - |
| | **Subtotal** | | | | | $ | - |
| | **CONSTRUCTION ENGINEERING/INSPECTION:** | | | | | | |
| 200 | Labor (Non Contract) | | 5 | Days @ | $ 270.00 | $ | 1,350 |
| 200 | Additive | 42.41% | | | | $ | 573 |
| 230 | Expenses | | | | | $ | 235 |
| 212 | Contracted & Administrative Engineering Services | | | | | $ | 49,900 |
| | **Subtotal** | | | | | $ | 52,058 |
| | **FLAGGING SERVICE: (Contract Labor)** | | | | | | |
| 70 | Labor (Conductor-Flagman) | | 0 | Days @ | $ - | $ | - |
| 50 | Labor (Foreman/Inspector) | | 200 | Days @ | $ 235.00 | $ | 61,100 |
| 70 | Additive | 74.68% (Transportation Department) | | | | $ | - |
| 50 | Additive | 76.03% (Engineering Department) | | | | $ | 46,454 |
| 230 | Expenses | (Engineering Department) | 5 | Days @ | $ 75.00 | $ | 375 |
| 230 | Expenses | | 0 | Days @ | $ 45.00 | $ | - |
| | **Subtotal** | | | | | $ | 107,929 |
| | **COMMUNICATIONS WORK:** | | | | | | |
| | Temporary (Details Attached) | | | | | $ | - |
| | Permanent (Details Attached) | | | | | $ | - |
| | **Subtotal** | | | | | $ | - |

# CSX TRANSPORTATION, INC.
# FORCE ACCOUNT ESTIMATE

**ACCT. CODE : 709 -** FL1152
**Pub EB -** **FL** EB3 (FL)

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | **TRACK: LABOR** | | | | | | |
| 50 | Traffic Control | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Remove Existing Crossing | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Renew Cross Ties | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Renew Rail | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Install OTM | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Install Field Welds | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Install Geo-Textile Fabric | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Install Sub-Drains | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Install Ballast | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Line and Surface | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Install Crossing Materials | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Install Bituminous Pavement | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | _____ | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | _____ | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | _____ | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Clean-Up | | 0 | MAN-HRS | $ 21.00 | $ | - |
| 50 | Additive | 76.03% | | | | $ | - |
| 230 | Per Diem | | 0 | MAN-DAY | $ 90.00 | $ | - |
| | **Subtotal** | | | | | $ | - |
| | **TRACK: MATERIAL** | | | | | | |
| 220 | Cross Ties, Main Line | | 0 | EA | $ 31.00 | $ | - |
| 220 | Rail, 136RE, New | | 0 | LF | $ 17.00 | $ | - |
| 220 | Misc. OTM | | 1 | LOT | $ - | $ | - |
| 210 | Geo-Textile Fabric | | 0 | RL | $ 250.00 | $ | - |
| 210 | Sub-Drains | | 0 | LF | $ 6.00 | $ | - |
| 220 | Ballast | | 0 | NT | $ 5.75 | $ | - |
| 220 | Field Welds | | 0 | EA | $ 100.00 | $ | - |
| | _____ | | 0 | ___ | $ - | $ | - |
| | _____ | | 0 | ___ | $ - | $ | - |
| 210 | Concrete Full Width | | 0 | TF | $ 225.00 | $ | - |
| 210 | Concrete/Rubber Xing (CSX) | | 0 | TF | $ 135.00 | $ | - |
| 210 | Rubber Crossing, Full Depth | | 0 | TF | $ 280.00 | $ | - |
| 210 | Timber/Asphalt Crossing (CSX Standard) | | 0 | TF | $ 42.00 | $ | - |
| 220 | Crossties, 10' Length | | 0 | EA | $ 39.00 | $ | - |
| 210 | Bituminous Material | | 0 | NT | $ 80.00 | $ | - |
| 210 | Sales Tax on Material | 7.00% | | | | $ | - |
| 210 | Material Handling | 5.00% | | | | $ | - |
| | **Subtotal** | | | | | $ | - |
| | **CONTRACT:** | | | | | | |
| 215 | Asphalt Paving (In Place) | | 0 | NT | $ 120.00 | $ | - |
| 241 | Disposal of Waste Materials | | 0 | TF | $ 10.00 | $ | - |
| 215 | Maintenance of Traffic | | 0 | DAY | $ 300.00 | $ | - |
| | **Subtotal** | | | | | $ | - |

