

Rail Corridor Preservation Policy



October 1998

Rail Corridor Preservation Policy

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Secretary of Transportation E. Norris Tolson

North Carolina Board of Transportation

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FORWARD

As an aid in preserving North Carolina Department of Transportation's rail corridor system, this manual sets forth the guidelines for preserving the inactive rail corridor right of ways. This Policy also includes the legal basis for the exercise of this authority and sets forth the procedures to be followed when applying for a rail corridor encroachment agreement.

Rail Corridor Preservation Policy

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Rail Corridor Preservation Policy

The “preservation of rail corridors, through...State acquisition of strategic corridors, is in the public interest and is an integral and necessary part of a balanced transportation system....” [N.C.G.S. 143B-361].

I.Background

Pursuant to N.C.G.S. 136-44.36A, “the North Carolina Department of Transportation is authorized ...to preserve rail transportation corridors and permit interim compatible uses of such corridors” (see Appendix A). “Preservation of railroad corridors for interim trail and future transportation use requires that the integrity of the rights of way be maintained” (see Appendix B). Therefore, the Rail Division must develop a systematic approach to oversee the public’s requests to use the right of way in lieu of the return of the corridor to active rail or other transportation uses.

II.Encroachments

Agreements

NCDOT will allow compatible interim use of the corridor right of way until such time that it is returned to active rail or other transportation use. Compatible use shall be documented in the form of an encroachment or other agreement between the Department and the agreement applicant (see Appendix C).

Customer Service

All agreements will be handled in a manner to ensure that NCDOT’s customer service values are met or exceeded.

NCDOT has the responsibility to the public to maintain rail rights of way in such a manner as to allow for the ultimate return of the property to transportation use. The Department will develop a rail corridor maintenance and management plan. This plan will include signing, vegetation control, means of limiting the state’s liability, track maintenance standards and needs, and the development of an annual railroad corridor maintenance budget.

Reimbursable Costs

Any unusual expense incurred by NCDOT to reach an agreement shall be borne by the encroachment agreement applicant. This could include, but not be limited to, survey, rent study, or appraisal actual costs. *Administrative costs in the amount of \$25 for processing of all encroachment applications must be reimbursed by the applicant.*

Performance and indemnity bonds may be required from the applicant of an encroachment agreement or the applicant's contractor for construction on the railroad corridor right of way. The Rail Division will follow the existing bond requirement guidelines used by the Division of Highways as stated in the Policies and Procedures for Accommodating Utilities on Highway Rights-of-Ways when requiring a bond.

Removal

In instances of an unauthorized encroachment where an agreement cannot be reached with a property owner, NCDOT will take any and all steps necessary to remove the encroachment. NCDOT forces may assist in the removal if necessary. Any expense incurred by NCDOT during the removal process will be borne by the party encroaching on the right of way and legal action may be taken to recover costs.

At such time as the rail corridor is returned to active transportation use, any existing encroachments interfering with the intended use shall be removed, relocated or adjusted as stipulated in the agreement. The Department will provide a minimum of 120 working days written notice for encroachment removal or adjustment.

III.Private Use

In general, the property owner adjacent to the preserved rail corridor where track has been removed will be allowed to use and maintain the corridor to the centerline of the right of way for private, noncommercial use. No reimbursement of costs will be required except the standard application amount. If the track is still in place, the adjacent property owner may use and maintain the Department's right of way up to a point not to exceed 15 feet from the centerline of the track.

IV.Commercial Use

Assignments

Historically, railroads have allowed the use of its property for private and commercial use. Commercial use of rail property will be handled by the Department in a businesslike manner using rental or lease agreements. Once the State assumes ownership of the corridor from a railroad company, any existing agreements may be assigned to the Department by mutual consent of the Department and the user.

Agreements

It is the general policy of the State that real property owned by the State or any State agency may not be sold, leased, or rented at less than fair market value to any private entity that operates, or is established to operate for profit. Therefore, if State corridor property is being used for commercial ventures, it will be necessary to execute an agreement based on current fair market value. A minimum yearly rate of \$100 will be

charged for any commercial encroachment. Rates will be based on comparable industry standards and land values in the areas adjoining the rail corridors. All funds collected shall be earmarked for corridor management and maintenance.

NCDOT will periodically review and assess its existing commercial agreements and accordingly adjust the rates charged based on fair market value.

