DRAFT – SUBJECT TO FURTHER REVISION UPON FINALIZATION OF ALL REQUIRED AGREEMENTS

OPTION AGREEMENT.

Between State of Florida Department of Transportation and CSX Transportation, Inc.

Pertaining to the Aloma Spur and Deland Spur

Dated: _____________, 2007

[NOTE: ANY CHANGES ULTIMATELY NEGOTIATED TO THE CONTRACT OF SALE SHALL, TO THE EXTENT APPLICABLE, BE INCORPORATED INTO THIS OPTION AGREEMENT AS WELL.]
List of Exhibits

Exhibit 1 – General Map of Subject Property
Exhibit 2 – Description of Subject Property
Exhibit 3 – Intangible Inventory
  - SP Intangibles
  - EP Intangibles
  - Transferred Joint Use Intangibles
  - Retained Joint Use Intangibles
Exhibit 4 – Deed
Exhibit 5 – Excluded Property
Exhibit 6 – Included Tangible Personal Property Inventory
Exhibit 7 – Excluded Tangible Personal Property Inventory
Exhibit 8 – Bill of Sale
Exhibit 9 – Transferred Intangibles
Exhibit 10 – Assignment of Transferred Intangibles
Exhibit 11 – Memorandum of Assignment of Transferred Intangibles
Exhibit 12 – Joint Notification Letter of Transferred Intangibles
Exhibit 13 – Joint Use Agreement(s)
Exhibit 14 – Opinion of CSXT’S Counsel
Exhibit 15 – Opinion of State’s Counsel
Exhibit 16 – Environmental Agreement
OPTION AGREEMENT

THIS OPTION AGREEMENT, made as of the ___ day of ________, 200_ by and between STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, whose address is Haydon Burns Building, 605 Suwannee Street, Tallahassee, FL 32399-0450 (hereinafter referred to as "State") and CSX TRANSPORTATION, INC., a Virginia corporation, whose address is 500 Water Street, Jacksonville, FL 32202 (hereinafter referred to as "CSXT").

WITNESSETH THAT:

WHEREAS, CSXT has interests in certain properties referred to generally as the Aloma Spur and the Deland Spur (the "Spurs"); and

WHEREAS, pursuant to authorization by Florida Transportation Code, Section 334.01, et seq., Florida Statutes, the State desires the right to acquire CSXT's interests in the properties described below (as hereinafter more particularly described) for the purposes of accommodating public demand for commuter rail transportation, roadways and other public purposes including the continued provision of rail freight and intercity rail passenger service; and

WHEREAS, State believes it is entitled to condemn the Spurs for the purpose of accommodating such need; and

WHEREAS, State and CSXT maintain their respective positions but elect not to endure a court challenge of the contested issue and have instead elected to transfer the properties described below upon threat of condemnation, if State exercises the Option as provided in this Option Agreement; and

WHEREAS, State and CSXT have agreed that State shall cooperate with CSXT in CSXT's accomplishing I.R.C. Section 1031 exchange(s); and

WHEREAS, the parties desire that CSXT retain, and not transfer to the State, a perpetual easement over the easement area therefor set forth in the Deed attached as Exhibit 4 hereto limited for the purpose of the exclusive provision of rail freight service, subject to the rights of the National Railroad Passenger Corporation ("Amtrak") under the Agreement dated June 1, 1999, and all Central Florida Operating and Management Agreement permitted supplements thereto, such agreement and supplements...
being between CSXT and Amtrak (collectively, the "Amtrak Agreement"), it being the intention of the parties that CSXT remain, and the State not become, the rail carrier subject to the Interstate Commerce Act, as revised, the Railway Labor Act, as revised, or any other federal law relating to the provision of railroad transportation on such properties; and

WHEREAS, reserving all rights with respect to the contested issue of condemnation, upon State's exercise of the Option as provided in this Option Agreement, CSXT will sell and State will acquire the involved properties and the parties hereto desire to provide for the continued operation, use and maintenance thereof, all upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto, intending to be legally bound, UNDERSTAND AND AGREE AS FOLLOWS:

Section 1. Option.

1.01 Option to Purchase. Subject to receipt of the Option Payment (defined below) and to execution and delivery of this Agreement all as hereinafter provided, CSXT hereby grants to State the exclusive right, option and privilege to purchase the properties described below from CSXT, subject to and upon all of the terms, covenants and conditions set forth in this Option Agreement (the "Option"). The Option shall commence when this Option Agreement has been executed and delivered by the parties and State shall have delivered to CSXT cash in the amount of the Option Payment hereinafter set forth. If the Option commences as aforesaid, the Option shall expire as to a Spur at 5:00 p.m., Eastern local time, on the earlier of (i) the date when the part of the "A Line" under the Contract of Sale contiguous to the subject Spur is no longer used (after the date such use commences) by State for commuter or passenger rail purposes; or (ii) thirty (30) years from the date hereof (the "Expiration Date").

State shall exercise the Option by delivering, not less than ten (10) days prior to the Expiration Date, a written notice of such exercise to CSXT in the manner and to the address set forth below. This
Option Agreement, the Option Payment and notice of exercise shall be deemed delivered when the same have been actually received by CSXT. The Option granted hereby may be exercised as to the entire Aloma Spur, the entire Deland Spur, or both the entire Aloma Spur and the entire Deland Spur at anytime before the Expiration Date and if exercised as to only one of said Spurs, the Option shall continue until the Expiration Date as to the other Spur, on the same terms and conditions as set forth in this Option Agreement. This Option may not be exercised as to part of the Aloma Spur and/or as to part of the Deland Spur, the parties having agreed that the Option must be exercised, if at all, for the entire Aloma Spur, the entire Deland Spur, or both whether one of said Spurs at one time and the other at another time.

1.02 Consideration for Option. As consideration for the Option, State shall pay to CSXT on the date hereof the sum of Ten Dollars ($10) in cash (the "Option Payment").

1.03 Application of the Option Payment. The Option Payment has been paid to CSXT unconditionally and shall belong to CSXT absolutely without regard to whether or not State exercises the Option herein granted. In the event State exercises the Option and closes this transaction in accordance with the terms of this Agreement, the Option Payment shall be applied to the Purchase Price (defined below).

1.04. Pre-Closing Period. The period from the exercise of the Option until the earlier of (i) one hundred eighty (180) days after the exercise of the Option and (ii) the date for the termination of the Pre-Closing Period set forth in any written notice from State to CSXT of State's election to terminate the Pre-Closing Period prior to the date in clause (i) above, is herein referred to as the Pre-Closing Period. During the Pre-Closing Period, CSXT and the State shall undertake the deliveries, inspections, reviews and other due diligence and closing preparation activities provided for in this Option Agreement, including, but not by way of limitation, the deliveries of CSXT under Section 15.01 herein, the inspections and due diligence of State under Section 15.01 herein, the provision and review of title and survey materials under Sections 7.03 and 7.04 herein, the environmental activities referenced in Sections 15.01 and 15.02 including reaching an agreement on Exhibit 16 hereto, agreement upon the various Exhibits to this Option Agreement and the review of the documents and documentation incident thereto which shall be carried out by CSXT and State in
a manner consistent with that which occurred in their agreement upon the various Exhibits to the Contract for Sale and Purchase between CSXT, as seller, and State, as purchaser, dated the ___ day of _____, 20___ pertaining to the CSXT "A Line" between Deland, Florida and Poinciana, Florida and certain related properties (the "Contract of Sale"). CSXT and the State agree that while the Exhibit 16 as finalized in connection with the Contract of Sale shall serve as a guide in finalization of the Exhibit 16 required hereunder, all provisions of the Exhibit 16 required hereunder shall be as mutually agreed between the parties. Further, CSXT and the State agree that either party hereto may elect not to proceed with the transactions contemplated by this Option Agreement based upon the results of inspections which are to be performed on such terms and conditions as are mutually agreed between the parties.

Section 2. Purchase and Sale.

2.01 Agreement of Sale/Lieu of Condemnation. Upon State's exercise of the Option in compliance with Section 1.01, above, CSXT agrees, under threat of condemnation and subject to all of the terms and conditions herein set forth and the performance by each of the parties hereto of their respective obligations hereunder, to sell, transfer and convey to State on the Closing Date and State agrees in lieu of condemnation to accept and purchase from CSXT on the Closing Date:

(a) All of CSXT's right, title and interest in and to the real property, rights-of-way and associated property constituting the Aloma Spur and the Deland Spur, all as shown on Exhibit 1 hereto and as more specifically described in Exhibit 2 hereto (during the Pre-Closing Period, said Exhibits will be modified by the mutual agreement of the parties in a manner consistent with that used by the parties to determined included and excluded real and personal property under the Contract of Sale), subject to (x) those rights, interests, contracts, agreements, leases, licenses and easements which are to be listed or described in Exhibit 3 hereto during the Pre-Closing Period by the mutual agreement of the parties (the "Intangible Inventory") and (y) the rights of Amtrak under the Amtrak Agreement and (z) a perpetual easement over the easement area therefor set forth in the Deed attached as Exhibit 4 hereto limited for the purpose of the exclusive provision of rail freight service to be retained by CSXT.
(hereinafter collectively referred to as the “CSXT Easement”) as set forth in the deed appearing as Exhibit 4 hereto (the “Deed”) and excluding and excepting those parcels, rights and interests to be listed or described on Exhibit 5 hereto during the Pre-Closing Period by the mutual agreement of the parties (the “Excluded Property”), all of which are excluded or excepted from the sale, transfer and conveyance to State contemplated by this Option Agreement;

(b) All of CSXT’s right, title and interest in and to tracks, rails, ties, switches, crossings, bridges, trestles, culverts, buildings, structures, facilities, signals, crossing protection devices, communication lines, poles, radio masts and other fixtures and improvements which are affixed, as of the Closing Date, to the real property to be shown on Exhibit 1 during the Pre-Closing Period by the mutual agreement of the parties and to be described in Exhibit 2 hereto during the Pre-Closing Period by the mutual agreement of the parties; but excepting any items of the kind described above which are on the properties to be listed or described in Exhibit 5 hereto during the Pre-Closing Period by the mutual agreement of the parties, all of which are hereby reserved by CSXT and excepted from the sale, transfer and conveyance to State contemplated by this Option Agreement;

(c) All of CSXT’s right, title and interest in and to the items of tangible personal property (the “Included Tangible Personal Property”) to be listed or described in Exhibit 6 hereto during the Pre-Closing Period by the mutual agreement of the parties (the “Included Tangible Personal Property Inventory”) accompanied by maintenance records, warranties and other pertinent records pertaining thereto to the extent available, but without any representation or warranty as to completeness, accuracy, assignability, or any other matter, but excluding the following items of tangible personal property that are or may be located on or in the Subject Property on the Closing Date: railroad rolling stock, locomotives, automobiles, trucks, automotive equipment, machinery (except as to be listed or described in Exhibit 6 hereto during the Pre-Closing Period by the mutual agreement of the parties), office and computer equipment, radios and radio control equipment, furniture, tools, switch locks and keys, inventories, materials and supplies, as well as any other personal property which is not to be sold, transferred and conveyed to State under the provisions of Sections 2.01(b) and 2.01(c) hereof and which is not affixed to
the Subject Property on the Closing Date (the "Excluded Tangible Personal Property") to be listed in Exhibit 7 during the Pre-Closing Period by the mutual agreement of the parties (the "Excluded Tangible Personal Property Inventory"). Any tangible personal property located on the Subject Property on the Closing Date not listed in the Included Tangible Personal Property Inventory shall be deemed to be included in the Excluded Tangible Personal Property Inventory;

(d) All of CSXT's right, title and interest in and to the items of Transferred Intangibles to be listed on Exhibit 9 during the Pre-Closing Period by the mutual agreement of the parties as provided in Section 7.08 of this Option Agreement; and

The aforesaid properties, real and personal, which are to be sold, transferred and conveyed to State under this Option Agreement are hereinafter collectively referred to as the "Subject Property", but if the Option is exercised as to one of the Spurs, but not both of them, then the term "Subject Property" shall refer to said property, real and personal, which is the subject of that exercised Option and if, before the Expiration Date, the Option is exercised as to the other Spur, the term "Subject Property" shall refer to said property, real and personal, which is the subject of that exercise of the Option.

2.02 Conveyance. The sale, transfer and conveyance to State under this Option Agreement of any interest of CSXT in the land, real property and fixtures that are part of the Subject Property shall be made by Deed to be attached as Exhibit 4 hereto during the Pre-Closing Period by the mutual agreement of the parties and shall be with the warranties set forth therein and subject to the matters set forth therein as well as the Permitted Exceptions as defined in Section 7.01 of this Option Agreement, a counterpart of which shall be recorded in Volusia County, Florida as to the Deland Spur and in Seminole County, Florida as to the Aloma Spur. The sale, transfer and conveyance to State of any interest of CSXT in the tangible personal property under this Option Agreement shall be evidenced by a Bill of Sale (the "Bill of Sale") to be attached as Exhibit 8 hereto during the Pre-Closing Period by the mutual agreement of the parties, and shall be made without any express or implied warranty whatsoever, other than as otherwise expressly provided in this Option Agreement and other matters set forth therein as well as the Permitted Exceptions. The sale, transfer and conveyance to State of any interest of CSXT in the Transferred
Intangibles to be listed on Exhibit 9 attached hereto during the Pre-Closing Period by the mutual agreement of the parties as provided in Section 7.08 of this Option Agreement, shall be evidenced by an Assignment of Transferred Intangibles to be attached as Exhibit 10 hereto during the Pre-Closing Period by the mutual agreement of the parties and the Memorandum of Assignment of Transferred Intangibles to be attached as Exhibit 11 hereto during the Pre-Closing Period by the mutual agreement of the parties, both subject to the matters set forth therein as well as the Permitted Exceptions, with a counterpart of the Memorandum of Assignment of Transferred Intangibles to be recorded in Volusia County, Florida as to the Deland Spur and in Seminole County, Florida as to the Aloma Spur. In addition, as to any Transferred Joint Use Intangibles, to be listed on Exhibit 3 during the Pre-Closing Period by the mutual agreement of the parties as provided for in Section 7.08 of this Option Agreement, the Joint Use Agreement(s) shall be executed between CSXT and the State in form to be attached as Exhibit 13 hereto during the Pre-Closing Period by the mutual agreement of the parties. Said Joint Use Agreement(s) shall also be applicable to the Retained Joint Use Intangibles to be listed in Exhibit 3 during the Pre-Closing Period by the mutual agreement of the parties and shall be executed by CSXT and State at Closing. Other than warranties of title free and clear of all mortgages, deeds of trust, financing statements, judgment liens, materialmen liens and liens arising out of CSXT's employee pension obligations, the Deed, Bill of Sale, Assignment of Transferred Intangibles, Memorandum of Assignment of Transferred Intangibles and the Joint Use Agreement(s) each shall be made without any express or implied warranty whatsoever except as otherwise expressly provided therein or in this Option Agreement. State acknowledges that CSXT may endeavor to have the Title Company insure over certain liens based upon CSXT's indemnification agreements with the Title Company. As to any matter which the Title Company agrees to delete from the Title Policy to be delivered at the Closing, State shall have no objection or right to object to such matter, and State will, as to any claim pertaining to any matter which the Title Company has agreed to insure over and upon any lienor or judgment creditor seeking to execute upon any portion of the Subject Property, first pursue the Title Company through litigation and/or arbitration, but to the extent
any such claim remains unsatisfied after such litigation and/or arbitration is free from further appeal, State shall have recourse against CSXT.

Section 3. Purchase Price.

Subject to the terms and conditions of this Option Agreement, and in consideration for the sale, transfer and conveyance of the Subject Property to State, State shall pay to CSXT the sum of Ten and no/100 Dollars ($10.00) (hereinafter referred to as the “Purchase Price”) each for the Subject Property relating to the Aloma Spur and for the Subject Property relating to the Deland Spur. The Purchase Price as to a Spur shall be paid on the Closing Date for such Spur in cash or its equivalent in immediately available United States funds.

Section 4. Statutory Limitations

Notwithstanding any other provision hereof, this Option Agreement is subject to the provisions of Section 339.135 (6) (a), Florida Statutes, to wit:

“The department [Florida Department of Transportation], during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the department that funds are available prior to entering into such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year.”