# CSX TRANSPORTATION, INC.
## FORCE ACCOUNT ESTIMATE

**ACCT. CODE : 709 -** FL1152
**Pub EB -** **FL** EB3 (FL)

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 241 | **EQUIPMENT RENTAL:** | | | | | | |
| | **Subtotal** | | | | | $ | - |
| 50 | **WORK TRAIN:** | | 0 | DAY | $ 2,100.00 | $ | - |
| | **Subtotal** | | | | | $ | - |
| | **SALVAGE:** | | | | | | |
| 228 | Rail | | 0 | NT | $ 65.00 | $ | - |
| 228 | OTM | | 0 | NT | $ 75.00 | $ | - |
| | **Subtotal** | | | | | $ | - |
| | **SIGNAL WORK:** | | | | | | |
| 210 | Material - Field & Consumables | | | | | $ | - |
| 210 | Material - Sales Tax | | | | | $ | - |
| 220 | Material - Shop | | | | | $ | - |
| 60 | Construction Labor | | | | | $ | - |
| 65 | Shop Labor | | | | | $ | - |
| 230 | Per Diem | | | | | $ | - |
| 200 | RR Engineering,Preliminary | | | | | $ | - |
| 200 | RR Engineering,Construction | | | | | $ | - |
| 60 | Additives to Construction Labor | | | | | $ | - |
| 65 | Additives to Shop Labor | | | | | $ | - |
| 200 | Additives to Engineering | | | | | $ | - |
| 241 | Equipment Expense | | | | | $ | - |
| 241 | Waste Management | | | | | $ | - |
| 212 | Contract Engineering | | | | | $ | - |
| 211 | Freight | | | | | $ | - |
| 216 | AC Power Service | | | | | $ | - |
| 228 | Salvage | | | | | $ | - |
| 900 | Other | | | | | $ | - |
| | **Subtotal** | | | | | $ | - |
| | **ACCOUNTING & BILLING:** | | | | | | |
| 40 | Labor | | 10 | Days @ | $ 200.00 | $ | 2,000 |
| 40 | Additive | 65.54% | | | | $ | 1,311 |
| | **Subtotal** | | | | | $ | 3,311 |
| | **PROJECT SUBTOTAL:** | | | | | $ | 163,298 |
| 900 | **CONTINGENCIES:** | 10.00% | | | | $ | 16,330 |
| | **GRAND TOTAL** | ********** | | | | $ | 179,627 |

# CSX TRANSPORTATION, INC.
# FORCE ACCOUNT ESTIMATE

**ACCT. CODE : 709 -** FL1152
**Pub EB -** **FL** EB3 (FL)

**DIVISION OF COST:**

| | | | |
|---|---|---|---|
| Agency | 100.00% | $ | 179,627 |
| Railroad | 0.00% | $ | - |
| **TOTAL** | ********** | $ | 179,627 |

**NOTE: Estimate is based on FULL CROSSING CLOSURE during work by Railroad Forces.**

This estimate has been prepared based on site conditions, anticipated work duration periods, material prices, labor rates, manpower and resource availability, and other factors known as of the date prepared. The actual cost for CSXT work may differ based upon the agency's requirements, their contractor's work procedures, and/or other conditions that become apparent once construction commences or during the progress of the work

Office of Assistant Chief Engineer Public Projects--Jacksonville, Florida

Estimated prepared by: DEB

DATE: 4/23/2008 REVISED: 4/23/2008

**ACCT. CODE : 709 - FL1152**
**Pub EB - FL EB3 (FL)**

**ESTIMATE SUBJECT TO REVISION AFTER:** **12/23/2008** **DOT NO.:** TBD
**CITY:** Miami **COUNTY:** Miami-Dad **STATE:** FL
**DESCRIPTION:** Four new MetroRail Guideway Overhead bridges over CSX

**DIVISION:** Jacksonville **SUB-DIV:** Miami **MILEPOST:** SX 1036
**DRAWING NO.:** __ **DRAWING DATE:** __ Southern
**AGENCY PROJECT NUMBER:** Project I

**SIGNAL WORK:**

| | | |
|---|---|---|
| 210 | Material - Field & Consumables | $ - |
| 210 | Material - Sales Tax | $ - |
| 220 | Material - Shop | $ - |
| 60 | Construction Labor | $ - |
| 65 | Shop Labor | $ - |
| 230 | Per Diem | $ - |
| 200 | RR Engineering,Preliminary | $ - |
| 200 | RR Engineering,Construction | $ - |
| 60 | Additives to Construction Labor | $ - |
| 65 | Additives to Shop Labor | $ - |
| 200 | Additives to Engineering | $ - |
| 241 | Equipment Expense | $ - |
| 241 | Waste Management | $ - |
| 212 | Contract Engineering | $ - |
| 211 | Freight | $ - |
| 216 | AC Power Service | $ - |
| 228 | Salvage | $ - |
| 900 | Other | $ - |
| | **Subtotal** | $ - |