V. Adjacent Property Development

Residential development along a corridor shall not interfere with the ultimate purpose of the corridor. Commercial and industrial development along a preserved corridor shall not adversely impact the rail corridor. NCDOT will coordinate with local planning agencies to encourage land development which will be harmonious with the development of the preserved rail corridors and future transit options.

VI. Crossings

The safety of the traveling public, whether by foot, bike, motor vehicle or transit use is of utmost importance. While NCDOT will not land lock property owners, it does have the responsibility of making travelways as safe as possible. "The Department will discourage new at-grade street and driveway crossings of State-owned preserved rail corridors and request that local governments along these corridors discourage new crossings in adopted plans, zoning changes, site plan approvals, and building construction approvals" (see Appendix B). NCDOT encourages the consolidation and closure of crossings where possible.

NCDOT District Engineers will be responsible for limiting at-grade crossings when issuing driveway permits and installing driveway pipe that access property along preserved rail corridors. Driveways along preserved rail corridors shall not be installed by Division of Highways personnel without obtaining prior approval from the Rail Division.

VII. Federal Enhancement Corridors

Rail corridors purchased with Federal funds must follow Federal guidelines for right of way disposition. "Applicants for agreements will be responsible for all administrative, appraisal and any Federal enhancement fees associated with the review of potential new at-grade crossings, leases, licenses or utility encroachments of State-owned rail corridors" (see Appendix B). The NCDOT Right of Way Disposal and Control of Access Committee will review and make recommendations for new crossing applications on these rail corridors.

VIII.Trail Use

NCDOT will allow interim compatible trails on suitable inactive rail corridors. All interim rail trails on preserved corridors must follow the requirements of N.C.G.S. 136.44.36D (see Appendix A).

Local governments leasing the corridor for interim trail use are charged with the responsibility of following the procedures outlined in the January 9, 1998 "Resolution to Facilitate the Protection of Rail Corridors Preserved by the Department of Transportation and Other Public Bodies in North Carolina" (see Appendix B).

IX.Clearing of the Railroad Right of Way

No unauthorized clearing of the rail corridor right of way will be permitted. Should the inactive corridor be leased for interim trail use, clearing of the right of way for trail use shall be kept to a minimum. NCDOT is establishing a small wildlife habitat area plot approximately every 20 miles on the Interstate system because of a decline in several species of songbirds in the state. The Rail Division will work to improve wildlife areas by preserving the existing natural corridor vegetation buffers in order to enhance wildlife and fauna.

The Department will provide for mowing of the corridor or other vegetation control in municipal areas, parcels where track is maintained in place, or as requested by individuals on a case by case basis.

Timbering of the rail corridor is prohibited without authorization. Companies harvesting timber adjacent to the rail corridor will be responsible for keeping debris out of adjoining ditches. All debris from logging operations obstructing the corridor shall be cleaned up by the timber company. Ditches and drainage pipes shall be returned to working order after logging. A nominal maintenance charge will be imposed for use of the corridor for logging transportation operations or a bond may be required depending upon the situation.

X.Removal of Materials

Removal of railroad ballast or other track materials from inactive rail corridors will not be permitted without authorization from the Department. Theft of railroad materials shall be prosecuted to the fullest extent of the law. All material removed from the corridor without authorization shall be replaced or compensation paid based on current market value of the material.

XI. Hazardous Material

Disposal of hazardous material on the corridor is strictly prohibited. Storing of hazardous material on the right of way is discouraged and will only be allowed by written agreement under monitored conditions. A bond will be required for storing of hazardous material.

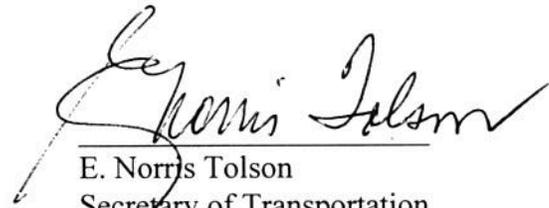
Should a spill occur, the applicant will be responsible for cleanup of any hazardous material to the satisfaction of NCDOT and will hold NCDOT harmless from all costs, fees, fines or assessments incurred or imposed as a result of the spill.

XII. Dumping

No dumping will be permitted on the rail corridor. Any individuals or other parties discovered dumping on the right of way will be prosecuted to the fullest extent of the law. The party responsible for unauthorized dumping of materials will be liable for the cleanup. All costs associated with the cleanup will be borne by the responsible party.