Section 5. Federal Regulatory Matters.

5.01 STB Jurisdiction. State and CSXT shall take all reasonably necessary steps to secure the determination of the Surface Transportation Board (“STB”) that it has no jurisdiction over the transaction contemplated in this Option Agreement, or in any transaction contemplated in any Ancillary Agreement as defined in this Option Agreement.

5.02 FRA Notification. State shall provide notification to the Federal Railroad Administration (“FRA”) pursuant to 49 C.F.R. § 213.5(c), if applicable, at least thirty (30) days prior to the Closing Date.
Section 6. Closing.

6.01 Exchange of Documents. The Purchase Price as to a Spur, Deed, Bill of Sale, Assignment of Transferred Intangibles, Memorandum of Assignment of Transferred Intangibles, Joint Use Agreement(s), Environmental Agreement, and the Opinions referenced herein shall be exchanged, together with all other deliverables under this Option Agreement at a closing (the "Closing") to be held at the headquarters of CSXT in Jacksonville, FL or at such other location as the parties hereto may mutually agree upon. The term "Closing" and the activities associated therewith, shall be applied separately as to each Spur in the event the Option is exercised as to one Spur whether or not the Option is later exercised as to the other Spur. Subject to the right of termination expressly provided under Section 17 of this Option Agreement, the Closing Date shall occur on ninety (90) days after the expiration of the Pre-Closing Period, or upon such other date as the parties hereto may mutually agree upon.

6.02 Settlement Statement. At the Closing, the apportionments under Section 9 of this Option Agreement between the parties shall be made and reflected on the Settlement Statement as charges or credits to each party, as appropriate.

6.03 Allocation of Closing Costs. CSXT shall pay the cost and expense of (i) the Title Commitment and Title Policy including the premium for the Title Policy and all search, copy, printing and other charges of the Title Company with respect to said Title Commitment, Title Policy and the furnishing of copies of title documents required to be furnished herein; (ii) any documentary stamp taxes, interest, and penalties on the Deed; (iii) the attorneys’ fees and consultant fees of CSXT and (iv) other costs of the transactions under this Option Agreement and the Ancillary Agreements incurred by CSXT.

State shall pay the cost and expense of (i) the Survey, as herein defined; (ii) recording counterparts of the Deed (exclusive of Documentary Stamp taxes thereon) and the Memorandum of Assignment of Transferred Intangibles in Volusia County, Florida as to the Deland Spur and Seminole, Florida as to the Aloma Spur; (iii) the attorneys’ fees and consultant fees of the State and (iv) other costs of the transactions under this Option Agreement and the Ancillary Agreements incurred by State.
Section 7. Instruments of Transfer and Conveyance.

7.01 Permitted Exceptions/Deed/Bill of Sale. At the Closing, in exchange for the Purchase Price, CSXT shall deliver to State CSXT’s Deed and Bill of Sale subject to the following which are herein referred to as the “Permitted Exceptions”:

(a) The exceptions, reservations, rights and privileges of CSXT set forth in this Option Agreement, including, without limitation, the CSXT Easement;

(b) Building, Zoning, Subdivision and other applicable federal, state, county, municipal and local laws, ordinances and regulations;

(c) Subject to the apportionment provisions of Section 9 herein, liens for ad valorem real and personal property and governmental assessments, both general and special, which may become due or payable on the Subject Property on or after the Closing Date excepting any assessed on the CSXT Easement which shall be the responsibility of CSXT;

(d) Reservations or exceptions whether or not of record, including, without limitation, reservations or exceptions of minerals or mineral rights; public utility and other easements; and easements, crossings, occupancies and rights-of-way, howsoever created;

(e) Encroachments or any other state of facts which might be revealed from an accurate survey, title search or personal inspection of the Subject Property;

(f) All other existing roads, streets, ways, alleys, party walls, privileges, rights, appurtenances and servitudes, howsoever created;

(g) Mortgage liens pertaining to the Subject Property which liens CSXT shall cause to be released, at no cost or expense to State within sixty (60) days of the recording date of the Deed;

(h) The matters set forth in Section 8.01 herein; and

(i) As to each of the Deed, Bill of Sale, Assignment of Transferred Intangibles, Memorandum of Assignment of Transferred Intangibles, and the Joint Use Agreement(s), the matters appearing in said documents.
7.02 Additional Closing Documents. In addition, at the Closing, the parties shall execute and deliver the following:

(a) A Settlement Statement signed by each party evidencing the Purchase Price, reserves or hold backs from the Purchase Price, the apportionments and the closing costs with the appropriate credits and charges to the parties;

(b) The Assignment of Transferred Intangibles attached as Exhibit 10 during the Pre-Closing Period by the mutual agreement of the parties;

(c) Memorandum of Assignment of Transferred Intangibles attached as Exhibit 11 during the Pre-Closing Period by the mutual agreement of the parties, a counterpart of which is to be recorded in Volusia County, Florida as to the Deland Spur and in Seminole County, Florida as to the Aloma Spur;

(d) The Joint Use Agreement(s) attached as Exhibit 13 during the Pre-Closing Period by the mutual agreement of the parties

(e) The Environmental Agreement attached as Exhibit 16 during the Pre-Closing Period by the mutual agreement of the parties;

(f) CSXT shall deliver to State an opinion of CSXT’s counsel attached as Exhibit 14 hereto during the Pre-Closing Period by the mutual agreement of the parties; and

(g) State shall deliver to CSXT an opinion of State’s counsel attached as Exhibit 15 hereto during the Pre-Closing Period by the mutual agreement of the parties.

In rendering the foregoing opinions in Section 7.02 (h) and (i), such counsel may rely as to factual matters upon certificates or other documents furnished by officers, officials and other counsel of the respective parties, and upon such other documents and data as such officers, officials and counsel may deem appropriate for their opinions.

7.03 Title Commitment. State has arranged with First American Title Insurance Company (the “Title Company”) for the preparation of a Title Insurance Commitment to be issued by Title Company
through Holland & Knight LLP, as agent (if the Option is exercised at the same time as to both Spurs, the Title Insurance Commitment will initially consist of two Title Insurance Commitments, one for each of Volusia and Seminole Counties, Florida which, by Closing, will be combined into one ) covering the Subject Property for the benefit of State in such amount as is mutually agreed between CSXT and State and acceptable to the Title Company (the "Title Commitment") agreeing to issue an ALTA Owner's Title Insurance Policy (10-17-92) (with Florida modifications) (the "Title Policy"). CSXT has requested the Title Company to deliver to the State (i) the Title Commitment, (ii) a legible copy of every document referenced therein, (iii) a legible copy of the title derivation documents (deeds, easements, leases, and other instruments) vesting CSXT with the estate being insured by the Title Commitment and (iv) a legible copy of each recorded conveyance out by CSXT of any portion of the land of which the Subject Property was a part whether shown on Valuation Maps or not. It is expressly understood by the parties hereto that CSXT shall have no liability or responsibility under or beyond said Title Policy or as a consequence of any failure of any obligation, term or condition of said policy, howsoever arising, including, without limitation, the insolvency or bankruptcy of the Title Company issuing said policy and/or the Title Company’s failure, inability or refusal to perform under said policy, but any such failure, inability, refusal, insolvency or bankruptcy occurring before Closing shall constitute grounds for the termination of this Option Agreement should the same occur on or prior to Closing.

7.04 Survey. State has surveys of the Subject Property which it may update during the Pre-Closing Period (the "Survey") by Florida licensed land surveyors which do or shall provide metes and bounds description(s) of the Subject Property (the "Survey Description") and will provide a copy thereof to CSXT and the Title Company during the Pre-Closing Period. State acknowledges that while the Survey providing the description of the Subject Property shall be used in the transaction documents contemplated herein, the Survey shall not be binding on CSXT in any manner, and any agreement regarding the binding nature of the Survey in connection with the transactions contemplated hereby shall be solely between State and the Title Company, State acknowledging that subject to the foregoing exception, no aspect of the Survey shall either bind CSXT in any manner or obligate CSXT to take any
actions whatsoever. State further acknowledges that CSXT has not reviewed and shall not be obligated to review the Survey and that CSXT does not warrant the accuracy, correctness or legal sufficiency of the Survey.

7.05 **INTENTIONALLY OMITTED.**

7.06 **Recording.** State shall cause a counterpart of the Deed (which shall include therein the CSXT Easement) and a counterpart of the Memorandum of Assignment of Transferred Intangibles to be recorded in the public records of Volusia County, Florida as to the Deland Spur and Seminole County, Florida as to the Aloma Spur within five days of Closing of each of said Spurs.

7.07 **Conveyance Subject to Intangibles.** The Subject Property shall be sold, transferred and conveyed subject to all contracts, agreements, leases, licenses, and easements and all amendments and supplements thereto, pertaining to the Subject Property, or any portion thereof ("Intangible"), which are to be listed or described in **Exhibits 3 and 9** hereto during the Pre-Closing Period by the mutual agreement of the parties. Nothing contained in this Section shall be construed to: (a) limit or restrict any exception, reservation, right or privilege of CSXT under Section 8 of this Option Agreement; (b) limit or restrict CSXT's right to enter into any contract, agreement, lease or license pertaining to the provision by CSXT of rail freight service on the Subject Property, subject to the terms and conditions set forth in the Central Florida Operating and Management Agreement; (c) require CSXT to cancel, terminate or amend any existing contract, agreement, lease, license or easement to be listed or described in **Exhibits 3 or 9** hereto during the Pre-Closing Period by the mutual agreement of the parties to the extent permitted herein or in the Central Florida Operating and Management Agreement as the same may be amended during the Pre-Closing Period as to the Spurs or (d) require CSXT to cancel or terminate any amendment to an existing or additional contract, agreement, lease, license or easement to which the terms and conditions of Section 8 of this Option Agreement may apply, or (e) impose any obligation on CSXT with respect to Labor Protection, any Labor Challenge or Environmental Matters.
7.08 **Assignment of Transferred Intangibles.** At the Closing, CSXT shall assign to State all of CSXT’s rights and interests and State shall assume all of CSXT’s obligations and liabilities arising under or connected with the contracts, agreements, leases, licenses and easements to be listed or described in Exhibit 9 hereeto during the Pre-Closing Period by the mutual agreement of the parties which shall include the SP Intangibles and the Transferred Joint Use Intangibles to be listed in Exhibit 3 during the Pre-Closing Period by the mutual agreement of the parties (collectively, the “Transferred Intangibles”), but exclude the EP Intangibles and Retained Joint Use Intangible to be listed in Exhibit 3 during the Pre-Closing Period by the mutual agreement of the parties pursuant to the Assignment of Transferred Intangibles attached as Exhibit 10 hereto during the Pre-Closing Period by the mutual agreement of the parties, a counterpart of which State shall cause to be recorded in the public records of Volusia County, Florida as to the Deland Spur and Seminole County, Florida as to the Aloma Spur. The conveyance or retention of an intangible shall carry with it the right to renew, modify, alter, amend and terminate the same, provided the Transferred Intangibles shall not be renewed, modified, altered, and amended in such a way as would interfere with the rights of CSXT under the CSXT Easement and provided, further, that the EP Intangibles and Retained Joint Use Intangibles as well as any contract, agreement, lease license, and easement which pertains to any portion of the Subject Property and is omitted from Exhibit 3 to be attached hereto during the Pre-Closing Period by the mutual agreement of the parties (an “Omitted Intangible”) shall not be renewed, modified, altered, and amended in such a way as to interfere with State’s reasonable utilization of the Subject Property for its intended use as a commuter rail system. All amounts due under or received by CSXT prior to Closing and relating to the Retained Joint Use Intangibles and Omitted Intangibles, shall remain the property of CSXT and shall not be subject to proration or adjustment of any sort. From and after the Closing Date, CSXT shall pay to State on a periodic basis the amounts received by CSXT under any Omitted Intangible after the Closing which pertains only to some portion of the Subject Property. Further, from and after the Closing Date, CSXT
shall pay to State on a periodic basis prorated amounts received by CSXT after the Closing under any (i) any Omitted Intangible which pertains both to the Subject Property and any of the CSXT rail line which is not part of the Subject Property (the "Joint Use Omitted Intangibles") and (ii) the Retained Joint Use Intangibles, both on a per mile proration (that is, if a Joint Use Omitted Intangible and/or Retained Joint Use Intangible, relates to 200 miles of rail corridor, and 43 miles of said rail corridor is contained within the Subject Property, CSXT shall deliver to State on a periodic basis 43/200 of amounts received by CSXT relating to said Joint Use Omitted Intangible and/or Retained Intangible and due after the Closing Date). It is understood by the parties hereto that the aforesaid contracts, agreements, leases, licenses and easements, inter alia, may grant or confer to others, not party to this Option Agreement, including, without limitation, the National Railroad Passenger Corporation, fiber optic occupancies, rights, interests and privileges in or pertaining to the Subject Property, and that, from and after the Closing Date, State shall not cause or suffer any interference with the enjoyment and use of the rights, interests and privileges granted or conferred in such contracts, agreements, leases, licenses and easements to be listed or described in Exhibits 3 and 9 hereto during the Pre-Closing Period by the mutual agreement of the parties, and State shall not cause or suffer any breach of such contracts, agreements, leases, licenses and easements. At least thirty (30) days before Closing, CSXT shall use reasonable efforts to obtain and deliver to State the written consent to such assignment from any party to said agreements required to give consent under the terms thereof. At least thirty (30) days before Closing CSXT shall furnish the State the current mailing addresses of the other parties to the agreements constituting the Transferred Intangibles and at Closing CSXT and State shall execute and State shall send out the Joint Notification Letter of Transferred Intangibles attached as Exhibit 12 hereto during the Pre-Closing Period by the mutual agreement of the parties, to each party to the agreements constituting the Transferred Intangibles other than CSXT at the notice addresses furnished State by CSXT advising such parties of the assignment. Notwithstanding the foregoing, nothing contained in this Option Agreement shall impose upon CSXT an obligation to assign to State any contract, agreement, lease, license or easement listed or described in Exhibit 9 hereto during the Pre-Closing Period by the mutual agreement of the parties which expires,
terminates or is cancelled in accordance with the terms thereof on or prior to the Closing Date. Any such expiration, termination or cancellation shall not be construed as a breach of this Option Agreement and shall not constitute grounds for termination or rescission of this Option Agreement.

7.09 **Failure of Consent to Assignment.** In the event that CSXT is unable, for any reason(s), including, without limitation, its inability or failure to obtain any consent to assignment of an Transferred Intangible required by the provisions thereof, to effect, on the Closing Date, the assignment of any contract or agreement constituting the Transferred Intangibles to State, then such failure or inability shall constitute grounds for termination of this Option Agreement.

7.10 **Searches.** To the extent that a tax, title or United States District Court search, a Uniform Commercial Code search, local tax certificates and/or soil tests are desired by State, the State shall have obtained, reviewed and found the same acceptable at State’s sole cost and expense prior to the Closing Date and the foregoing shall constitute grounds for the termination of this Option Agreement if not obtained and/or satisfactory to State.

7.11 **Subdivision Approvals.** In the event that any subdivision approval is either desired by State or is necessary for the completion of the sale, transfer and conveyance contemplated by this Option Agreement, said approval may be applied for by State, at its sole risk, cost and expense, including, without limitation, any and all fees, costs and expenses arising out of or connected with the obtaining of subdivision plats, the filing of same with governmental body(ies), recordation thereof and legal fees. Nothing contained herein shall be construed as a covenant by CSXT that the Subject Property, or any portion thereof, will be approved for subdivision, and CSXT assumes no obligation or liability for any cost or expense howsoever arising in the event subdivision approval is not secured. Failure to obtain any State applied for subdivision approval before Closing shall constitute grounds for the termination of this Option Agreement.
Section 8. **CSXT’s Further Exceptions and Reservations.**

8.01 **Additional Conveyance Exceptions.** In accordance with Sections 1.01 and 7.01 hereof, and subject to the provisions of this Section 8, State shall accept and purchase the Subject Property subject to: (a) the CSXT Easement; (b) the Central Florida Operating and Management Agreement as amended during the Pre-Closing Period by the mutual agreement of the parties as to the Spurs; and (c) the Transferred Intangibles to be listed on Exhibit 9 hereto during the Pre-Closing Period by the mutual agreement of the parties and the Retained Joint Use Intangibles to be listed on Exhibit 3 hereto during the Pre-Closing Period by the mutual agreement of the parties.