CCT. CODE : 709 - FL1152

Pub EB - FL EB3 (FL)

**ESTIMATE SUBJECT TO REVISION AFTER:** 12/23/08 **DOT NO.:** TBD

**CITY:** Miami **COUNTY:** Miami-Dade **STATE:** FL

**DESCRIPTION:** Four new MetroRail Guideway Overhead bridges over CSX

**DIVISION:** Jacksonville **SUB-DIV:** Miami **MILEPOST:** SX 1036

**DRAWING NO.:** __ **DRAWING DATE:** __ **REGION:** Southern

**AGENCY PROJECT NUMBER:** Project No. NCP004-TR06-CT2

| Amount | | |
|---|---|---|
| Task | Task Desc | Total |
| 40 | Labor General Office | $3,311 |
| 50 | Labor Roadway | $107,554 |
| 60 | Labor Signal | |
| 65 | Labor Signal1 | |
| 70 | Labor Transportation | |
| 200 | Labor NonContract | $1,923 |
| 210 | Invoice Material<br>Material - Field & Co | |
| 211 | Invoice Freight | |
| 212 | Invoice Contract Eng | $49,900 |
| 215 | Invoice Misc | |
| 216 | Invoice Utilities | |
| 220 | Material New<br>Material - Shop | |
| 228 | Scrap Credit | |
| 230 | ExpenseRpts | $610 |
| 241 | Invoice Rental | |
| 900 | Other | |
| 900 | Contingencies | $16,330 |
| | Material New | |
| Grand Total | | $179,627 |

Oracle Input

## EXHIBIT E

PAYMENT SCHEDULE

**Progress Payments In Arrears**

Notwithstanding anything to the contrary set forth in this Agreement, County shall pay CSXT in arrears for its Reimbursable Expenses, rather than in advance, with only such exceptions, such as purchasing materials and equipment, as the parties mutually agree. Accordingly, County shall remit payment to CSXT for its Reimbursable Expenses within forty-five (45) days following delivery to County of an invoice.

## EXHIBIT F

INSURANCE REQUIREMENTS

I. Insurance Policies:

County and Contractor, if and to the extent that either is performing work on or about CSXT's right of way, shall procure and maintain the following insurance policies:

1. Commercial General Liability coverage at their sole cost and expense with limits of not less than $5,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name CSXT as an additional named insured.

2. Statutory Worker's Compensation and Employers Liability Insurance with limits of not less than $1,000,000, which insurance must contain a waiver of subrogation against CSXT and its affiliates.

3. Commercial automobile liability insurance with limits of not less than $500,000 combined single limit for bodily injury and/or property damage per occurrence, and such policies shall name CSXT as an additional named insured.

4. Railroad protective liability insurance with limits of not less than $5,000,000 combined single limit for bodily injury and/or property damage per occurrence and an aggregate annual limit of $10,000,000, which insurance shall satisfy the following additional requirements:

   a. The insurer must be financially stable and rated B+ or better in Best's Insurance Reports.

   b. The Railroad Protective Insurance Policy must be on the ISO/RIMA Form of Railroad Protective Insurance - Insurance Services Office (ISO) Form CG 00 35.

   c. CSX Transportation must be named as the named insured on the Railroad Protective Insurance Policy.

   d. Name and Address of Contractor and County must be shown on the Declarations page.

   e. Description of operations must appear on the Declarations page and must match the Project description, including project or contract identification numbers.

   f. Authorized endorsements must include the Pollution Exclusion Amendment - CG 28 31, unless using form CG 00 35 version 96 and later.

   g. Authorized endorsements may include:

      (i). Broad Form Nuclear Exclusion - IL 00 21
      (ii) 30-day Advance Notice of Non-renewal or cancellation
      (iii) Required State Cancellation Endorsement
      (iv) Quick Reference or Index - CL/IL 240

   h. Authorized endorsements may not include:

      (i) A Pollution Exclusion Endorsement except CG 28 31

(ii) A Punitive or Exemplary Damages Exclusion
(iii) A "Common Policy Conditions" Endorsement
(iv) Any endorsement that is not named in Section 4 (f) or (g) above.
(v) Policies that contain any type of deductible

5. Such additional or different insurance as CSXT may require.

II. Additional Terms

1. Contractor must submit its original insurance policies and two copies and all notices and correspondence regarding the insurance policies to:

Donna Melton
Risk Manager, Planning & Analysis
CSX Transportation, Inc.
500 Water Street – J150
Jacksonville, FL 32202
Phone: 904-359-1247 Fax: 904-245-2833
Email: donna_melton@csx.com

2. Neither County nor Contractor may begin work on the Project until it has received CSXT's written approval of the required insurance policies.