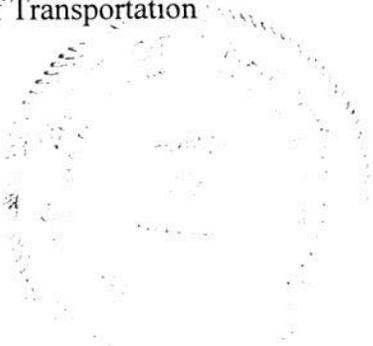
The North Carolina Board of Transportation fully endorses the policy proposed by the North Carolina Department of Transportation for the preservation of railroad corridors.

Adopted, this the second day of October, 1998.


E. Norris Tolson
Secretary of Transportation

ATTEST:


Secretary to the Board of Transportation
and Custodian of the Seal of the Department
of Transportation



ARTICLE 2D.

Railroad Revitalization.

§ 136-44.35. Railroad revitalization and corridor preservation a public purpose.

The General Assembly hereby finds that programs for railroad revitalization which assure the maintenance of safe, adequate, and efficient rail transportation services and that programs for railway corridor preservation which assure the availability of such corridors in the future are vital to the continued growth and prosperity of the State and serve the public purpose.(1979, c. 658, s. 1; 1989, c. 600, s. 1.)

§ 136-44.36. Department of Transportation designated as agency to administer federal and State railroad revitalization programs.

The General Assembly hereby designates the Department of Transportation as the agency of the State of North Carolina responsible for administering all State and federal railroad revitalization programs. The Department of Transportation is authorized to develop, and the Board of Transportation is authorized to adopt, a State railroad plan, and the Department of Transportation is authorized to do all things necessary under applicable State and federal legislation to properly administer State and federal railroad revitalization programs within the State. Such authority shall include, but shall not be limited to, the power to receive federal funds and distribute and expend federal and State funds for rail programs designed to cover the costs of acquiring, by purchase, lease or other manner as the department considers appropriate, a railroad line or other rail property to maintain existing or to provide future rail service; the costs of rehabilitating and improving rail property on railroad lines to the extent necessary to permit safe, adequate and efficient rail service on such lines; and the costs of constructing rail or rail related facilities for the purpose of improving the quality, efficiency and safety of rail service. The Department shall also have the authority to preserve railroad corridors for future railroad use and interim compatible uses and may lease such corridors for interim compatible uses. Such authority shall also include the power to receive and administer federal financial assistance without State financial participation to railroad companies to cover the costs of local rail service continuation payments, of rail line rehabilitation, and of rail line construction as listed above. This Article shall not be construed to grant to the department the power or authority to operate directly any rail line or rail facilities.(1979, c. 658, s. 2; 1987 (Reg. Sess., 1988), c. 1071, s. 1; 1989, c. 600, s. 2.)

§ 136-44.36A. Railway corridor preservation.

The North Carolina Department of Transportation is authorized, pursuant to 16 U.S.C.A. § 1247(d), to preserve rail transportation corridors and permit compatible interim uses of such corridors.(1987 (Reg. Sess., 1988), c. 1071, s. 2.)

§ 136-44.36B. Power of Department to preserve and acquire railroad corridors.

In exercising its power to preserve railroad corridors, the Department of Transportation may acquire property for new railroad corridors and may acquire property that is or has been part of a railroad corridor by purchase, gift, condemnation, or other method, provided that the Department may not condemn part of an existing, active railroad line. The procedures in Article 9 of this Chapter apply when the Department condemns property to preserve or acquire a railroad corridor.(1989, c. 600, s. 3; 1991, c. 673, s. 1.)

§ 136-44.36C. Installment contracts authorized.

The Department of Transportation may purchase active or inactive railroad lines, corridors, rights-of-way, locomotives, rolling stock, and other rail property, both real and personal, by installment contracts which create in the property purchased a security interest to secure payment of the purchase money. No deficiency judgment may be rendered against the Department of Transportation in any action for breach of a contractual obligation authorized by this section, and the taxing power of the State is not and may not be pledged directly or indirectly to secure any money due the seller.(1991, c. 673, s. 2.)

§ 136-44.36D. Recreational leasing requirements.