8.02 **Sidetracks.** The rights, interests and obligations of CSXT and State with respect to sidetracks shall be governed by the terms and conditions of the Central Florida Operating and Management Agreement as amended during the Pre-Closing Period by the mutual agreement of the parties.

8.04 **Assignment of CSXT Easement.** The rights, interests and obligations of the parties hereto, or their respective successors or assigns with respect to the Amtrak Agreement shall be governed by the terms and conditions of the Central Florida Operating and Management Agreement, including, without limitation, Section 3(1) thereof. This provision shall survive Closing and the delivery of the Deed. State shall have the right to disapprove any conveyance, transfer, assignment, or grant of operating rights to another freight carrier, of the CSXT Easement, provided State will not unreasonably withhold, condition or delay its approval. This provision shall be included in the Deed and shall survive the Closing and delivery of the Deed.

Section 9. **Apportionments.**

9.01 **Sales/Use Tax.** CSXT and State shall each bear and pay one-half of any and all sales and/or use taxes and charges arising out of or connected with the sale, transfer, or conveyance contemplated by this Option Agreement.
9.02 **Post Closing Taxes, Liens and Charges.** It is the intent and understanding of the parties hereto that from and after the Closing Date CSXT shall not be responsible for any taxes, fees, charges, liens, or assessments associated with the State’s ownership of the Subject Property and/or the State’s interests therein; provided, however, that nothing contained herein shall relieve CSXT from any tax liability which it may have for its retained interests in the Subject Property including, but not by way of limitation, the CSXT Easement. Additionally, the State shall be required to remove any liens associated with the State’s ownership with the Subject Property and/or the State’s interests therein to the extent that such liens materially interfere with CSXT’s use and enjoyment of the CSXT Easement.

9.03 **Utility Charges.** Utility charges pertaining to the Subject Property shall be prorated, adjusted and apportioned between CSXT and State as of the Closing Date.

9.04 **Real Estate and Personal Property Taxes.** Any ad valorem real and personal property taxes as to the Subject Property shall be prorated as of the date of Closing and shall be based upon the net tax bill for the applicable year of proration with allowance for discount for November payment and any other available discounts. Such taxes for the years prior to the year of Closing shall be paid by CSXT. If, however, the amount of such taxes for the year of Closing cannot be ascertained, the rates, millages and assessed valuations for the previous year, with known changes, if any, shall be used as an estimate and tax prorations based on such estimate and the estimate shall be readjusted upon the request of either party made within sixty (60) days after the tax collector’s mailing of the actual tax bills for the year of Closing. In arriving at an estimated tax proration due allowance shall be made for exemptions and discounts if allowed for the applicable year.

9.05 **General Assessments.** At the time of Closing CSXT shall pay, or prior to Closing shall have paid, all special governmental assessments and liens for public improvements which are as of the Closing certified liens, in full but as to special governmental assessments and liens for public improvements which are not certified liens as of the Closing but are merely pending as of Closing, State shall assume payment of such pending, but uncertified, special governmental assessments and liens for
public improvements. At the time of Closing, certified, confirmed or ratified pending special governmental assessment liens against or in respect to the Subject Property where the work has been substantially completed as of Closing shall be paid in full at the Closing by CSXT.

Section 10. Further Agreements and Instruments.

10.01 CSXT Indemnification. CSXT shall indemnify, protect, defend and hold harmless State from and against any and all liability, cost and expense arising out of or connected with CSXT’s ownership and operation on the Subject Property prior to the Closing Date; provided, however, that nothing contained herein shall be construed as modifying or amending any provision of this Option Agreement, including, without limitation, any other provision of this Section 10, Sections 12 and 13 hereof or any other agreement by or between State and CSXT; provided, further, that nothing contained herein shall be construed as creating any responsibility or liability on the part of CSXT with respect to any fault, defect or condition of the Subject Property; and, provided, further, that nothing contained herein shall be construed as applying to any occurrence created or caused by the State in whole or in part by any act or omission of the State.

10.02 Labor Protection. CSXT shall be responsible for its Labor Protection costs, if any, occasioned by the transfer contemplated in this Option Agreement. As used herein, “Labor Protection” shall mean the costs, if any, incurred by CSXT as a result of the sale of the Subject Property, which costs may be incurred pursuant to the provision of a collective bargaining agreement bargained by CSXT as a result of the sale of the Subject Property or pursuant to rule, decision or final order of any governmental agency having jurisdiction over the event. Notwithstanding the above, the parties agree that each shall be solely responsible for their respective risks and costs (including defense costs and liability) associated with any challenge to the transactions pursuant to law, a collective bargaining agreement or otherwise (“Labor Challenge”).

10.03 CSXT Excluded Property Undertaking. CSXT shall cooperate in all respects with State in the identification of CSXT property included in the conveyance, and shall not knowingly exclude from
the conveyance to State, any of CSXT’s existing property, whether real, personal, or intangible, the exclusion of which will interfere with State’s intended use of the Subject Property of owning, operating, and maintaining a commuter rail service on the Subject Property, provided however, if the property that has not been specifically excluded shall be discovered to be essential to such intended use and could be transferred by CSXT to State without adverse impact to CSXT’s freight operations and without adverse economic consequences to CSXT, then CSXT, upon written request of State, shall convey or transfer the same to State without additional consideration, on the same basis as set forth herein for conveyance of the Subject Property, whether or not before or after Closing with this provision to survive Closing and the delivery of the Deed.

10.04 Further Instruments. From time to time after the Closing Date, CSXT and State shall execute and deliver such other contracts, agreements, consents and instruments of conveyance, transfer, conformance and assignment and take such other action(s) as may be reasonably necessary to effect the purposes of this Option Agreement, including, without limitation, the enjoyment and use of the exceptions, reservations, rights and privileges contained in Section 8 of this Option Agreement.

Section 11. Representations and Warranties.

11.01 CSXT’s Representation and Warranties. Nothing in this Section 11 shall apply to any Labor Challenge described in Section 10 of this Option Agreement or Environmental Matters described in Section 15 of this Option Agreement. As a material inducement to State to execute this Option Agreement including, without limitation, the Exhibits hereto (exclusive of Exhibit 16 pertaining to Environmental Matters) and to perform its obligations hereunder including without limitation the obligations set forth in the other instruments to be executed hereunder, CSXT hereby represents and warrants to State, as follows:

(a) The introduction of CSXT and State to one another and all negotiations by the parties hereto relative to this Option Agreement and the transactions contemplated hereby have been effected and carried out by CSXT without the intervention of any broker, finder or other person, and
CSXT has not incurred any obligation that would result in State's liability to pay any brokerage, finder's fee or similar fee in connection with such transactions;

(b) The execution of this Option Agreement and the agreements attached hereto and the performance by it of the various terms and conditions hereof, including, without limitation, the execution of all agreements, notices and other documents required hereunder, have been duly authorized by requisite corporate authority of CSXT;

(c) CSXT is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia and is duly licensed or qualified and in good standing and qualified to own and lease property in the State of Florida;

(d) This Option Agreement, when executed and delivered, will be valid and legally binding upon CSXT and enforceable in accordance with its terms, subject to limitation by bankruptcy, insolvency or laws of general application affecting enforcement of creditors' rights;

(e) Neither the execution of this Option Agreement and the other instruments to be executed hereunder by CSXT, nor the performance by CSXT of the various terms and conditions hereto will violate the Articles of Incorporation or By-Laws of CSXT or result in a breach or violation of any term or provision or constitute a default under any indenture, mortgage (subject to the release of liens required under Section 7.01(g) hereof), lease or any other agreement to which CSXT is a party or by which it is bound except as may be provided in the contracts, agreements, leases, licenses and easements to be listed or described in Exhibits 3 and 9 hereof during the Pre-Closing Period by the mutual agreement of the parties, and CSXT shall indemnify, protect, defend and hold harmless State from and against any and all liability, loss, cost or damage resulting from any such breach or default of the aforesaid instruments to be listed or described in Exhibit 3 hereof during the Pre-Closing Period by the mutual agreement of the parties and to be listed in Exhibit 9 hereof during the Pre-Closing Period by the mutual agreement of the parties; other than a failure after reasonable effort to obtain an assignment or consent.
(f) When duly recorded among the land records of Volusia County, Florida as to the Deland Spur and Seminole County, Florida as to the Aloma Spur, the Deed issued by CSXT pursuant to this Option Agreement will create a valid and enforceable conveyance of the Subject Property in favor of State of the interests therein stated, subject only to the matters described in said Deed.

(g) Except as disclosed by CSXT to State in writing prior to Closing, there is no action or proceeding pending or, to CSXT's best knowledge, threatened challenging CSXT's right, title and interest in and to the Subject Property at law or in equity or the consummation and performance of the transactions contemplated by this Option Agreement, which challenge, if successful, would result in any material adverse effect upon any such transaction;

(h) Except as disclosed by CSXT to State in writing prior to Closing, CSXT has not received notice of any material breach associated with any contract, agreement, lease, license or easement to be listed or described in Exhibits 3 and 9 during the Pre-Closing Period by the mutual agreement of the parties from a party permitted to give notice under such instrument;

(i) Except as disclosed by CSXT to State in writing prior to Closing and excluding environmental matters, CSXT has not received notice from any governmental body having jurisdiction over the Subject Property of a material violation of any building, zoning, subdivision, federal, state, county, municipal or local law, ordinance or regulation affecting the Subject Property;

11.02 State's Representations and Warranties. As a material inducement to CSXT to execute this Option Agreement, including, without limitation, the Exhibits hereto and to perform its obligations hereunder including, without limitation, the other instruments to be executed hereunder, State hereby represents and warrants to CSXT, as follows:

(a) The introduction of CSXT and State to one another and all negotiations by the parties hereto relative to this Option Agreement and the transactions contemplated hereby have been effected and carried out by State without the intervention of any broker, finder or other person, and State
has not incurred any obligation that would result in CSXT’s liability to pay any brokerage, finder’s fee or similar fee in connection with such transaction;

(b) The execution of this Option Agreement and the other instruments to be executed hereunder by State and the performance by it of the various terms and conditions hereof, including, without limitation, the execution of all agreements, notices and other documents required hereunder, have been duly authorized by the State of Florida and fully comply with the laws of such State;

(c) State of Florida Department of Transportation is an agency of the State of Florida, duly organized under the laws of such State, and is qualified to own and lease property in such State pursuant to Chapter 334 of the Florida Statutes (200~; and

(d) This Option Agreement, when executed and delivered, will be valid and legally binding upon State, enforceable in accordance with its terms; and neither the execution of this Option Agreement and the other instruments to be executed hereunder by State, nor the performance by it of the various terms and conditions hereto will violate the laws of the State of Florida or result in a breach or violation of any term or provision or constitute a default under any indenture, mortgage, lease or any other agreement to which State is a party or by which it is bound.

Section 12. Disclaimer of Warranty.

Except as otherwise provided in Exhibit 16 hereto, State represents that it has or by the Closing Date will have fully inspected the Subject Property and is relying on such inspection for all purposes whatsoever, including, without limitation, the determination of the character, size, condition, state of repair and suitability of the Subject Property. IN ADDITION, EXCEPT AS MAY BE EXPRESSLY SET FORTH IN THE DEED, BILL OF SALE, ASSIGNMENT OF TRANSFERRED INTANGIBLES, JOINT USE AGREEMENT(S) AND THIS OPTION AGREEMENT (INCLUDING, WITHOUT LIMITATION, Exhibit 16 TO BE ATTACHED HERETO DURING THE PRE-CLOSING PERIOD BY THE MUTUAL AGREEMENT OF THE PARTIES), STATE HEREBY ACKNOWLEDGES THAT THE SUBJECT PROPERTY WILL BE TRANSFERRED AS IS, WHERE IS AND WITH ALL
FAULTS, DEFECTS AND CONDITIONS OF ANY KIND, NATURE OR DESCRIPTION AS OF THE CLOSING DATE, AND THAT THERE HAVE BEEN NO REPRESENTATIONS, WARRANTIES, GUARANTEES, STATEMENTS OR INFORMATION, EXPRESSED OR IMPLIED, PERTAINING TO SUCH PROPERTY, THE VALUE, DESIGN OR CONDITION THEREOF, ITS MERCHANTABILITY OR SUITABILITY FOR ANY USE OR PURPOSE OR ANY OTHER MATTER WHATSOEVER, MADE TO OR FURNISHED TO STATE BY CSXT OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES.

Section 13. Condition of Property.

Subject to the right of termination expressly set forth herein that are exercisable prior to the Closing and subject to CSXT's compliance with the provisions of Exhibit 16 to be attached hereto during the Pre-Closing Period by the mutual agreement of the parties and any warranties, representations and undertakings of CSXT in the Deed, Bill of Sale, Assignment of Transferred Intangibles, Joint Use Agreement(s), the Environmental Agreement and this Option Agreement, and herein, State agrees to accept and purchase the Subject Property, without warranty, "as is, where is," and in the condition in which it finds the Subject Property as of the Closing Date.

Section 14. Other Agreements.

14.01 Ancillary Agreements. In conjunction with the transactions contemplated by this Option Agreement, CSXT and State will enter into the following agreements on or before the Closing Date (the execution and delivery of each of which on or before the Closing Date shall be a condition precedent to the obligation of each party to Close): (i) amendment of the Central Florida Operating and Management Agreement as to the Spurs; (ii) amendment of the Transitional Services Agreement as to the Spurs; (iii) the Joint Use Agreements as to the Spurs; and (iv) any Lease Agreements as to the Spurs (collectively, the "Ancillary Agreements"), all as may be amended, from time to time, or cancelled or terminated in accordance with the provisions of the respective Ancillary Agreement, and any such amendment(s), cancellation(s) or termination(s) shall not constitute grounds for the termination of this Option Agreement.
Agreement, or rescission if occurring after Closing in accordance with the provisions of said Ancillary Agreements.

14.03 CSXT Sales and Other Transactions. From time to time after the Closing Date, CSXT may sell, transfer or convey any of its personal property, may sell, transfer, convey any of its real property or modify, abandon or discontinue rail operations thereon including, without limitation, lines of railroad that may now or hereafter connect with the Subject Property, and CSXT may sell, transfer, convey, abandon or discontinue rail operations on the Subject Property. Any such sale, transfer, conveyance, abandonment or discontinuance of operations by CSXT after Closing shall not constitute grounds for the termination of this Option Agreement, and, except as is otherwise expressly provided in an Ancillary Agreement, any such action shall not relieve or release either party hereto from any or all of its liabilities, obligations or responsibilities under this Option Agreement or any Ancillary Agreement.

Section 15. Inspection and Environmental Matters.

15.01 Inspections. During the Pre-Closing Period, CSXT will make available from time to time for State’s inspection the deeds and other instruments evidencing CSXT’s right, title and interest in the Subject Property and all contracts, agreements, leases, licenses or easements to be listed or described in Exhibits 3 and 9 hereto during the Pre-Closing Period by the mutual agreement of the parties. Such inspection, in certain respects is continuing at the time of the execution of this Option Agreement and is expected to continue to Closing, including, but not limited to title review, review of the documents to be listed on Exhibit 3 during the Pre-Closing Period by the mutual agreement of the parties, the Survey and any environmental matters to be set forth in Exhibit 16 hereto during the Pre-Closing Period by the mutual agreement of the parties. During the Pre-Closing Period, to the extent it has not already done so, CSXT shall deliver to State (a) originals of (i) all the title derivation documents (deeds, easements, leases, and other instruments) vesting CSXT with the estate being insured by the Title Commitment, except where CSXT is retaining any part of the property conveyed by such instrument, in which case a copy shall be provided, and (ii) the documents constituting the Transferred Intangibles to be listed on Exhibit 9 during the Pre-Closing Period by the mutual agreement of the parties as well as (b) copies of the executed
documents (i) to be listed as EP Intangibles and Retained Joint Use Intangibles on Exhibit 3 to be attached hereto during the Pre-Closing Period by the mutual agreement of the parties, (ii) a legible copy of each recorded conveyance out by CSXT of any portion of the land of which the Subject Property was a part whether shown on Valuation Maps or not that CSXT may possess, (iii) originals of Valuation Maps relating to the Subject Property which CSXT has in its possession after diligent inquiry where print outs are not legible so that the State may have more legible copies made from the originals which shall be returned to CSXT and (iv) any further documents in support thereof that State may reasonably require.