## SCHEDULE I

CONTRACTOR'S ACCEPTANCE

To and for the benefit of CSX Transportation, Inc. ("CSXT") and to induce CSXT to permit Contractor on or about CSXT's right of way for the purposes of performing work in accordance with the Agreement dated _____, 200_, between **Miami-Dade County** and CSXT, Contractor hereby agrees to abide by and perform all applicable terms of the Agreement, including, but not limited to Exhibits C and F to the Agreement, and Sections 3, 9 and 11 of the Agreement.

Contractor: _____

By: _____
Name: _____
Title: _____
Date: _____

# CSX TRANSPORTATION, INC.
# FORCE ACCOUNT ESTIMATE

**ACCT. CODE : 709 -** FL1152

**ADDITIONAL FAE**

**ESTIMATE SUBJECT TO REVISION AFTER:** 6/2/2010 **DOT NO.:** TBD
**CITY:** Miami **COUNTY:** Miami-Dade **STATE:** FL
**DESCRIPTION:** Metrorail 4 ea new O.H. Bridges to be constructed over CSXT

**DIVISION:** Jacksonville **SUB-DIV:** Miami **MILE POST:** SX-1036.38
SX-1036.64
SX 1036-81
**AGENCY PROJECT NUMBER:** NCP004-TR06-CT2 SX-1036.83

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | **PRELIMINARY ENGINEERING:** | | | | | | |
| 200 | Labor (Non Contract) | | | Days @ | $ 270.00 | $ | - |
| 200 | Additive | 38.91% | | | | $ | - |
| 230 | Expenses | | | | | $ | - |
| 212 | Contracted & Administrative Engineering Services | | | | | $ | - |
| | **Subtotal** | | | | | $ | - |
| | **CONSTRUCTION ENGINEERING/INSPECTION:** | | | | | | |
| 200 | Labor (Non Contract) | | 6 | Days @ | $ 270.00 | $ | 1,620 |
| 200 | Additive | 38.91% | | | | $ | 630 |
| 230 | Expenses | | | | | $ | 282 |
| 212 | Contracted & Administrative Engineering Services | | | | | $ | 100,513 |
| | **Subtotal** | | | | | $ | 103,045 |
| | **FLAGGING SERVICE: (Contract Labor)** | | | | | | |
| 070 | Labor (Conductor-Flagman) | | | Days @ | $ 350.00 | $ | - |
| 050 | Labor (Foreman/Inspector) | | 407 | Days @ | $ 336.00 | $ | 136,752 |
| 050 | Labor (Foreman/Inspector) | | 407 | Days @ | $ 432.00 | $ | 175,824 |
| 050 | Additive | 73.63% (Engineering Department) | | | | $ | 230,150 |
| 230 | Per Diem | (Engineering Department) | 814 | Days @ | $ 75.00 | $ | 61,050 |
| 230 | Expenses | | 814 | Days @ | $ 45.00 | $ | 36,630 |
| | **Subtotal** | | | | | $ | 640,406 |
| | **SIGNAL & COMMUNICATIONS WORK:** (Details Attached) | | | | | $ | - |
| | **TRACK WORK:** (Details Attached) | | | | | $ | - |
| | **ACCOUNTING & BILLING:** | | | | | | |
| 040 | Labor | | 46.5 | Days @ | $ 200.00 | $ | 9,300 |
| 040 | Additive | 60.27% | | | | $ | 5,605 |
| | **Subtotal** | | | | | $ | 14,905 |
| | **PROJECT SUBTOTAL** | | | | | $ | 758,356 |
| 900 | **CONTINGENCIES:** | 10.00% | | | | $ | 75,836 |
| | **GRAND TOTAL** ********** | | | | | $ | 834,192 |
| | **DIVISION OF COST:** | | | | | | |
| | Agency | 100.00% | | | | $ | 834,192 |
| | Railroad | | | | | $ | - |
| | **TOTAL** ********** | | | | | $ | 834,192 |

This estimate has been prepared based on site conditions, anticipated work duration periods, material prices, labor rates, manpower and resource availability, and other factors known as of the date prepared. The actual cost for CSXT work may differ based upon the agency's requirements, their contractor's work procedures, and/or other conditions that become apparent once construction commences or during the progress of the work