Portions of rail corridors held by the North Carolina Department of Transportation in fee simple absolute may be leased by the Department for interim public recreation use provided the following conditions are met:

- (1) Before requesting trail use, a sponsoring unit of local government has held a public hearing in accordance with G.S. 143-318.12 and notified the owners of all parcels of land abutting the corridor as shown on the county tax listing of the hearing date, place, and time by first-class mail at the last addresses listed for such owners on the county tax abstracts. A transcript of all public comments presented at the hearing has been sent to the North Carolina Department of Transportation at the time of requesting use of the corridor.
- (2) A unit of local government has requested use of the rail corridor or a portion thereof for interim public recreational trail use, and agrees in writing to assume all development costs as well as management, security, and liability responsibilities as defined by the North Carolina Department of Environment, Health, and Natural Resources and the North Carolina Department of Transportation.
- (3) Adjacent property owners are offered broad voting representation by membership in the organization, if any, that is delegated most immediate responsibility for development and management of the rail-trail by the sponsoring local government.
- (4) The North Carolina Department of Transportation has determined that there will not likely be a need to resume active rail service in the leased portion of the rail corridor for at least 10 years.

- (5) Any lease or other agreement allowing trail use includes terms for resumption of active rail use which will assure unbroken continuation of the corridor's perpetual use for railroad purposes and interim compatible uses.
- (6) Use of the rail corridor or portions thereof as a recreational trail does not interfere with the ultimate transportation purposes of the corridor as determined by the North Carolina Department of Transportation.(1991, c. 751, s. 1.)

§ 136-44.37. Department to provide nonfederal matching share.

The Department of Transportation upon approval by the Board of Transportation and the Director of the Budget may provide for the matching share of federal rail revitalization assistance programs through private resources, county funds or State appropriations as may be provided by the General Assembly. Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission.(1979, c. 658, s. 3; 1983, c. 717, s. 48; 1985 (Reg. Sess., 1986), c. 955, ss. 47, 48.)

§ 136-44.38. Department to provide State and federal financial assistance to cities and counties for rail revitalization.

(a) The Department of Transportation is authorized to distribute to cities and counties State financial assistance for local rail revitalization programs provided that every rail revitalization project for which State financial assistance would be utilized must be approved by the Board of Transportation and by the Director of the Budget. Prior to taking any action under this section, the Director of the Budget may consult with the Advisory Budget Commission.

(b) Repealed by Session Laws 1989, c. 600, s. 4.(1979, c. 658, s. 3; 1983, c. 717, s. 48; 1985 (Reg. Sess., 1986), c. 955, ss. 49, 50; 1989, c. 600, s. 4.)

RESOLUTION

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

A RESOLUTION TO FACILITATE THE PROTECTION OF RAIL CORRIDORS PRESERVED BY THE DEPARTMENT OF TRANSPORTATION AND OTHER PUBLIC BODIES IN NORTH CAROLINA.

WHEREAS, the North Carolina Department of Transportation recognizes the importance of preserving rail corridors for future transportation use to the economic and social well being of the residents of North Carolina; and

WHEREAS, preservation of rail corridors for interim trail and future transportation use involves the expenditure of Federal, State and local funds; and

WHEREAS, preservation of railroad corridors for interim trail use and future transit use requires that the integrity of the rights of way be maintained; and

WHEREAS, that safety and integrity would be diminished with each additional at grade crossing limiting the ability of the corridor to serve these useful purposes for present and future users; and

WHEREAS, the use of rail corridors for safe bicycle, pedestrian and transit facilities will provide alternatives to dependence on automobile transportation.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The North Carolina Department of Transportation will include and designate existing and proposed publicly-owned preserved rail corridors in Transportation Plans and on Thoroughfare Plan maps as part of the transportation planning process.
2. The Department will discourage new at-grade street and driveway crossings of State-owned preserved rail corridors and request that local governments along these corridors discourage new crossings in adopted plans, zoning changes, site plan approvals, and building construction approvals.
3. The Department also encourages local governments and transit authorities to discourage new at-grade street and driveway crossings of publicly-owned preserved rail corridors and ask that local governments along these corridors discourage new crossings in adopted plans, zoning changes, site plan approvals, and building construction approvals.
4. Applicants for agreements will be responsible for all administrative, appraisal and any Federal enhancement fees associated with the review of potential new at-grade crossings, leases, licenses or utility encroachments of State-owned rail corridors.

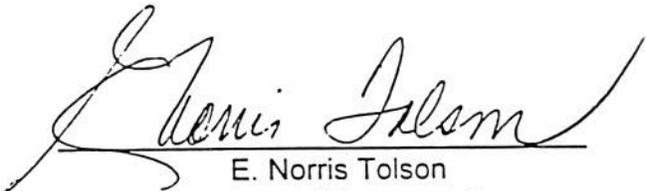
5. The Department will work with local governments to reduce the existing number of at-grade crossings to the minimum number possible and revoke conflicting leases, licenses and encroachments when a State-owned corridor is leased for interim trail use or returned to active rail or other transportation use.