15.02 Environmental Agreement. During the Pre-Closing Period, CSXT shall provide State certain access to the Subject Property as provided in Right of Entry Agreements with State and its consultants as may be mutually agreed between the parties, in order for State to conduct due diligence and make investigations and inspections, including, without limitation, environmental tests. Exhibit 16 to be attached to this Option Agreement during the Pre-Closing Period by the mutual agreement of the parties will contain the agreement of CSXT and the State (the "Environmental Agreement") as to the responsibility and liability of CSXT and State as to (i) environmental conditions (collectively, "Environmental Assessment Matters"), identified by State in its environmental assessment of the Subject Property, (ii) environmental conditions existing as to the Subject Property before Closing not disclosed in said environmental assessment (collectively, "Other Existing Environmental Matters"), (iii) environmental conditions arising from post Closing freight operations and (iv) environmental conditions arising from post Closing commuter rail operations. The liability and responsibility of CSXT and State as to all of the foregoing shall be exclusively and expressly as described in the Environmental Agreement.

Provided the parties so agree during the Pre-Closing Period, the performance by CSXT of its obligations, if any, under the Environmental Agreement pertaining to the Environmental Assessment Matters described in clause (i) of this (and not any pertaining to either clause (ii) or clause (iii) of this Section or otherwise), may be secured by a standby letter of credit described in the Environmental Agreement in the amount set forth therein (the "Environmental Security") to be applied as provided in the Environmental Agreement within the time period specified therein, after which time any unused portion of the
Environmental Security shall be cancelled or allowed to lapse or expire according to its terms, as the case may be, and as is more fully set forth in the Environmental Agreement.

Section 16. Arbitration.

Arbitration is not contemplated for the resolution of controversies under this Option Agreement, except as is otherwise provided under an Ancillary Agreement.

Section 17. Termination and Rescission.

17.01 Right of CSXT to Terminate. CSXT shall have the unilateral right to terminate and rescind this Option Agreement, prior to the Closing, in the event of any of the following:

(a) Material litigation shall be threatened or pending in connection with the transactions contemplated by this Option Agreement, which litigation or threatened litigation is of such a nature and likelihood of success as to make the continuance of efforts to effect the transactions contemplated by this Option Agreement fruitless;

(b) State has not complied in all material respects with its covenants and agreements contained in this Option Agreement which are to be performed prior to the Closing;

(c) The voluntary or involuntary filing by or against CSXT of any petition, petitions or similar proceedings under the bankruptcy or any insolvency law, federal or state, now or hereafter in existence, or the assignment of all or a substantial portion of CSXT’s property for the benefit of creditors, or the appointment of a receiver, trustee or liquidator for all or a substantial portion of CSXT’s property;

(d) The institution of a proceeding by any governmental or other lawful authority for the condemnation, expropriation or seizure of the Subject Property, or any portion thereof;

(e) The Closing has not occurred by the Closing Date for any reason other than a default hereunder by CSXT;

(f) State’s failure or inability to deliver the written opinion of counsel as provided in Section 7.02 (i) hereof;
The amendment and/or execution of the Ancillary Agreements have not been executed and available for delivery on or before Closing by State; or

State shall not have provided notification to the FRA pursuant to Section 5.02 of this Option Agreement at least thirty (30) days prior to the Closing Date.

17.02 Right of State to Terminate. State shall have the unilateral right to terminate and rescind this Option Agreement, prior to the Closing, in the event of any of the following:

(a) Material litigation shall be threatened or pending in connection with the transactions contemplated by this Option Agreement, which litigation or threatened litigation is of such a nature as to make the continuance of efforts to effect the transactions contemplated by this Option Agreement fruitless;

(b) CSXT has not complied in all material respects with its covenants and agreements contained in this Option Agreement which are to be performed prior to the Closing;

(c) The voluntary or involuntary filing by or against CSXT of any petition, petitions or similar proceedings under the bankruptcy or any insolvency law, federal or state, now or hereafter in existence, or the assignment of all or a substantial portion of CSXT’s property for the benefit of creditors, or the appointment of a receiver, trustee or liquidator for all or a substantial portion of CSXT’s property;

(d) The institution of a proceeding by any governmental or other lawful authority for the condemnation, expropriation or seizure of the Subject Property, or any portion thereof;

(e) The Closing has not occurred by the Closing Date, for any reason other than a default hereunder by State;

(f) CSXT’s failure or inability to deliver the written opinion of counsel as provided in Section 7.02 hereof;

(g) CSXT’s disclosure pursuant to Sections 11.01(g) and/or (h) hereof, of any state of facts unacceptable to State;
(h) The State failing to receive formal funding commitments from Federal, State and local authorities for the institution of commuter rail service on the Subject Property including, without limitation, the receipt by State of a Full Funding Grant Agreement from the Federal Transit Administration ("FTA") for commuter rail service on the Subject Property;

(i) Any failure of any obligation, term or condition of the Title Commitment, howsoever arising before Closing, including, without limitation, the insolvency or bankruptcy of the Title Company and/or said Title Company's failure, inability or refusal to perform under said Title Commitment before Closing;

(j) Any termination, cancellation, or modification as to the agreements constituting the Transferred Intangibles not permitted in this Option Agreement which occurs prior to Closing;

(k) CSXT's failure to obtain any consent to the assignment of any of the Transferred Intangibles from CSXT to State at Closing required by the documents constituting the Transferred Intangibles;

(l) Any tax, title or United States District Court search, a Uniform Commercial Code search, local tax certificates and/or soil tests obtained by the State are found unacceptable to State prior to Closing;

(m) Any subdivision approval either desired by State or is necessary for the completion of the sale, transfer and conveyance contemplated by this Option Agreement is not obtained and finalized by the Closing Date and evidenced by recorded subdivision plats containing all required governmental approvals;

(n) The Title Commitment, documents referenced in the Title Commitment, title derivation documents, any document referenced in the Valuation Maps pertaining to the Subject Property, the Valuation Maps, or other title matter or document as to the Subject Property are unacceptable to State in any respect or should State not complete its review of the foregoing by the Closing Date;
(o) State is not able to complete the Survey by Closing, the Survey is unacceptable to State in any respect, or there is any matter revealed by the Survey which is unacceptable to State in any respect, but CSXT shall not be required to take any steps to have any survey objection cured, omitted, or eliminated;

(p) State is not able to complete the appraisals of the Subject Property by Closing, the appraisals of the Subject Property obtained by State are unacceptable to State in any respect, or there is any matter revealed by the appraisals which is unacceptable to State in any respect;

(q) The legal description of the Subject Property and CSXT' Easement being unacceptable to State and/or the Title Company due to the same being legally insufficient, not supported by the Survey or for other reasons, or the documents which are attached to this Agreement are not satisfactory to State when presented for execution and/or as executed;

(r) State is not able to complete any due diligence it desires to complete by Closing whether title examination, examination of the Survey, identification, inspection, and documentation of personal property to be transferred to State, tax, financial, environmental, commercial, regulatory or other due diligence or should any of such due diligence reveal any matter unacceptable to State in any respect; or

(s) At the time of Closing any of the representations and warranties of CSXT in this Option Agreement and in the Ancillary Agreements is not true and correct and/or there is a breach or breaches as to same.

17.03 Right of Either CSXT or State to Terminate. Either party shall have the unilateral right to terminate and rescind this Option Agreement, prior to the Closing, if:

(a) the STB has not dismissed the petition contemplated by Section 5.01 of this Option Agreement,
(b) The STB shall have found that it has jurisdiction over the transaction contemplated in this Option Agreement, and/or shall have imposed any conditions, including labor protective conditions, which either party in its sole and absolute discretion deems unacceptable;

(c) The parties have not complied with the conditions, if any, imposed by the STB, in its decision, to the extent required by the STB’s decision to be performed prior to Closing;

(d) The transaction shall have been stayed or enjoined by the STB or by any court;

(e) The State and CSXT fail to receive all necessary regulatory approvals from all regulatory bodies and agencies having jurisdiction over any element of the transactions in this Option Agreement and Ancillary Agreements and for the establishment and operation of commuter rail service on the Subject Property, all on terms and conditions acceptable to State and CSXT;

(f) Any claim, litigation, labor dispute or work stoppage shall be threatened or pending in connection with the transaction contemplated in the Non-Binding Consolidated Term Sheet, this Option Agreement, any Ancillary Agreement or any agreement between CSXT and State related to the Subject Property;

(g) Any Ancillary Agreement is, without the advance written consent of both parties to this Option Agreement, amended, cancelled or terminated before the Closing;

(h) The amendment and/or execution of the Ancillary Agreements have not been executed and delivered by the parties thereto on or before Closing in form and content acceptable to CSXT and State with all Exhibits attached thereto; or

(i) There is any default existing and uncured at Closing by any party to an Ancillary Agreement;

17.04 Post Termination Liability. In the event that either party hereto terminates this Option Agreement in accordance with this Section 17, then, except as is otherwise expressly provided in this Option Agreement, neither party hereto shall have any liability or further obligation hereunder to the other party hereto.
17.05 Notice of Termination. CSXT or State, as the case may be, shall provide notice to the other in the event that CSXT or State shall elect to terminate and/or rescind this Option Agreement pursuant to Sections 17.01, 17.02 or 17.03.

17.06 No Post Closing Rescission. Subsequent to Closing, the remedy of rescission shall not be available to the parties hereto, in any event or under any circumstance.

Section 18. Extension, Waiver and Amendment.

18.01 Modifications. This Option Agreement may be amended or modified at any time and in any and all respects only by an instrument in writing executed by both of the parties hereto.

18.02 Extensions/Waivers. In each instance in which either CSXT or State is entitled to any benefit hereunder, CSXT or State, as the case may be, may: (a) extend the time for the performance of any of the obligations or other acts of the other party hereto; (b) waive, in whole or in part, any inaccuracy in or breach of the representations, warranties and covenants of the other party hereto contained herein; and (c) waive, in whole or in part, compliance with the terms and conditions of this Option Agreement by the other party hereto. Any agreement on the part of either CSXT or State to any such extension or waiver shall be valid only if set forth in an instrument in writing signed and delivered on behalf of the party making such extension or waiver.


19.01 Notice Provisions/Addresses. Any and all notices or other communications hereunder shall be in writing and shall be deemed given if delivered personally or mailed by certified mail, postage prepaid, upon the date so delivered or so deposited in the United States mail to the persons at the following addresses:

If to CSXT, to

President
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

with copy to

ORLDOCS 10946750
19.02 Changes in Notice Addresses. Either party to this Option Agreement may provide changes to its address or addressees by furnishing a notice of such change to the other party to this Option Agreement in the same manner as provided above for all other notices.

Section 20. Governing Law.

It is the intention of the parties hereto that the laws of the State of Florida shall govern the validity of this Option Agreement, the construction of its terms and the interpretation of the rights and duties of the parties hereto. Venue for any legal proceedings under this Option Agreement shall be in Leon County, Florida.

Section 21. Counterparts.

This Option Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.
Section 22. Interpretation.

State and CSXT acknowledge that the language used in this Option Agreement is language developed and chosen by both parties to express their mutual intent, and no rule of strict construction shall be applied against either party hereto. The headings contained in this Option Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Option Agreement. All personal pronouns used in this Option Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein,” “hereof,” “hereunder” and “hereinafter” refer to this Option Agreement as a whole and not to the particular sentence, paragraph or section where they appear, unless the context otherwise requires. All words, terms and phrases used in this Option Agreement shall be construed in accordance with the generally applicable definition of such words, terms and phrases in the railroad industry, or otherwise in accordance with their plain meaning. Whenever reference is made to a Section of this Option Agreement, such reference is to the Section as a whole, including all of the subsections and subparagraphs of such Section, unless the reference is expressly made to a particular subsection or subparagraph of such Section.

Section 23. Exhibits.

All exhibits attached hereto are hereby incorporated by reference into, and made a part of, this Option Agreement.

Section 24. Survival.

The terms, conditions, representations, warranties and covenants of this Option Agreement shall survive the delivery of the Deed and the other instruments herein contemplated, and shall not be deemed merged therein or terminated thereby.

Section 25. Entire Agreement.

This Option Agreement constitutes the entire agreement among the parties hereto, and, except as otherwise expressly provided herein or in an Ancillary Agreement, supersedes all other prior agreements and understandings, both written or oral, between or among the parties hereto, or any of them, with
respect to the subject matter of this Option Agreement, including, without limitation, that certain Non-Binding Term Sheet exchanged as of August 2, 2006.

Section 26. Waiver.

Neither the failure to exercise nor any delay in exercising on the part of either party hereto of any exception, reservation, right, privilege, license, remedy or power under this Option Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any exception, reservation, right, privilege, license, remedy or power under this Option Agreement preclude any other or further exercise of the same or of any other exception, reservation, right, privilege, license, remedy or power, nor shall any waiver of any exception, reservation, right, privilege, license, remedy or power with respect to any occurrence be construed as a waiver of such exception, reservation, right, privilege, license, remedy or power with respect to any other occurrence.

Section 27. Expenses.

Except to the extent otherwise expressly provided in this Option Agreement, any and all expenses incurred by either party hereto in connection with this Option Agreement and the transactions contemplated hereby shall be borne by the party incurring such expenses.


Both parties hereto shall exert their reasonable best efforts to cause the transactions contemplated by this Option Agreement to be consummated and to fulfill all conditions and obligations of such party under this Option Agreement. State shall cooperate with CSXT at Closing and thereafter in connection with one or more tax deferred exchanges, provided State shall bear no material expense or incur any material liability in connection with such exchanges.

Section 29. Time of the Essence.

It is understood and agreed by the parties that the prompt and timely performance of all obligations, responsibilities and conditions under this Option Agreement, including, without limitation, those pertaining to Section 8 hereof, is of the essence of this Option Agreement.
Section 30. Prohibition of Third Party Beneficiaries.

Nothing herein expressed or implied is intended to or shall be construed to confer upon or to give any person, firm, partnership, corporation or governmental entity other than the parties hereto and their respective legal representatives, successors and assigns, any right or benefit under or by reason of this Option Agreement; provided, however, that nothing contained in the foregoing provisions shall be construed to limit or restrict the enjoyment and use of the exceptions, reservations, rights and privileges contained in Section 8 of this Option Agreement and the Exhibits referred to therein or any other party's(ies') enjoyment or use of any and all of the exceptions, reservations, rights or privileges that may be granted or conferred to such other party(ies) by contract(s), agreement(s), lease(s), license(s) or easement(s) entered into between CSXT and such other party(ies) pursuant to Section 8 hereto and the Exhibits referred to therein.

Section 31. Successors and Assigns.

This Option Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto; provided, however, that, except as otherwise expressly provided in this Option Agreement, this Option Agreement may not be assigned, in whole or in part, by State other than to any State agency, political subdivision, municipality, county, authority, public body corporate or instrumentality of the State without the prior written consent of CSXT.

[Signature Page Follows]
IN WITNESS WHEREOF, CSX TRANSPORTATION, INC. and STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, pursuant to due corporate and statutory authority, have caused their names to be signed hereto by officer(s) or official(s) hereunto duly authorized, and the seal of each, duly attested, to be hereunto affixed.

"CSXT"

CSX TRANSPORTATION, INC., a Virginia corporation

BY: __________________________ (Signed Name)

Print Name: __________________________

ITS: __________________________

[Corporate Seal]

STATE OF FLORIDA
COUNTY OF

I, __________________________, a Notary Public of the State of Florida, do certify that, on the date below, before me in said County, personally came __________, to me known, and known to me to be the person whose name is subscribed to the above instrument, who, being by me first duly sworn, did depose, acknowledge and say that he is the __________ of CSX Transportation, Inc., the corporation described in and which executed said instrument; he is fully informed of the contents of the instrument; he knows the seal of said corporation, the seal affixed to said instrument is such seal; it was so affixed by authority of the Board of Directors of said corporation; he signed his name thereto for said corporation pursuant to such authority; and the execution of this instrument is the free act and deed of said corporation; and the conveyance herein is not part of a transaction, sale, lease, exchange or other transfer or conveyance of all or substantially all of the property and/or assets of said corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal, this ___ day of ____, 20___.