Office of Assistant Chief Engineer Public Projects--Jacksonville, Florida

**Est Prepared By:** D.Krafft HDR Engineering **Approved by:** MTSB **CSXT Public Project Gr**
**DATE:** 12/4/2009 **REVISED:** **DATE:** 12/11/2009
**Form Revised 05-29-2009 -LLS**

ADDITIOINAL FA | **ACCT. CODE : 709 -** FL1152 | **Pub EB -** FL | EB3 (FL)

**ESTIMATE SUBJECT TO REVISION AFTER:** 6/2/10 **DOT NO.:** TBD

**CITY:** Miami Miami-Dade **STATE:** FL

**DESCRIPTION:** Metrorail 4 ea new O.H. Bridges to be constructed over CSXT

**DIVISION:** Jacksonville **SUB-DIV:** Miami **MILEPOST:** SX-1036.3E

**DRAWING NO.:** __ **DRAWING DATE:** __ SX-1036.64

**AGENCY PROJECT NUMBER:** NCP SX 1036-81

| Amount | | |
|---|---|---|
| Task | Task Desc | Total |
| 40 | Labor General Office | $14,905 |
| 50 | Labor Roadway | $542,726 |
| 60 | Labor Signal | |
| 65 | Labor Signal1 | |
| 70 | Labor Transportation | |
| 200 | Labor NonContract | $2,250 |
| 210 | Invoice Material<br>Material - Field & Consu | |
| 211 | Invoice Freight | |
| 212 | Invoice Contract Eng | $100,513 |
| 215 | Invoice Misc | |
| 216 | Invoice Utilities | |
| 220 | Material New<br>Material - Shop | |
| 228 | Scrap Credit | |
| 230 | ExpenseRpts | $97,962 |
| 241 | Invoice Rental | |
| 900 | Other | |
| 900 | Contingencies | $75,836 |
| | Material New | |
| Grand Total | | $834,192 |

Oracle Input

36

Date: **December 8, 2009**
Location: **Miami-Dade Florida**
Milepost **SX-1036.76**
Description: **Construct 4 new O.H. Bridges over S. Florida Corridor**
OP Number: **FL1152**

**Estimate Parameters**

| | |
|---|---|
| **4** | Number of Structures |
| **$0.550** | Mileage Rate |
| **$80.00** | Inspector I Hourly Rate |
| **6.0** | Est. Hours/Day |
| **15** | One-way Mileage to Site |
| **20** | Est. Project Duration (Months) |
| **114** | Number of Visits |

**CE&I PHASE**

| TASK | Acct Code | Hours | Rate | TOTAL |
|---|---|---|---|---|
| POC | PJM32 | 20 | 157.5 | $3,150.00 |
| Flagging Scheduling | PJM15 | 40 | 142.65 | $5,706.00 |
| Project Management | PJM15 | 80 | 117 | $9,360.00 |
| Erection Plan Review | EST10 | 16 | 117 | $1,872.00 |
| Temporary shoring Plan Review | EST10 | 32 | 117 | $3,744.00 |
| Temporary Tower Supports Review | EST10 | 16 | 117 | $1,872.00 |
| Administration | PJM01 | 20 | 80 | $1,600.00 |
| Accounting | ACT04 | 20 | 80 | $1,600.00 |
| Man Days | | | | |

**TOTAL - PLAN REVIEW** **$28,904**

**CONSTRUCTION INSPECTION:**

| TASK | Class | VISITS | Hours | Rate | TOTAL |
|---|---|---|---|---|---|
| Site Visits | Project Manag | 24 | 192 | 117 | $22,464.00 |
| Construction Inspection | Inspector | 90 | 540 | 80.00 | $43,200.00 |

**TOTAL - CONSTRUCTION-LABOR** **$65,664**

**SUMMARY OF EXPENSES (NON-LABOR DIRECT COSTS)**

| ITEM | | UNITS | Miles | UNIT COST | COST |
|---|---|---|---|---|---|
| Mileage, Inspector | Round Trips | 90 | 2700 | $0.550 | $1,485.00 |
| Mileage, PM | Round Trips | 24 | 2400 | $0.550 | $1,320.00 |
| Lodging | | 4 | | $125.000 | $500.00 |
| Meals | Days on site | 114 | | $10.00 | $1,140.00 |

**TOTAL EXPENSES** **$4,445**

**TOTAL ESTIMATED PROJECT FEE:** **$99,013**