6. The Department will encourage local governments to provide for land development which is harmonious with the development of these preserved rail corridors and future transit options.

7. Before any new at-grade crossings are considered on State-owned preserved corridors being leased for interim trail use by a local government, a public involvement process will be conducted by said local government.

8. This resolution shall apply to the publicly-owned preserved rail corridors and any future inactive rail rights of way acquired by the Department of Transportation, the State of North Carolina, or other public body to be protected for future transportation use.

THIS, THE 9th DAY OF JANUARY, 1998.



E. Norris Tolson
Secretary of Transportation

APPENDIX C

Rail
Corridor: _____

Nearest
Milepost: ____

State of North Carolina
County of _____

DEPARTMENT OF TRANSPORTATION

RAILROAD RIGHT OF WAY
ENCROACHMENT AGREEMENT

-AND-

THIS LICENSE AGREEMENT, made and entered into this the ____ day of _____, 19____, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina ("Licensor"); and _____ ("Licensee").

WITNESSETH:

THAT WHEREAS, the Licensee desires to encroach on the right of way of the Rail Corridor as described on Exhibit A ("Premises") attached hereto and incorporated by reference, located in _____ County, North Carolina with the construction, maintenance, and use of a _____.

NOW, THEREFORE, IT IS AGREED that Licensor hereby grants to Licensee the privilege to make this encroachment as shown on the attached plan sheet(s), specifications, and special provisions which are incorporated by reference upon the following conditions:

1. In consideration of Licensor's granting of this privilege to encroach upon Licensor's Premises, Licensee agrees to pay Licensor \$ ____ annually to Licensor beginning on the first day of the month following the execution of this License Agreement and to be paid each year thereafter on the same date for so long as this License Agreement is in effect.
2. A License only for the improvement, maintenance, and use of the encroachment is granted hereby. This grant shall not be construed to vest in the Licensee any other greater interest, and in no event is any warranty of said privilege hereby given by the Licensor, nor shall any warranty be implied from the terms of this agreement.
3. It is agreed between Licensor and Licensee that this license is personal to Licensee and shall not inure to the successors or assigns of Licensee. The parties understand and agree that any right or claim of Licensor created by this License Agreement shall inure to the benefit of, and be enforceable by, any successor or assignee of Licensor.
4. Licensor makes no warranties or representations regarding the condition of the Premises. Licensee accepts the use of the Premises "AS IS" and expressly waives any and all claims against Licensor relating to or arising from the condition of the Premises and the property surrounding the Premises, including, without limitation, any claims and costs related to environmental contamination (such as, without limitation, those claims which might arise under CERCLA, RCRA, and the North Carolina Oil Pollution and Hazardous Substances Act).
5. The installation, operation, and maintenance of the encroachment will comply with the North Carolina Department of Transportation's latest POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS-OF-WAY and THE AMERICAN RAILWAY ENGINEERING ASSOCIATION MANUAL FOR RAILWAY ENGINEERING, and such revisions and amendments thereto as may be in effect at the date of this agreement. Information as to these policies and procedures may be obtained from the North Carolina Department of Transportation.