Notary Public
My Commission Expires:
"STATE"

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

BY: ____________________________ (Signed Name)
Print Name: ____________________________

ITS: ____________________________
Attest: ____________________________
Print Name: ____________________________

THE AFOREMENTIONED CONTRACT FUNDS ARE APPROVED AND
HAS BEEN REVIEWED AND APPROVED AVAILABLE
AS TO FORM.

______________________________

STATE OF FLORIDA
COUNTY OF _____________

I, ____________________________, a Notary Public of the State of Florida, do certify that, on the date
below, before me in said County, personally came ________, to me known, and known to me to be the
person whose name is subscribed to the above instrument, who, being by me first duly sworn, did depose,
acknowledge and say that: he/she is the Deputy Assistant Secretary of Transportation of the Florida
Department of Transportation, the State agency described in and which executed said instrument; he/she
is fully informed of the contents of the instrument; he knows the seal of the Florida Department of
Transportation; the seal affixed to said instrument is such seal; it was duly affixed; he signed his name
thereto for said State pursuant to his authority; and the execution of said instrument is the free act and
deed of said State of Florida Department of Transportation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal, this ___ day of ___, 20__.

Notary Public
My Commission Expires:

# 4667031_v3

ORLDOCS 10946750 2 38
EXHIBIT 15.

MEMORANDUM OF ALOMA SPUR AND DELAND SPUR OPTION AGREEMENT

KNOW ALL MEN BY THESE PRESENTS THAT CSX TRANSPORTATION, INC., a Virginia corporation, whose address is 500 Water Street, Jacksonville, Florida 32202 ("CSXT") and STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, whose address is Haydon Burns Building, 605 Suwanee Street, Tallahassee, Florida 32399-0450 ("FDOT") on _________, 200_ (the "Closing Date"), made and entered into an Aloma Spur and Deland Spur Option Agreement, wherein FDOT has been granted the option to purchase from CSXT, on the terms and conditions set forth therein which are incorporated herein, the Aloma Spur located in Seminole County Florida and described and shown on Exhibit A attached hereto and the Deland Spur located in Volusia County, Florida and described and shown on Exhibit B attached hereto, both of which exhibits are incorporated herein by these references thereto.

Counterparts of this Memorandum shall be recorded in Volusia County, Florida and Seminole County, Florida, for recording notice purposes. Nothing herein is intended to alter or shall be construed as altering in any way the terms of the Aloma Spur and Deland Spur Option Agreement.
IN WITNESS WHEREOF, this Memorandum of Aloma Spur and Deland Spur Option Agreement is dated as of the ___ day of ____________, 2007.

"CSXT"

Signed, sealed and delivered in the presence of:

________________________________________

Print Name:____________________________

________________________________________

Print Name:____________________________

STATE OF FLORIDA
COUNTY OF _____________

I, __________________________, a Notary Public of the State of Florida, do certify that, on the date below, before me in said County, personally came ____________________, to me known, and known to me to be the person whose name is subscribed to the above instrument, who, being by me first duly sworn, did depose, acknowledge and say that he is the ____________________________ of CSX Transportation, Inc., the corporation described in and which executed said instrument; he is fully informed of the contents of the instrument; he knows the seal of said corporation, the seal affixed to said instrument is such seal; it was so affixed by authority of the Board of Directors of said corporation; he signed his name thereto for said corporation pursuant to such authority; and the execution of this instrument is the free act and deed of said corporation; and the conveyance herein is not part of a transaction, sale, lease, exchange or other transfer or conveyance of all or substantially all of the property and/or assets of said corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal, this ___ day of ____, 2007.

Notary Public
My Commission Expires:

ORLDOCS 109467422 2
IN WITNESS WHEREOF, this Memorandum of Aloma Spur and Deland Spur Option Agreement is dated as of the ____ day of ____________, 2007.

"FDOT"

Signed, sealed and delivered in the presence of:

__________________________

Print Name: ____________________

__________________________

Print Name: ____________________

STATE OF FLORIDA
COUNTY OF ____________

I, _________________________, a Notary Public of the State of Florida, do certify that, on the date below, before me in said County, personally came ____________, to me known, and known to me to be the person whose name is subscribed to the above instrument, who, being by me first duly sworn, did depose, acknowledge and say that he/she is Deputy Assistant Secretary of Transportation of the Florida Department of Transportation, the State agency described in and which executed said instrument; he is fully informed of the contents of the instrument; he/she knows the seal of the Florida Department of Transportation; the seal affixed to said instrument is such seal; it was duly affixed; he signed his name thereto for said State pursuant to his authority; and the execution of said instrument is the free act and deed of said State Department of Transportation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal, this ___ day of ____, 2007.

__________________________

Notary Public
My Commission Expires:

ORLDOCS 10945742 2
EXHIBIT A
DESCRIPTION OF THE ALOMA SPUR
EXHIBIT B
DESCRIPTION OF THE DELAND SPUR
EXHIBIT 16

Secretary of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, FL 32399-0450

Dear Secretary ,

As of the of CSX Transportation, Inc. ("CSXT"), I am familiar with the transactions contemplated by the Contract for Sale and Purchase ("Contract") [dated , 200_], by and between CSXT and State of Florida, acting through its Department of Transportation ("FDOT"). This opinion of counsel is being given pursuant to Section 7.02(h) of the Contract, and all terms used herein that are defined terms in the Contract shall have the same meaning as set forth in the Contract unless the context requires otherwise.

I am of the opinion that:

(1) The execution of the Contract and the agreements attached thereto and the performance by CSXT of the various terms and conditions thereof, including, without limitation, the execution of all agreements, notices and other documents required thereunder, have been duly authorized by requisite corporate authority of CSXT;

(2) CSXT is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia and is duly licensed or qualified and in good standing and qualified to own and lease property in the State of Florida;

(3) The Contract, when executed and delivered, will be valid and legally binding upon CSXT and enforceable in accordance with its terms, subject to limitation by bankruptcy, insolvency or laws of general application affecting enforcement of creditors' rights;

(4) Neither the execution of the Contract and the other instruments to be executed thereunder by CSXT, nor the performance by CSXT of the various terms and conditions thereto will violate the Articles of Incorporation or By-Laws of CSXT or result in a breach or violation of any term or provision or constitute a default under any indenture, mortgage (subject to the release of liens required under Section 7.01(g) of the Contract), lease or any other agreement to which CSXT is a party or by which it is bound, subject to the provisions contained in the Contract and specifically those contained in Section 11.01 thereof, and except as may be provided in the contracts, agreements, leases, licenses and easements listed or described in Exhibits 3 and 9 of the Contract; and
(5) When duly recorded among the land records of Orange, Osceola, Seminole and Volusia Counties, Florida, the deed issued by CSXT pursuant to the Contract will create a valid and enforceable conveyance in favor of State of the interests therein stated, subject to the matters described in said deed.

In rendering this opinion, I have relied upon, inter alia, the actions of CSXT's Board of Directors and documents and data furnished me by officers, officials and counsel of CSXT.

Very truly yours,

cc: Director, Division of Public Transportation Operations
    Florida Department of Transportation
    Haydon Burns Building
    605 Suwannee Street
    Tallahassee, FL 32399-0450
EXHIBIT 17.

CSX Transportation, Inc.
500 Water Street
Jacksonville, Florida 32202

Dear ____________

As ____________ counsel for the Florida Department of Transportation ("FDOT") I am familiar with the transactions contemplated by the Contract for Sale and Purchase ("Contract") dated ____________, 200_./of even date herewith] by and between FDOT and CSX Transportation, Inc. ("CSXT"). This opinion of counsel is being given pursuant to Section 7.02(i) of the Contract and all terms used herein that are defined terms in the Contract shall have the same meaning as set forth in the Contract unless the context requires otherwise. I am of the opinion that:

(1) FDOT is a duly authorized state agency pursuant to Chapter 334 of the Florida Statutes wherein it is authorized to enter into contracts and agreements and to purchase, lease or otherwise acquire property on behalf of the State of Florida.

(2) When the above referenced contract is executed and delivered by FDOT it will be a valid and legally binding agreement upon the State of Florida and FDOT and enforceable in accordance with its terms.

(3) The execution of the Contract and the other instruments to be executed thereunder by FDOT and the performance by FDOT of the various terms and conditions thereunder will not violate the laws of the State of Florida or result in a breach of violation of any term or provision or constitute a default under any indenture, mortgage, lease or any other agreement to which the State of Florida or FDOT is a party or by which it is bound, subject to the provisions contained in the Contract and specifically those contained in Section 4 thereof.

(4) The undersigned has consulted with ____________, General Counsel for FDOT as to the authority of ____________, _________ Secretary for the State, to sign such agreement on behalf of FDOT and _________ has informed me that ____________ is authorized to sign on behalf of and bind FDOT and the State of Florida on such contracts.

In rendering this opinion, I have relied upon the representations and actions of FDOT and documents and data furnished to me by its employees, officials and counsel.

Very truly yours,

_________
APPENDIX F

CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT

Between State of Florida Department of Transportation and CSX Transportation, Inc.

Pertaining to the Line of Railroad Between Deland, Florida and Poinciana, Florida and Related Properties

Dated: February , 2007
CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT

TABLE OF CONTENTS

SECTION 1. DESCRIPTION OF USE
SECTION 2. COMPENSATION
SECTION 3. MANAGEMENT AND OPERATION
SECTION 4. MAINTENANCE
SECTION 5. ADDITIONS, BETTERMENTS, RETIREMENTS AND ALTERATIONS
SECTION 6. REVENUES
SECTION 7. EXISTING AGREEMENTS PERTAINING TO THE STATE PROPERTY AND THE CSXT PROPERTY
SECTION 8. FUTURE AGREEMENTS PERTAINING TO AND USES OF THE STATE PROPERTY
SECTION 9. TAXES, ASSESSMENTS AND UTILITIES
SECTION 10. CASUALTY LOSSES
SECTION 11. ABANDONMENT AND/OR DISCONTINUANCE
SECTION 12. COMPLIANCE WITH LAWS
SECTION 13. LIENS AND CHARGES
SECTION 14. EMINENT DOMAIN
SECTION 15. PAYMENT OF BILLS AND RECORDS
SECTION 16. DEFAULT AND BREACH
SECTION 17. DISPUTE RESOLUTION AND ARBITRATION
SECTION 18. CLEARING OF WRECKS
SECTION 19. LIABILITY
SECTION 20. Invest
SECTION 21. INSURANCE
SECTION 22. FORCE MAJEURE
SECTION 23. EXTENSION, WAIVER AND AMENDMENT
SECTION 24. NOTICES
SECTION 25. GOVERNING LAW
SECTION 26. COUNTERPARTS
SECTION 27. INTERPRETATION
SECTION 28. EXHIBITS
SECTION 29. ENTIRE AGREEMENT
SECTION 30. WAIVER
SECTION 31. EXPENSES
SECTION 32. FURTHER ASSURANCES
SECTION 33. TIME OF THE ESSENCE
SECTION 34. PERFORMANCE OF AGREEMENT
SECTION 35. PROHIBITION OF THIRD PARTY BENEFICIARIES
SECTION 36. TERM
SECTION 37. SUCCESSORS AND ASSIGNS
SECTION 38. CSXT'S RIGHT OF FIRST REFUSAL
CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT

THIS CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT made as of the ____ day of February, 2007 (the "Execution Date") by and between STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, whose address is Haydon Burns Building, 605 Suwannee Street, Tallahassee, FL 32399-0450 (hereinafter referred to as "State") and CSX TRANSPORTATION, INC., a Virginia corporation, whose address is 500 Water Street, Jacksonville, FL 32202 (hereinafter referred to as "CSXT").

WHEREAS, by Contract For Sale and Purchase dated as of [______] ____, 2007 (hereinafter referred to as "Contract") State agreed to acquire and CSXT agreed to sell certain properties therein described (comprising a portion of CSXT's A-Line) upon which railroad freight, commuter and other passenger rail services are to be conducted; and

WHEREAS, under such Contract, CSXT retained, and did not transfer to State, a perpetual easement over the properties acquired by State limited to reserving to CSXT the exclusive right to provide Rail Freight Service; and

WHEREAS, in the Projects Agreement dated ________, 2007 (hereinafter referred to as the "Projects Agreement"), State agreed to fund certain improvements to CSXT's S-Line as specified therein to create additional capacity on such line, and among other things, facilitate the transfer of certain CSXT freight trains from the A-Line to the S-Line and thereby facilitate State's provision of Commuter Rail Service and other passenger rail service on the A-Line, and CSXT agreed to transfer such freight trains from the A-Line to the S-Line as described in the Transitional Services Agreement dated ________, 2007 (hereinafter referred to as the "Transitional Services Agreement") which shall, among other things, cover operations, maintenance and construction on the State Property during the period between the
WHEREAS, State and CSXT desire to establish in this Agreement the terms and conditions governing the conduct of Railroad Operations over the State Property in a manner consistent with the other uses of the State Property, it being the mutual intention of the parties hereto that State shall not obtain nor assume any common carrier obligation and that CSXT shall remain, and State shall not become, the rail carrier subject to the Interstate Commerce Act, as revised, the Railway Labor Act, as revised, or any other federal law relating to the provision of railroad freight transportation on the properties subject to the CSXT Easement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto, intending to be legally bound, UNDERSTAND AND AGREE AS FOLLOWS:

DEFINITIONS: The terms and phrases defined in Appendix A to this Agreement shall have the meaning set forth therein. Capitalized terms and phrases not defined herein shall have the meaning given to them in any Ancillary Agreement.

SECTION 1. DESCRIPTION OF USE

a) Subject to the terms and conditions hereinafter set forth, as of the Commencement Date, the State Property shall be used for the conduct of Rail Freight Service, Commuter Rail Service and Intercity Rail Passenger Service, such services being sometimes collectively referred to herein as "Railroad Operations." In addition to the foregoing, State may use the State Property for any other
public or private purpose as hereinafter provided or as may be otherwise mutually agreed to by the parties hereto from time to time during the term of this Agreement. CSXT shall have the exclusive right to use the State Property for the provision of Rail Freight Service thereon, and to operate CSXT's trains, locomotives, rail cars and rail equipment thereon with its own crews.

b) Except as is otherwise expressly provided in Section 8 hereof, State shall manage, direct and control the occupation, use and access to the State Property in accordance with the provisions of Section 3 herein.

c) It is understood by the parties hereto that, under its management, direction and control, State shall furnish CSXT adequate facilities, including, without limitation, tracks and bridges, for (i) CSXT's provision of Rail Freight Service on the State Property and (ii) CSXT's performance of its obligations to Amtrak under the Amtrak Agreement or as provided by law, in at least substantially the same condition and in substantially the same manner as provided prior to the Commencement
Date hereof (as modified by the Transitional Services Agreement).