6. The Licensee agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen, and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and amendments or supplements thereto.
7. The Licensee shall improve and thereafter maintain the encroachment at Licensee's own cost and expense. The Licensor shall be exempt from any costs, charges, or assessments of any kind or character on account of or incident to the location and improvement of the encroachment within the limits of the right of way, or on account of any action or omission by the Licensee in connection therewith.
8. The Licensee agrees to install and maintain the encroaching facilities in such safe and proper condition that they will not interfere with or endanger existing or future uses by the Licensor of said right of way for railroad, trail, or other transportation purposes, nor obstruct nor interfere with the proper operation and maintenance of said right of way or any tracks, structures, or appurtenances thereon. The Licensee will reimburse the Licensor for any costs incurred for repairs or maintenance to the Licensor's corridor, roadways, and structures resulting from the installation and existence of Licensee's encroachment.
9. The Licensee agrees to install and maintain the encroachment in such a manner as not to interfere with the proper drainage of the roadbed and right of way. The Licensee will not allow or permit the diversion of any additional drainage into existing drainage facilities or upon the right of way, and, moreover, the Licensee will arrange its drainage system so as to prevent the ponding of water upon the right of way.
10. In the event it shall be necessary in connection with such work of the Licensee to remove and relocate any structures or property of third persons or corporations, including, but not limited to, wire lines and poles or other supports, now located and constructed upon or near Licensor's right of way, the Licensee will remove and relocate or arrange for the removal or relocation of same without cost or expense to the Licensor, and in all respects in accordance with the requirements of the Licensor. Any utility changes must conform to specifications promulgated by the American Railroad Engineering Association and the North Carolina Department of Transportation.
11. The Licensee agrees to protect, indemnify, and save Licensor wholly harmless from and against the consequences of any damages or loss of life, personal injury, or property which may be caused by or result from the improvement, maintenance, and use of the encroachment, or the failure or neglect of the Licensee to maintain proper drainage in connection with the encroachment.
12. The Licensee agrees to restore all areas disturbed during installation and maintenance of the encroachment to the Licensor's reasonable satisfaction. The Licensee agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces, or other property; or pollution of the air. Licensee shall comply with applicable rules and regulations of the North Carolina Division of Environmental Management, the North Carolina Sedimentation Control Commission, and ordinances and regulations of various counties, municipalities, and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and existing ground cover, Licensee agrees to remove and replace the sod or otherwise reestablish the grass cover to the reasonable satisfaction of the Licensor.
13. It is agreed by all parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the Licensor, unless written waiver is secured from the Licensor.
14. In the case of noncompliance with any of the terms of this agreement by Licensee, Licensor will give Licensee written notice of such noncompliance. If Licensee fails to comply to the reasonable satisfaction of the Licensor within sixty (60) days after receiving such written notice, the Licensor reserves the right to discontinue the use of the encroachment until it has been brought into compliance or, alternatively, at no cost to the Licensor, Licensor may remove the encroachment from the right of way.

15. The Licensee agrees to give written notice to the Licensor within thirty (30) days of completion of all work contained herein.
16. The Licensee shall make all necessary changes to the reasonable satisfaction of the Licensor, at its own cost and expense, within sixty (60) days after written notice from the Licensor, to address the safety concerns of the Licensor or to accommodate the Licensor's use of the right of way for railroad, trail, or other transportation purposes. Such changes include, but are not limited to, the construction of a grade-separated facility for railroad, trail, or other transportation purposes, the installation, maintenance, and upgrading of any safety devices, signs, or other facilities necessary for the Licensor's use of the corridor, and any changes of location, height, depth, or design of the encroachment.
17. In the event the Licensor requires the removal of the encroachment from the right of way, then the Licensor shall have the right to demand such removal, and the Licensee, at its own cost and expense, within sixty (60) days after written notice from the Licensor, shall discontinue the use of the same, remove the encroachment from the right of way, and restore the same to the condition existing prior to the location of the encroachment upon the right of way.
18. In the case of a utility encroachment, Licensee agrees to periodically monitor and verify the depth or height of the utility in relation to the Licensor's tracks and facilities, and to relocate the utility at Licensee's own cost and expense should such relocation or change be necessary to comply with the minimum clearance requirements of this agreement or any public authority.
19. If the operation, existence, or maintenance of the encroachment causes interference, physical, magnetic, or otherwise, with train control systems or facilities, or interference in any manner with the operation, maintenance, or use of the right of way, tracks, structures, pole lines, devices, other property, or any appurtenances thereto for railroad, trail, or other purposes, then in either event, Licensee, within sixty (60) days after written notice from the Licensor, at Licensee's own cost and expense, shall promptly make such changes in its encroachment as may be required in the reasonable judgment of the Licensor to eliminate all such interference.
20. If the Licensee undertakes to revise, renew, relocate, or change in any manner whatsoever all or any part of the encroachment plans, such plans shall be submitted to the Licensor for approval before any such change is made. After approval, the terms and conditions of this agreement shall apply thereto.

IN WITNESS WHEREOF, this Agreement has been executed by the Department of Transportation, an agency of the State of North Carolina, and the Licensee by and through duly authorized representatives, and is effective the date and year first set forth hereinabove.