SECTION 2. COMPENSATION

[TBD]

SECTION 3. MANAGEMENT AND OPERATION

a) Subject to the terms and conditions of this Agreement, from and after the Commencement Date hereof, State shall manage, direct and control all Railroad Operations on the State Property and State shall control the entry and exit of all trains, locomotives, rail cars and rail equipment and the movement and speed of same to, from and over the State Property. Except as otherwise expressly provided herein, all rules, special instructions, timetables, practices, regulations, and orders governing operations on the State Property shall be promulgated and issued by State and may be modified and amended by State from time to time during the term of this Agreement; provided, however, that in so promulgating, issuing, modifying or amending any such matters State shall not apply any restriction that would unreasonably interfere with CSXT’s
provision of Rail Freight Service on the State Property as contemplated under Section 1(a) of this Agreement or CSXT’s operations on the CSXT Property. CSXT and State shall each designate a single representative for purposes of coordinating activities between State and CSXT under this Agreement.

b) State shall furnish, at its sole cost and expense, any and all supervisory personnel, operators, dispatchers and bridge tenders as may be necessary for the conduct of Railroad Operations by CSXT, State and Amtrak on the State Property.

c) State shall provide, at its sole cost and expense, any and all trains, locomotives, rail cars and rail equipment to be used in the provision of Commuter Rail Service on the State Property and CSXT shall provide, at its sole cost and expense, any and all trains, locomotives, rail cars and rail equipment to be used in the provision of Rail Freight Service on the State Property. CSXT shall equip, at its sole cost and expense, its trains, locomotives, rail cars and rail equipment with radios and such other communication and signal
devices that comply with the reasonable requirements established by State from time to time during the term of this Agreement for the conduct of Railroad Operations on the State Property. CSXT and State shall comply with any and all provisions of laws, regulations and rules, including, without limitation, those pertaining to environmental matters, promulgated by any municipality, state or federal board, commission or agency having appropriate jurisdiction, to the extent such laws, rules, or regulations apply to State or the State Property, respecting the operation and use of the State Property and the operation, condition, inspection and safety of their respective trains, locomotives, rail cars and rail equipment while such trains, locomotives, rail cars and rail equipment are being operated on the State Property. In the event that any fine, penalty or liability is imposed upon a party hereto or its officers, agents and employees under any such laws, rules and regulations by any such public authority or court having jurisdiction in the premises which is attributable to the failure of such party to comply with its obligations hereunder,
then the party upon whom such fine is imposed shall pay any and all fines, penalties and/or liabilities so imposed.

d) CSXT shall provide employees, at its sole cost and expense, for the operation of its trains, locomotives, rail cars and rail equipment over the State Property, and State shall provide employees, at its sole cost and expense, for the operation of its trains, locomotives, rail cars and rail equipment over the State Property. All of CSXT’s and State’s employees who shall operate trains, locomotives, rail cars and rail equipment over the State Property shall be qualified by State for operation thereover, and CSXT shall pay to State, promptly upon receipt of bills therefor, any cost incurred by State in connection with the qualification of such employees of CSXT as well as the cost incurred by State for furnishing pilots, until such time as such employees of CSXT are deemed by the appropriate examining officer of State to be properly qualified for operation as herein contemplated. As used herein, qualification pertains only to the employee’s operation of trains, locomotives, rail cars and rail
equipment on the State Property in accordance with State’s operating rules and practices. For purposes of this Section 3(d), any employee of CSXT qualified to operate over the State Property on a date prior to the Commencement Date shall be deemed qualified by State for operation over the State Property as herein contemplated as of the Commencement Date. On a date prior to the Commencement Date, CSXT shall provide to the State a list of the names of all CSXT employees that CSXT certifies to be qualified to operate over the State Property as of that date.

e) If an employee of CSXT working on State Property is alleged to have violated State’s safety rules, operating rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation under applicable CSXT labor agreement rules, CSXT, shall, unless State has actual notice of such alleged violation, provide notice of such alleged violation to State and, when appropriate, shall conduct an investigation. An officer of State may be present during such investigation. After the investigation is
concluded, CSXT shall promptly furnish State with two copies of the transcript and a recommendation as to the discipline to be assessed. CSXT shall arrange to assess discipline within the applicable time limits. If State recommends dismissal, CSXT reserves the right to bar the employee from operating over State Property in lieu of dismissal.

f) (1) If such employee is barred by CSXT from service on the State Property, CSXT shall be responsible for any and all claims and expenses because of such action. (2) In a major offense, such as a violation of Rule "G," dishonesty, insubordination, or a serious violation of operating rules, wherein State desires to bar such employee from service on the State Property pending an investigation by CSXT, immediate verbal notification shall be given to the appropriate Transportation Officer of CSXT so that proper written notice can be issued to the employee, and CSXT shall bar the employee from the State Property. (3) It is understood that State shall reimburse CSXT for all payments CSXT is required to make as a result of a successful challenge
(hereinafter "Claim") being made by the employee or his representative as to the discipline when, at the written request or direction of State, as the case may be, such employee has been barred from the State Property prior to an investigation. CSXT agrees to notify State before making any required payment on any such Claim. In the event such Claim is progressed to an Adjustment Board, State shall be given an opportunity to review CSXT’s submission. Any payments required to be made to employees, as a result of an investigation being "overturned," shall include not only actual wages, but in addition, shall include expenses which CSXT may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits, and the employee shall be permitted to return to the State Property.

g) If, by reason of any mechanical failure or for any other cause not resulting from an accident or derailment, a train, locomotive, rail car or rail equipment of State or CSXT becomes unable to proceed under its own power, or fails to maintain
the speed required by State on the State Property, or, if in emergencies, crippled or otherwise defective rail cars or locomotives are set out of State’s or CSXT’s trains, then State may furnish such motive power as it may have available or such other assistance, including, without limitation, the making of repairs, as may be necessary to haul, help, push or move such trains, locomotives, rail cars or rail equipment, provided however that in the event that State is unable to assist, CSXT shall, at its own cost and expense, promptly make such repairs or furnish such motive power as may be necessary to expeditiously haul, help, push or move CSXT trains, locomotives, rail cars or rail equipment off of the State Property and may furnish such motive power as it may have available or such other assistance, including, without limitation, the making of repairs, as may be necessary to haul, help, push or move State trains, locomotives, rail cars or equipment. CSXT shall bear and pay to State the cost and expense incurred by State of rendering any such assistance for CSXT and State shall bear the cost and expense incurred by State of
rendering any such assistance for itself. Except as provided in Section 19, the party bearing the cost and expense as aforesaid, shall be responsible for any and all liability, cost and expense arising out of or connected therewith. Any assistance provided by State to CSXT under this provision shall not be considered providing common carrier freight service by State.

h) In the event State and CSXT agree that State should provide additional employees for the sole benefit of CSXT, the parties hereto shall enter into a separate agreement under which CSXT shall bear and pay any and all cost and expense of any such additional employees provided, including, without limitation, all cost and expense associated with the labor costs, if any, which may be incurred by State and/or CSXT and which would not have been incurred had the additional employees not been provided.

i) Except as is otherwise expressly provided in this Subsection (i), the trains, locomotives, rail cars and rail equipment of CSXT, State and any other present or future user of the
Seven days a week:

1. 5:00 a.m. to 10:00 a.m. (0500 to 1000 hours) and 3:00 p.m. to 10:00 p.m. (1500 to 2200 hours) - exclusive passenger operation with no limit on the number of commuter or intercity rail passenger trains.

2. 10:00 a.m. to 3:00 p.m. (1000 to 1500 hours) and 10:00 p.m. to midnight (2200 to 2400 hours) - mixed passenger rail and freight rail. All trains operated during this window shall be handled pursuant to a mutually agreed to dispatch protocol which shall take into account the type of train, time of day and on time performance of passenger trains. The CFCRT Freight Service Plan (Revision 5) jointly developed by the parties hereto and attached hereto as Exhibit 1 (the "Service Plan") is a mutually agreed to initial operating plan, based upon the proposed build-out by State and the simulation described in Appendix 1 to the Service Plan. The Service Plan is intended to be representative of expected local operations and shall be amended from time to time upon the written request of one party to the other, no less than annually, to determine whether any changes to the Service Plan are necessary to accommodate local rail customer requirements and commuter operations and recognizing the need for future passenger and/or freight growth. Any changes to the Service Plan shall be by mutual agreement of the parties hereto. In the event that the parties hereto cannot agree on the need for any
3. Midnight to 5:00 a.m. (2400 to 0500 hours the following day) - exclusive freight operation with no limit on the number of freight trains.

4. Betterments and additions, curfew and program work, construction and signal suspension will be performed between the hours from 5:00 a.m. until midnight (0500 to 2400 hours), including weekends. Other than in case of emergency, bridge, track and signal inspection and maintenance shall be fairly spread over each party's operating window.

From time to time during the term of this Agreement, State and CSXT shall allow reasonable flexibility in extraordinary circumstances to accommodate the movement of each other's trains on a portion of the State Property during the other party's operating windows to ensure that freight and passenger customer needs and non-revenue passenger train needs are met. Provided, however, that no priority shall be assigned to the train being accommodated. The parties agree that Amtrak movements over the State Property shall be accommodated in accordance with the Amtrak Agreement or any successor agreement between State and Amtrak. Except with the prior written consent of State, CSXT special and/or excursion trains permitted under Section 3(m) hereof shall be operated during the mixed and exclusive freight operating windows only and each such train shall be counted as a freight movement for purposes of Section 3(i)(2).

j) State and CSXT understand that operations on the State Property may be interrupted or delayed from time to time during the term of this
Agreement due to maintenance of or improvements to the State Property performed in accordance with Section 3(i)(4) of this Agreement or Force Majeure as defined in Section 22 of this Agreement. Except as expressly provided in this Subsection (j), neither party shall have any liability to the other for any loss or damage arising out of or resulting from any such interruption or delay. Except as expressly provided in this Subsection (j), CSXT shall be responsible for any such interruption or delay to Rail Freight Service and State shall be responsible for any and all liability, cost and expense arising out of or connected with any such interruption or delay to Commuter Rail Service. In the event that the State desires to perform: (i) additions and betterments not in conformity with Section 5 that would interrupt or delay CSXT’s Rail Freight Service on the State Property, then prior to the performance or making of such maintenance or improvements, State shall notify CSXT thereof and obtain CSXT’s consent therefor, which consent will not be unreasonably withheld or delayed; provided, however, that such consent shall not be required in
emergency situations which pose immediate threat to life or property or prevent the expeditious passage of trains. Failure by State to obtain consent when required under the preceding sentence shall cause State to be responsible for any costs and expenses incurred by CSXT resulting from interruption or delay to Rail Freight Service caused by State performing such maintenance or additions and betterments not in conformity with Section 5.

k) It is understood by the parties hereto that the State intends to utilize an agent to conduct Commuter Rail Service on the State Property. State shall cause such agent, at no cost or expense to CSXT, to comply with the provisions of this Agreement pertaining to the operation of Commuter Rail Service on the State Property. State shall be responsible for any and all liability, cost and expense arising out of or connected with any act or omission of said agent and said agent shall be considered as State for the purposes of determining between State and CSXT, State’s assumption and apportionment of liability, cost and expense under this Agreement.
1) State and CSXT understand that Intercity Rail Passenger Service and the provision of ancillary services with respect thereto by Amtrak on the State Property are governed by the Amtrak Agreement, a copy of which agreement has been furnished to State. State and CSXT hereby understand and agree that CSXT may modify or amend the Amtrak Agreement from time to time during the term of this Agreement and may enter into new agreements with Amtrak pertaining to Intercity Rail Passenger Service, all without the consent of State, except as otherwise expressly provided below. CSXT shall obtain the prior written consent of State (which consent shall not be unreasonably withheld, conditioned or delayed) to any such modification, amendment or new agreement in the event that any such action extends the term of the aforesaid Amtrak Agreement governing Amtrak's use of the State Property beyond termination or replacement of the current Amtrak Agreement or results in a material decrease in the compensation paid by Amtrak for its use of the State Property, provided, however, that such
consent shall not be required in the event that any such action is otherwise required by law or a
agreement in effect as of the Commencement Date. CSXT shall also notify and consult with State in the
event of any change to Amtrak schedules for Amtrak trains operating on the State Property
during the periods specified in Section 3(i) hereof where such change would result in interruption or
delay to Commuter Rail Service on the State Property. It is the understanding of the parties
hereto that any agreement for renewal or extension of Amtrak’s use of the State Property beyond
termination or replacement of the current Amtrak Agreement shall be a matter between State and
Amtrak, and that State shall be entitled to or responsible for, as the case may be, any and all fees,
rents, charges or income arising out of or connected with any such agreement between State and
Amtrak. CSXT shall have no interest in or right of participation in any revenue or income howsoever
derived by State from Amtrak for its use of the State Property under any such agreement, and CSXT
shall not be responsible for any cost or expense that
may result from any such agreement. In the event that State and Amtrak enter into any such agreement, then the terms and conditions of this Agreement shall be amended to reflect the changes arising out of or resulting from such agreement. The foregoing provisions apply only to Intercity Rail Passenger Service as provided by Amtrak, its successors or assigns.

m) From time to time during the term of this Agreement following the Commencement Date, CSXT shall have the right subject to the provisions of Section 3(i) hereof to operate non-revenue special and/or excursion trains on or over the State Property carrying CSXT's employees, invitees and/or passengers, provided however that CSXT shall not make such special or excursion trains available to members of the general public. CSXT shall be entitled to or responsible for, as the case may be, any and all fees, rents or charges arising out of or connected with such special and/or excursion trains, and such trains shall be considered as trains of CSXT for all purposes under this Agreement, including, without limitation, the provisions of
Sections 2(a) and 19(d) hereof; and for purposes of Section 19 of this Agreement, the aforesaid employees, invitees and/or passengers of CSXT shall be considered as CSXT's employees. From time to time during the term of this Agreement following the Commencement Date, State shall have the exclusive right to operate special and/or excursion trains on the State Property carrying State’s employees, invitees and/or passengers including members of the general public. Except in emergencies, third party detours over the State Property shall be by mutual agreement of the parties. State shall be entitled to or responsible for, as the case may be, any and all fees, rents, charges or income arising out of or connected with such detour and/or special trains, and such trains shall be considered as trains of State for all purposes under this Agreement, including, without limitation, the provisions of Section 19(d) hereof; and for purposes of Section 19 of this Agreement, the aforesaid State’s employees, invitees and/or passengers shall be considered as Rail Commuter Passengers. It is understood by the parties hereto that the rights
SECTION 4. MAINTENANCE

(a) Except as is otherwise expressly provided herein, from and after the Commencement Date hereof, State shall have management, direction and control of, and shall perform, or cause to be performed all work of maintaining and repairing the rights-of-way, tracks, bridges, communications, signals, and all appurtenances on the State Property in accordance with the standards specified in Subsection (b) hereof, normal wear and tear excepted. CSXT shall have management, direction and control of all work of maintaining and repairing the CSXT Property in a condition deemed appropriate by CSXT in its sole judgment and discretion. State shall have no obligation to maintain or repair the CSXT Property and any Sidetracks that are not on State Property.

(b) In maintaining and repairing the State Property, State shall maintain the rights-of-way, tracks, bridges, communications, signals, and all appurtenances to a level consistent with then current CSXT standards, including CSXT’s track geometry standards, the American Railway Engineering Maintenance-of-Way Association (A.R.E.M.A.) Manual for Railway Engineering, the best generally accepted industry standards, and all applicable FRA track and signal standards. Where specific conflicts arise between a lower FRA standard and a higher CSXT or generally accepted industry standard, then the higher CSXT or generally accepted
industry standard shall be applied. State agrees to maintain the mainline on the State Property to achieve at least the FRA Class 4 track standard for freight and passenger trains under the FRA regulations, as amended. The aforesaid standards shall be applied in a manner that generally permits authorized track speeds, subject to temporary and permanent slow orders and speed restrictions that may be reasonably imposed by the State or other lawful authority from time to time in a manner consistent with generally accepted industry standards.

(c) The maximum authorized track speeds may be changed from time to time during the term of this Agreement by the State, provided, however, that freight and passenger track speeds shall not be lowered without the consent of CSXT. It is understood by the parties hereto that circumstances warranting a change to such track speeds shall include situations in which no further upgrading of the track is necessary (e.g., the modification or removal of local speed restrictions) or in which the parties otherwise agree to a capital improvement.

(d) The maintenance of the State Property in accordance with the aforesaid standards and maximum and minimum authorized track speeds shall be accomplished by the State based on the State's sole determination of the necessity and scope of work necessary for the maintenance and repair of the State Property, provided, however, that such maintenance and repair conforms with the aforesaid standards and lawfully permits the authorized track speeds.

(e) From time to time, CSXT, may conduct such inspection of the State Property as it deems appropriate to determine State's compliance with its obligations under Subsection (b) hereof, provided, however, CSXT shall endeavor in good faith to schedule its inspections in a way that will enable it, upon prior written notice to State, to accompany State on its inspection of the State Property and in the event such inspection discloses any defect(s) from the standards set forth in said Section 4(b), CSXT may give State notice thereof, in which event State shall correct
such defect(s) within the time provided under applicable laws or regulations.

(f) State shall have management, direction, and control of and shall perform, or cause to be performed, at its sole cost and expense, all work of maintaining, servicing, fueling, and repairing its trains, locomotives, rail cars, and rail equipment. CSXT shall have management, direction, and control of and shall perform, or cause to be performed, at its sole cost and expense, all work of maintaining, servicing, fueling, and repairing its trains, locomotives, rail cars, and rail equipment. It is understood by the parties hereto that State, with notice to CSXT but without the approval of CSXT, may enter into agreements from time to time with the South Florida Regional Transportation Authority, Amtrak, or others for the maintaining, servicing, fueling, and repairing of State’s trains, locomotives, rail cars, and rail equipment, provided, however, that in the event any such maintenance, service, fueling, or repair is performed on the State Property by a party other than Amtrak, then State shall be responsible for any and all liability, cost and expense arising out of or connected with such maintenance, service, fueling, or repair and said party shall be considered as State for the purposes of determining between State and CSXT, State’s assumption and apportionment of liability, cost and expense under this Agreement.

(g) State shall have management, direction, and control of and shall perform, or cause to be performed, at its sole cost and expense, all work of maintaining, improving or repairing the buildings, structures and facilities on the State Property.

(h) As provided in Section 7.08 of the Contract, upon the Closing Date as specified therein, CSXT shall assign to State and State shall assume all of the agreements listed or described in Exhibit 9 therein and all rights and obligations under such agreements pertaining to the maintenance, repair, and operation of existing roadway and highway crossings, crossing protection devices and railway interlocking and interchange facilities on the State Property and
thereafter State may renegotiate, renew, terminate, cancel, or modify any such agreements subject to the terms and conditions of Section 8 hereof. It is understood by the parties hereto that the State shall have the right to grant new crossings on the State Property subject to the terms and conditions of Section 8 hereof.

(i) Nothing contained in this Section 4 shall be construed to modify, amend, limit or restrict the provisions of Section 19 hereof.

SECTION 5. ADDITIONS, BETTERMENTS, RETIREMENTS AND ALTERATIONS

a) Subject to the provisions of Section 8 hereof, State, from time to time and at its sole cost and expense, may make such changes in, additions and betterments to, or retirements from the State Property: first, as shall, in State’s sole judgment, be necessary or desirable for the economical or safe operation thereof; provided, however, that any such addition, betterment, retirement or alteration shall not unreasonably interfere with CSXT’s provision of Rail Freight Service and/or Amtrak’s provision of Intercity Rail Passenger Service on the Subject Property as contemplated in Section 1(a) of this Agreement or CSXT’s operations on the CSXT Property, and any retirement to the State Property, including, without limitation, Sidetracks shall be subject to the mutual agreement of State and CSXT;
or, second, as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental body having jurisdiction. Such additions and betterments shall become a part of the State Property and such retirements shall be excluded from the State Property. The design and construction standards for the foregoing shall be subject to the mutual approval of the parties hereto. Such changes, additions and betterments shall be made during such times of the day and week as the parties shall agree notwithstanding the provisions of Section 3(i) hereof pertaining to maintenance of the State Property.

b) If the parties mutually agree that changes in or additions and betterments to the State Property, including changes in communication or signal facilities, are required to accommodate CSXT’s operations beyond that required by State to accommodate its own operations, State shall construct, or have constructed, the additional facilities or betterments and CSXT shall pay to State the cost and expense thereof, including the annual expense of maintaining, repairing and
renewing such additional facilities or betterments.

SECTION 6. REVENUES

a) CSXT shall establish rates for and be entitled to any and all revenues of whatsoever amount, kind, nature or description howsoever derived from the provision of Rail Freight Service on the State Property and the CSXT Property.

b) State shall establish rates for and be entitled to any and all revenues of whatsoever amount, kind, nature or description howsoever derived from the provision of Commuter Rail Service and other passenger rail service provided by State on the State Property.

c) The parties hereto understand that Amtrak shall establish rates for and be entitled to any and all revenues of whatsoever amount, kind, nature or description howsoever derived from the provision of Intercity Rail Passenger Service by Amtrak on the State Property.

d) In addition to the aforesaid entitlements, State and CSXT shall be entitled to revenues derived from the State Property and the CSXT Property as hereinafter provided in Sections
SECTION 7. EXISTING AGREEMENTS PERTAINING TO THE STATE PROPERTY AND THE CSXT PROPERTY

a) The parties have addressed in the Contract the manner in which any and all fees, rents, charges or income arising out of or connected with the contracts, agreements, leases, licenses, intangible rights and easements listed or described in the Contract shall be governed.

b) From and after the Commencement Date, CSXT may renegotiate, renew, terminate, cancel or modify any of its contracts or agreements pertaining to Sidetracks. CSXT also may enter into new agreements pertaining to Sidetracks without the consent of State, subject to the provisions of Sections 3(i) and 8(f) hereof. Any rental income from Sidetracks that is derived from and after the Commencement Date by CSXT from such contracts or agreements shall be paid to the State.

SECTION 8. FUTURE AGREEMENTS PERTAINING TO AND USES OF THE STATE PROPERTY

It is understood by the parties hereto that State may use, grant to others the right to use, and convey interests in the State Property, in whole or in part, for various private or public purposes, in addition to the Railroad Operations on the State Property contemplated under
Section 1(a) of this Agreement. Such additional uses and conveyances of the State Property will be subject to the provisions of the Contract, this Agreement, including Section 1(a), and the CSXT Easement (to the extent that it may apply) and will be undertaken by State in its sole discretion and in a manner consistent with the then current Rail Freight Services and Intercity Rail Passenger Service on the State Property.

a) Except as is otherwise expressly provided in this Agreement and except as is otherwise expressly provided under any contract, agreement, lease, license, easement, reservation or restriction of or pertaining to the State Property in existence as of the date hereof, whether or not of record including, without limitation, [fiber optic occupancies], State shall have the exclusive right first, to use the State Property on its own behalf for any lawful purpose; and/or, second, to grant and convey to others any and all interests, easements, leases, licenses or rights of occupancy in, on, under, through, above, across or along the State Property, or any portion thereof; provided, however, that the aforesaid rights of State shall not be used to permit any form of Rail Freight Service on the State Property, or any portion thereof, without CSXT's prior written consent; provided, further, that the
aforesaid rights of State shall be exercised in such a manner as not to unreasonably interfere with CSXT's provision of Rail Freight Service and/or Amtrak's provision of Intercity Rail Passenger Service on the State Property contemplated under Section 1(a) of this Agreement or CSXT's operations on the CSXT Property, and shall be otherwise in conformance with the provisions of this Agreement, including, without limitation, Sections 8(c) and (d) and 38 hereof. State shall be entitled to or responsible for, as the case may be, any and all proceeds, fees, rents, charges or income arising out of or connected with State's rights under this Section 8(a) and CSXT shall have no interest or right of participation in any revenue or income howsoever derived from the enjoyment and use of such rights.

b) State shall provide CSXT sixty (60) days' written notice prior to each instance in which State either grants or conveys an interest, easement, lease, license or right of occupancy to any other party(ies) pursuant to Section 8(a) hereof, or exercises on its own behalf any right, privilege or
license pursuant to said Section, that requires or permits any construction, erection or installation on the State Property, or any portion thereof.

c) In each instance in which State either grants or conveys an interest, easement, lease, license or right of occupancy to any other party(ies) pursuant to Section 8(a) hereof, or exercises on its own behalf any right, privilege or license pursuant to said Section that requires the performance of any work on the State Property, including, without limitation, the construction, modification, alteration or relocation of railroad tracks, signals, fiber optic transmission systems or communication facilities on the State Property, then State shall use its best efforts to cause or permit such work to be effected in a manner consistent with the requirements of the subject interest, easement, lease, license or right of occupancy or the aforesaid exercise of any right, privilege or license; provided, however, that all such work shall be effected in such a manner as not to unreasonably interfere with CSXT’s provision of Rail Freight Service and/or Amtrak’s provision of Intercity Rail Passenger Service on the State
Property contemplated under Section I (a) of this Agreement or CSXT's operations on the CSXT Property and shall be otherwise in conformance with the provisions of this Agreement, including, without limitation, this Subsection (c) and Section 8(d) hereof.

Unless otherwise mutually agreed to by the parties hereto, to the extent any of the aforesaid work, including, without limitation, any and all cost and expense incurred by CSXT and others for the relocation of railroad tracks, signals, fiber optic transmission systems or communications facilities or railroad operational purposes, when such relocation is for employees or equipment in connection with such work, in the event of a fiber optic occupant bears and pays for any relocation of the fiber optic transmission systems or communications facilities or railroad operational purposes, then State shall bear, pay, or cause to be paid the entire cost and expense of the aforesaid work, including, without limitation, any and all cost and expense incurred by CSXT and others for the relocation of railroad tracks, signals, fiber optic transmission systems or communications facilities or railroad operational purposes.

Construed, modification, alteration or relocation of railroad tracks, signals or Amtrak for Railroad Operations, pay, or cause to be paid the entire cost and expense of the aforesaid work on the State Property involves the parties hereto, to the extent any of the aforesaid work is otherwise required to be performed by CSXT, unless otherwise mutually agreed to by the parties or CSXT, as provided in Section 8(d) hereof. Unless otherwise provided, all property and shall be otherwise in conformance with the provisions of this Agreement or CSXT's operations on the CSXT Property contemplated under Section I (a) of this Agreement.
responsible for the cost and expense of such relocation to the extent such cost and expense borne and paid by [a fiber optic occupant.] The CSXT Easement shall be adjusted, at the sole cost and expense of State, to reflect any changes to the location of the railroad tracks, signals or communication facilities on the State Property resulting under the foregoing provisions.

d) Notwithstanding any other provision of this Agreement to the contrary, State shall not, without the prior written consent of CSXT, either: (i) grant or convey to others any interest, easement, lease, license or right of occupancy within the following clearances of any of the below specified tracks now or hereafter located on the State Property or the CSXT Property: (A) Lateral clearances of not less than 10 feet from either side of the centerline of any main track and adjacent sidings and 9 feet from either side of the centerline of any sidetrack; and (B) Vertical clearances for the entire lateral clearance width aforesaid of not less than 23 feet above the top of each rail of any such track; or (ii) cause or permit the building,
construction, alteration, erection, installation, demolition or removal of any structure or facility on the State Property within the following clearances of any track now or hereafter located on the State Property or the CSXT Property: (A) Lateral clearances of not less than 12 feet from either side of the centerline of any track; and (B) Vertical clearances for the entire lateral clearance width of any such track of not less than 23 feet above the top of rail of any such track. Nothing in this Subsection (d) shall require State to alter, replace or remove any structure or facility on the State Property that as of the Closing Date as defined in the Contract does not comply with such clearances.

It is understood by State and CSXT that State shall construct certain platforms for Commuter Rail Service, provided, however, such platforms shall be constructed in accordance with the clearances set forth above and those permitted under the laws of the State of Florida on the date of this Agreement. State shall submit all plans and specifications for any facilities to be built under the tracks on the State Property for CSXT's review and approval in accordance with CSXT's then current engineering specifications for facilities of like type and condition on CSXT's railroad properties. CSXT shall respond with written comments within ninety (90) days of State's submission. The parties will further refine the scope of the review in the Transitional Services Agreement, which shall be applicable to this Agreement.
e) CSXT shall have the exclusive right to enter into contracts, agreements, leases and licenses: first, with shippers and receivers of freight and others pertaining to the provision of Rail Freight Service on the State Property and the CSXT Property, provided, however, that CSXT shall not, without first obtaining the State’s written consent, which consent shall not be unreasonably withheld, conditioned or delayed, convey, transfer or assign the CSXT Easement or grant any operating rights over all or any portion of the State Property, to any third party (other than such rights as currently exist pertaining to interchange or locomotive run through); second, with Amtrak, its successors and assigns, pertaining to Amtrak’s provision of Intercity Rail Passenger Service on the State Property and the CSXT Property (subject to the provisions of Section 3(1) hereof); and, third, with [fiber optic occupants] or their successors and assigns pertaining to fiber optic transmission systems (subject to the provisions of Section 7(a) hereof). CSXT shall be entitled to or responsible for, as the case may be, any and all proceeds, fees,
rents, charges or income arising out of or connected with such contracts, agreements, leases and licenses, and State shall have no interest or right of participation in any revenue or income howsoever derived from such contracts, agreements, leases and licenses.

f) In each instance in which CSXT desires to relocate railroad tracks on the State Property or to construct, erect or install any facility on the State Property, including, without limitation, additional Sidetracks, then prior to the performance of any such work, CSXT shall submit the plans and specifications for same to State for its written approval. State shall provide its written approval of such plans and specifications within sixty (60) days of its receipt of same in the event that the proposed work satisfies the following criteria: first, the proposed work does not unreasonably interfere with the provision of Commuter Rail Service and/or Intercity Rail Passenger Service on the State Property and/or any reasonably foreseeable use of State Property by State, such uses including, without limitation, light rail (within the City of
Orlando, from approximately milepost 787 to milepost 792.5, at State's sole risk and expense, without impairment to rail freight operations remaining on the State Property or at Kaley Yard, such system to be designed and constructed to provide adequate clearances and the necessary physical separation from the "conventional" rail system utilized by freight and intercity and commuter passenger trains and shall comply with mutually agreed design and construction standards), high speed rail, highway, road, bridge, utility, or other transportation related uses as determined by the State; second, the proposed work is necessary desirable for the provision of Rail Freight Service and/or Amtrak’s provision of Intercity Rail Passenger Service on the State Property; and, third, CSXT pays, or causes to be paid, any and all cost and expense of the proposed work. In the event that State determines that the proposed work will unreasonably interfere with the aforesaid Commuter Rail Service and/or other uses, then within sixty (60) days of its receipt of the aforesaid plans and specifications, State shall provide written
notification thereof to CSXT, which notification shall first, to the extent possible, specify the reasonable conditions, including, without limitation, duration of use and modification(s) to the submitted plans and specifications, that are necessary to permit such work to be performed in a manner that will not unreasonably interfere with the aforesaid Commuter Rail Service and/or other uses or, after exhausting such conditions or modifications, State’s reasons for denial of such request, such denial only then being final and not subject to Section 17 hereof. To the extent that the plans and specifications are approved subject to modification(s), then the plans and specifications as so modified shall be submitted to State for its written approval, which approval State shall provide within thirty (30) days of its receipt of such modified plans and specifications if same comply with State’s aforesaid notification to CSXT. Upon completion of any work, CSXT shall notify State thereof and certify to State that the work was performed in accordance with the approved plans and specifications before the relocated tracks or
other facilities can be placed into rail service. It is understood by the parties hereto that the purpose of the aforesaid approval process is to ensure that any work performed on the State Property is done in a manner consistent with State’s reasonably foreseeable use(s) for the State Property; that the approval process specified herein shall not be used to unreasonably prohibit CSXT’s development of railroad freight business on the State Property; that the CSXT Easement shall be adjusted to reflect the relocation, construction, erection or installation of any tracks or Sidetracks so occurring; and that no additional compensation shall be paid by CSXT or others to State for the use of any State Property under the foregoing provisions.

g) Except as may be otherwise provided under Section 19 hereof, in each instance during the term of this Agreement in which State either grants or conveys an interest, easement, lease, license or right of occupancy or uses the State Property on its own behalf under the provisions of this Section 8, State shall be responsible for any and all obligations, liabilities, costs and expenses
howsoever arising out of or connected therewith. Except as may be otherwise provided under Section 19 hereof, in each instance during the term of this Agreement in which CSXT exercises any right under this Section 8, CSXT shall be responsible for any and all obligations, liabilities, costs and expenses howsoever arising out of or connected therewith.

h) Nothing contained in this Section 8 shall be construed as granting or conferring to State any right or privilege to use, or permit the use of, CSXT Property for any of the purposes contemplated in this Section 8.

SECTION 9. TAXES, ASSESSMENTS AND UTILITIES

a) It is the intent and understanding of the parties hereto that all services performed by State for CSXT under this Agreement, including, without limitation, those performed under Sections 3, 4 and 5 hereof, are railroad transportation services, and accordingly are exempt from the payment of sales, use or other taxes by either State or CSXT. In the event any taxes, fees, charges, liens or assessments are imposed upon State for such
performance of railroad transportation services for CSXT or on the acquisition of property for CSX by State in conjunction therewith, then same shall be borne and paid by CSXT in their entirety, including, without limitation, any and all interest and penalties thereon.

b) From and after the Commencement Date hereof, State shall initiate, contract for and obtain, in its name, all utility services required on the State Property for the Railroad Operations contemplated under Section 1 of this Agreement, including gas, electricity, telephone, water and sewer connections and services. The cost and expense for such services shall be considered as a cost of maintenance of the State Property.

SECTION 10. CASUALTY LOSSES.