Corporation

BY: _____
President

ATTEST:

(CORPORATE SEAL)

Secretary

Department of Transportation

BY: _____
Director, Rail Division

ATTEST:

(SEAL)

Secretary to the Board of Transportation
and Custodian of the Seal of the Department
of Transportation

**NOTE: SEPARATE SIGNATURE PAGES ARE PROVIDED FOR INDIVIDUAL
AND MUNICIPALITY APPLICANTS**

INSTRUCTIONS

When the applicant is a corporation or a municipality, this agreement must have the corporate seal and be attested by the corporation secretary or by the empowered county or municipal official, unless a waiver or corporate seal and attestation by the secretary or by the empowered government official is on file in the Raleigh office of the Rail Division. In the space provided in this agreement for execution, the name of the corporation or municipality shall be typed above the name and title of all persons signing the agreement should be typed directly below their signature.

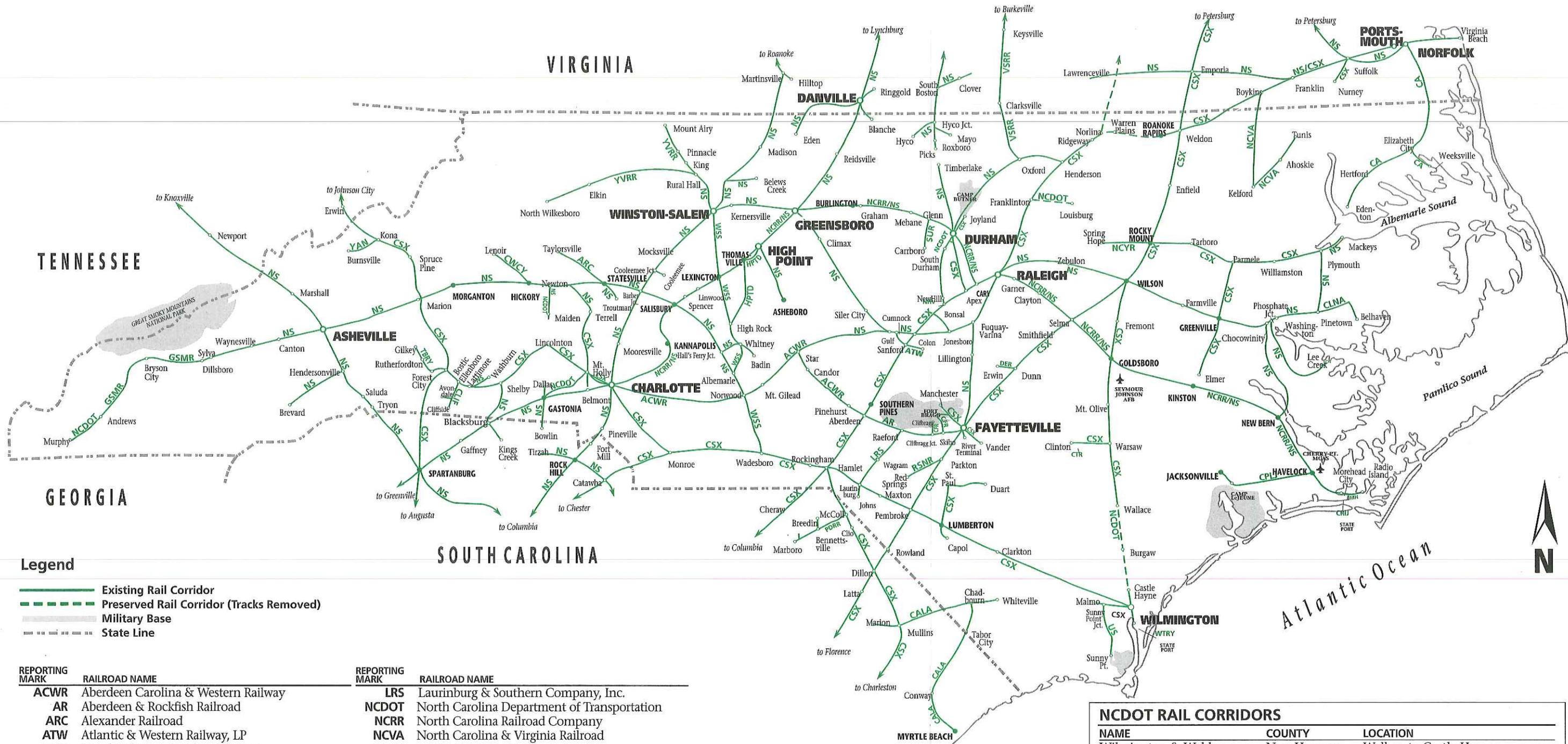
This agreement must be accompanied, in the form of an attachment referred to as **EXHIBIT A**, by plans or drawings showing the following applicable information:

1. All rails and facilities
2. Right of way lines
3. Location of the existing and/or proposed encroachment
4. Length, size and type of encroachment
5. Method of installation
6. Dimensions showing the distance from the encroachment to centerline of track.
7. Location should be shown by distance from some identifiable point, such as a milepost, bridge, road, etc.
(To assist in preparation of the encroachment plan, the Department's value maps may be viewed at the Raleigh offices.)
8. Drainage structures or bridges if affected by encroachment (show vertical and horizontal dimensions from encroachment to nearest part of structure)
9. Method of attachment to drainage structures or bridges.
10. Manhole design
11. On underground utilities, the depth of bury under all tracks, shoulders, ditches, etc.
12. Length, size and type of encasement where required.
13. On underground crossings, notation as to method of crossing boring and jacking, open cut, etc.
14. Location of vents

GENERAL REQUIREMENTS

1. Any attachment to a bridge or other drainage structure must be approved by the Rail Division in Raleigh prior to submission of encroachment agreement.
2. All parallel encroachments should be as near as possible to the right of way line of the railroad.
3. Minimum vertical clearances of overhead wires and cables above all roadways must conform to clearances set out in the National Electric Safety Code.
4. Encasements shall extend from ditch line to ditch line in cut sections and 5' beyond toe of slopes in fill sections.
5. All vents should be extended to the right of way line or as otherwise required by the Department.
6. All pipe encasements as to material and strength shall meet the standards and specifications of the Department.
7. Any special provisions or specifications as to the performance of the work or the method of construction that may be required by the Department must be shown on a separate sheet attached to encroachment agreement provided that such information cannot be shown on plans or drawings.
8. The Department's Rail Division shall be given notice by the applicant prior to actual starting of installation included in this agreement.

NORTH CAROLINA RAILROAD SYSTEM



| REPORTING MARK | RAILROAD NAME |
|----------------|---|
| ACWR | Aberdeen Carolina & Western Railway |
| AR | Aberdeen & Rockfish Railroad |
| ARC | Alexander Railroad |
| ATW | Atlantic & Western Railway, LP |
| BMH | Beaufort & Morehead Railway, LP |
| CA | Chesapeake & Albemarle Railroad |
| CALA | Carolina Southern Railroad |
| CFR | Cape Fear Railways |
| CLIF | Cliffside Railroad |
| CTR | Clinton Terminal Railroad Co. |
| CLNA | Carolina Coastal Railway |
| CPLJ | Camp Lejeune Railroad |
| CRIJ | Carolina Rail Service, Inc. |
| CSX | CSX Transportation |
| CWCY | Caldwell County Railroad |
| DER | Dunn-Erwin Railway |
| GSMR | Great Smoky Mountains Railway |
| HPTD | High Point, Thomasville & Denton Railroad |

| REPORTING MARK | RAILROAD NAME |
|----------------|---|
| LRS | Laurinburg & Southern Company, Inc. |
| NCDOT | North Carolina Department of Transportation |
| NCCR | North Carolina Railroad Company |
| NCVA | North Carolina & Virginia Railroad |
| NCYR | Nash County Railroad |
| NHV | New Hope Valley Railroad |
| NS | Norfolk Southern Corporation |
| PDRR | Pee Dee River Railway |
| RSNR | Red Springs & Northern Railroad |
| SUR | State University Railroad |
| TBRY | Thermal Belt Railway |
| US | US Military |
| VSRR | Virginia Southern Railroad |
| WSS | Winston-Salem Southbound Railway |
| WTRY | Wilmington Terminal Railroad, Inc. |
| YAN | Black Mountain Railroad |
| YVRR | Yadkin Valley Railroad |

| NCDOT RAIL CORRIDORS | | |
|---------------------------------|-------------|---------------------------------|
| NAME | COUNTY | LOCATION |
| Wilmington & Weldon | New Hanover | Wallace to Castle Hayne |
| | Pender | |
| | Duplin | |
| Franklin County | Franklin | Franklinton to Louisburg |
| Murphy Branch | Cherokee | Andrews to Murphy |
| Maiden Branch | Catawba | S. Newton to Lincoln Co. Line |
| Cedar Yard | Mecklenburg | Charlotte |
| Durham & So. Carolina | Durham | Durham to New Hill |
| | Chatham | |
| | Wake | |
| Piedmont & Northern (Charlotte) | Mecklenburg | Charlotte |
| Piedmont & Northern (Mt. Holly) | Gaston | Gastonia to Mt. Holly & Belmont |