In the event that any portion of the State Property is damaged or destroyed by accident, flood, fire, civil disturbance, vandalism, earthquake, storm, terrorism, sabotage or act of God, and in the further event that repair or replacement is required by State or CSXT for the continued provision of their respective Railroad Operations contemplated under this Agreement, then, in the event the parties hereto determine to make the repair or replacement and to bear the cost and expense thereof, State either: (i) shall repair, or cause to be repaired, that portion of the State Property so damaged or destroyed to substantially the same condition as existed prior to such
damage or destruction or (ii) shall replace, or cause to be replaced, such portion with property of like kind, condition or quality. The cost and expense of such repair or replacement shall be allocated and apportioned between State and CSXT as follows:

   a) The cost and expense of any repair or replacement required for the exclusive use or benefit of the State or CSXT shall be borne, paid and arranged entirely by the party so requiring same.

   b) The cost and expense of any repair or replacement required for the joint use or benefit of State and CSXT shall be borne, paid and arranged by State and CSXT on a mutually agreeable basis.

SECTION 11. ABANDONMENT AND/OR DISCONTINUANCE

   a) From time to time during the term of this Agreement and notwithstanding any other provision of this Agreement to the contrary, CSXT may seek from the STB appropriate regulatory authority, including without limitation, exemption from the requirements to obtain such authority, to abandon and/or discontinue service over all or any portion of the State Property. In the event CSXT seeks and obtains such regulatory authority, then the
following terms and conditions shall apply.

i. State may offer financial assistance to CSXT, in accordance with applicable statutory and regulatory provisions, to enable Rail Freight Service to be continued over the State Property or portion thereof so involved with such abandonment or discontinuance. In the event that such offer of financial assistance complies with applicable statutory and regulatory provisions governing such offers, then CSXT shall accept such offer and shall continue Rail Freight Service on the State Property or portion so involved pursuant to the terms and conditions of such offer. In the event that CSXT believes that such offer does not comport with such applicable statutory and regulatory provisions, then CSXT shall promptly advise State of CSXT's non-acceptance of such offer, and State shall either: (A) seek to have the STB establish the terms and conditions governing the offer of financial assistance, subject to CSXT's participation in any such establishment, or (B) withdraw its offer of financial assistance. In the event that State so seeks to have the terms and conditions established by the STB and the terms and conditions
so established are acceptable to State, then State shall so advise CSXT, and CSXT shall continue Rail Freight Service on the State Property or portion thereof so involved in accordance with the terms and conditions so established by the STB. In the event that CSXT should receive an offer as aforesaid from State and one (1) or more offer(s) to purchase the CSXT Easement or subsidize the provision of Rail Freight Service on the State Property, or portion involved, from any other person, then CSXT shall exercise its statutory right to select State as the offeror with whom CSXT desires to transact business, subject to all of the aforesaid provisions governing the acceptability of State’s offer and the STB’s establishment of terms and conditions in the event of CSXT’s non-acceptance of State’s offer, provided, however, that if such offer is to purchase the CSXT Easement or portion involved, State shall have the right, without the consent of CSXT, to transfer the CSXT Easement or portion involved to a third party in compliance with any STB requirements.

ii. In the event that: (A) State declines or fails to make an offer of financial assistance to CSXT, as aforesaid;
(B) State declines or fails to accept the terms and conditions established by the STB, as aforesaid; or State withdraws its offer of financial assistance; or (D) the agreement governing the continuation of rail freight operations under such financial assistance terminates by expiration of its term or otherwise, then CSXT may exercise, in whole or in part, the regulatory authority obtained by it for the abandonment or discontinuance of service on the State Property, or portion thereof, so involved. In the event that CSXT exercises the regulatory authority so obtained, then this Agreement and the CSXT Easement shall automatically terminate and be of further force and effect with respect to the State Property, or portion thereof, with respect to which CSXT exercises such regulatory authority and, except to the extent so terminated, this Agreement and the CSXT Easement shall remain in full force and effect.

b) Nothing contained in this Section 11 shall be construed as precluding CSXT's assignment of this Agreement and the CSXT Easement, in lieu of CSXT's aforesaid abandonment or discontinuance, to any person in
accordance with the provisions of Section 37 hereof, provided, however, that any such assignment shall be made subject to the provisions of this Section 11.

c) As used in this Section 11, the term "applicable statutory and regulatory provisions" means 49 U.S.C. § 10903 et seq. and 49 C.F.R. § 1152 and the STB's interpretations thereof as of the date of this Agreement. In the event that during the term of this Agreement such statutory and/or regulatory provisions are modified or amended in substantial respect or are repealed, then the parties hereto shall supplement and amend the provisions of this Section 11 in order to continue in effect substantially the same rights and obligations herein contained.

d) The foregoing provisions of Sections 11(a) through 11(c), inclusive, pertain to abandonments or discontinuances subject to the STB's jurisdiction. As of the date hereof, the abandonment or discontinuance of sidetracks are statutorily exempt from the need to obtain abandonment or discontinuance authority from the
STB. In the event that at any time during the term of this Agreement any Sidetrack located on the State Property is not used by CSXT for the purpose of providing Rail Freight Service or Amtrak's provision of Intercity Rail Passenger Service for a period of thirty (30) consecutive months, State may so notify CSXT and State may elect to have such Sidetrack removed. In the event State so elects, then CSXT shall exercise all rights of cancellation under any contract or agreement pertaining to such Sidetrack and upon the date said contract or agreement is cancelled, this Agreement and the CSXT Easement, only insofar as they pertain to said Sidetrack, shall automatically terminate and be of no further force and effect. If no such contract or agreement exists, then upon the date of State's aforesaid election, this Agreement and the CSXT Easement, only insofar as they pertain to said Sidetrack, shall automatically terminate and be of no further force and effect. Except to the extent so terminated, this Agreement and the CSXT Easement, shall remain in full force and effect. Nothing contained herein shall preclude State and
CSXT from mutually agreeing to the removal of any such Sidetrack prior to the expiration of said thirty (30) month period.

SECTION 12. COMPLIANCE WITH LAWS

a) During the term of this Agreement, State and CSXT shall comply with all laws, orders, rules and regulations governing the maintenance and repair of the State Property, including, without limitation, those pertaining to environmental matters, that are promulgated by any municipality, state or federal government, board, commission or agency having appropriate jurisdiction, to the extent such laws, rules, or regulations apply to State or the State Property, and the cost and expense thereof shall be borne and paid by the party hereto responsible for such compliance.

b) Either party shall have the right to contest by appropriate legal proceedings, at its sole cost and expense, the validity and applicability of any law, order, rule or regulation of a nature referred to above. To the extent permissible, compliance with such law, order, rule or regulation may be postponed until the final determination of
any such proceedings, provided that all such proceedings shall be prosecuted with all diligence and dispatch on the part of the party hereto contesting same, and, provided, further, that the party contesting same shall be responsible for any and all liability, cost and expense arising out of or connected with any such contest.

c) Neither party hereto shall permit the State Property to be used by the public without restriction or in such manner as might reasonably tend to impair State's title to the State Property or CSXT’s rights and interests therein as contemplated under this Agreement and the CSXT Easement. The foregoing: (i) shall not be construed to limit or restrict the rights and interests of the parties hereto as provided in this Agreement; and (ii) shall not in any way restrict the public use of the State Property or the CSXT Property in the normal conduct of the Railroad Operations contemplated under Section 1(a) of this Agreement.

d) Whenever State or CSXT enters into any new instrument referred to in Sections 7 or 8 hereof that grants to others a right to occupy or use
the State Property, then the party hereto entering into such new instrument shall provide therein that the person so occupying or using the State Property shall comply with all applicable federal, state and local laws, regulations and ordinances respecting such occupancy or use.

e) Notwithstanding any other provision of this Agreement, in compliance with Florida Statutes, Section 339.135(6)(a), the following language and provisions thereof are hereby made a part of this Agreement:

The department [Department of Transportation], during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the Comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year.

SECTION 13. LIENS AND CHARGES

a) CSXT shall not cause or create any lien, claim, mortgage or charge of any nature whatsoever, including, without limitation, mechanics' or materialmen's liens (hereinafter in
this Section collectively referred to as "charge") to be asserted against or claimed against the State Property for any reason and State shall not cause or create any charge to be asserted against the State Property which would interfere with or restrict the CSXT Easement. If any such charge shall at any time be claimed against the State Property, then the following provisions shall apply:

(i) The party hereto causing or creating such charge shall cause same to be discharged of record within thirty (30) days of the later of either: (A) the filing or attachment of same; or (B) the date that the creating party has actual notice of such filing or attachment. If the party causing or creating such charge fails to discharge same within such period, then, except as is otherwise expressly provided in Subsection (ii) hereof, the other party hereto may discharge the same by paying the amount claimed to be due without inquiry into the validity of the same. Any amount paid by the party discharging the charge and all cost and expense incurred in connection therewith, including, without limitation, reasonable attorney's fees, together with interest thereon at the maximum rate allowed by law from the date of payment, shall be paid by the party causing or creating the charge to the party discharging same within thirty (30) days of the discharging party's submission of a bill therefor.

(ii) Notwithstanding the foregoing provisions, the party causing or creating a charge shall have the right to contest or settle any such charge, provided, however, that within thirty (30) days of the later of either: (A) the filing or attachment of the charge, or (B) the date that the causing or creating party has actual knowledge of such filing or attachment, the causing or
creating party shall give written notice to the other party hereto of the causing or creating party's intention to contest or settle such charge; provided further, that the causing or creating party shall be responsible for any and all liability, cost and expense arising out of or connected with such charge, including, without limitation, reasonable attorney's fees; and, provided, further, that the causing or creating party shall diligently prosecute the contesting or settlement of such charge. In the event that the party causing or creating the charge complies with the foregoing provisions, then the other party shall not pay, remove or otherwise proceed to discharge any such charge.

SECTION 14. EMINENT DOMAIN

The parties hereto understand that the exercise of any lawful authority for condemnation, expropriation or seizure with respect to the State Property, at least insofar as it pertains to the CSXT Easement, would be subject to the jurisdiction of the STB under 49 U.S.C. §10903, et seq., prior to the occurrence of any taking as hereinafter described. In the event that at any time during the term of this Agreement the whole or any part of the State Property shall be taken by any lawful power by the exercise of the right of eminent domain for any public or quasi-public purpose, the following provisions shall be applicable:

a) Taking of Whole. If such proceeding shall result in the taking of the whole, then each party hereto shall have the unilateral right, upon written notice to the other and subject to the securing of any and all necessary governmental approvals, to terminate this Agreement in its entirety and the term hereof shall terminate and expire on the date title to the State Property vests in
the condemning authority, and the [Fee] and any other sums or charges provided in this Agreement shall be adjusted as of the date of such vesting.

b) **Taking of Part.** If such proceeding shall result in the taking of less than all of the State Property and does not materially interfere with either State’s or CSXT’s use of the State Property as contemplated under Section I(a) hereof, then this Agreement shall continue for the balance of its term as to the part of the State Property remaining, and the [Fee] and any other sums or charges provided in this Agreement shall be adjusted as of the date of such taking to reflect the taking so occurring.

c) **Temporary Taking.** If the temporary use of the whole or any part of the State Property shall be taken at any time during the term of this Agreement for any public or quasi-public purpose, the party receiving notice thereof shall give prompt notice thereof to the other party and this Agreement shall be adjusted as of the date of such taking to reflect the taking so occurring. For purposes of this Subsection (c), temporary taking shall include all use or occupation of all or any portion of the State
Property that shall not exceed ninety (90) consecutive days of use or occupation. In the event that such temporary taking shall exceed such ninety (90) day period, then either State or CSXT may elect to treat such taking in accordance with the provisions of Sections 14(a), (b) and (d) hereof.

d) Awards. Except as otherwise expressly provided in this Section 14, State shall be entitled to any and all funds payable for the total or partial taking of the State Property without any participation by CSXT; provided, however, that nothing contained herein shall be construed to preclude CSXT from prosecuting any claim directly against the condemning authority for loss of its business, or depreciation to, damage to, or cost of removal of, or for the value of the CSXT Easement, and any other interests or properties belonging to CSXT, including, without limitation, the CSXT Property; and, provided, further, that nothing contained herein shall be construed to create any interest or entitlement in State to any and all funds payable to CSXT for such total or partial taking of the State Property or any taking of the CSXT
e) Each party hereto shall promptly notice to the other party of any eminent domain proceeding involving the State Property. Each party shall be entitled to participate in any such proceeding, at its own cost and expense, and to consult with the other party, its attorneys, and experts. State and CSXT shall make all reasonable efforts to cooperate with each other in the defense of such proceedings and to use their best efforts to ensure the continued use of the State Property for the Railroad Operations contemplated under Section 1(a) of this Agreement.

f) The provisions of this Section 14 shall apply to and govern all takings involving the State Property by exercise of the right of eminent domain as aforesaid.

g) Nothing contained herein shall preclude State from exercising its eminent domain powers for any purpose with respect to the State Property, provided, that, such exercise shall not modify, amend, limit or restrict the CSXT Easement or the rights and obligations of the parties hereto.
under this Agreement and, provided, further, that any such exercise shall be done at no cost or expense to CSXT.

SECTION 15. PAYMENT OF BILLS AND RECORDS

a) All State payments to CSXT called for under this Agreement shall be made by State in accordance with State’s standard vendor invoice payment procedures. Except as otherwise expressly provided in this Agreement, all CSXT payments to State called for under this Agreement shall be made by CSXT within thirty (30) days after its receipt of a bill therefor. In cases of a bona fide dispute, those portions of the billings which are undisputed shall be paid in accordance with the time period set forth above, and any dispute reconciled by the parties hereto shall be promptly adjusted in the accounts of the subsequent months. All bills submitted shall be in sufficient form for pre-audit and post-audit thereof of the services performed pursuant to Section 287.058, Florida Statutes, and shall indicate, to the extent applicable, the dates of the occurrences and time expended therefor. All bills shall be signed by a person who can represent that
the costs and expenditures contained in said bill are true and correct to the best of that person's knowledge or belief.

b) The books, records and accounts of each party hereto, insofar as they pertain to the State Property and this Agreement, shall be open to inspection by the other, upon reasonable request during normal business hours, at the offices of the parties hereto. If so instructed by State, CSXT shall allow public access to all such books, records and accounts subject to the provisions of Chapter 119, Florida Statutes, and made or received by CSXT on behalf of State in conjunction with this Agreement.

SECTION 16. DEFAULT AND BREACH

a) In the event of a default or breach by either party hereto of any of its obligations under this Agreement, the party in default or breach shall cure such default or breach within sixty (60) days of notice to it from the other party of such default or breach; provided, however, that, except as may be otherwise expressly provided in this Agreement, the party in default or breach, shall be responsible for any and all liability, cost and expense arising out of
or connected with such default or breach during the period of such cure; and provided, further, that nothing contained in this Section 16 shall be construed to modify or amend the provisions of Section 19 hereof or to limit or restrict either party's rights thereunder.

b) The parties hereto expressly acknowledge that the nature and purpose of this Agreement is such that damages may not be an adequate remedy for any default or breach so occurring; including, without limitation, any breach with respect to a party's operating windows under Section 3(i) of this Agreement, and that equitable relief, such as injunction, mandatory or otherwise, including specific performance, may be necessary in the event a party fails to cure a breach or default so occurring; and that, except with respect to the seeking of such equitable relief, any and all controversies arising out of or connected with any default or breach so occurring shall be resolved exclusively by dispute resolution and arbitration in accordance with the provisions of Section 17 hereof. Nothing contained in this Section 16 shall
be construed to limit or restrict the parties' rights and obligations under Section 36 hereof.

SECTION 17. DISPUTE RESOLUTION AND ARBITRATION

It is the desire and intent of the parties hereto to avoid, if possible, the expense and delay inherent in litigation; therefore, CSXT and the State agree that whenever a party cannot resolve an issue with the other party, both parties will engage in the alternative dispute resolution process described below. This dispute resolution process consists of two steps: executive level resolution of disputes as set forth in Subsection 17(a) and arbitration as set forth in Subsection 17(b).

(a) Executive Level Resolution of Disputes

(1) Notice and Response. A party may give the other party written notice of any dispute not resolved in the normal course of business. Within five (5) business days after delivery of the notice, the receiving party shall submit to the disputing party a written response. The notice and the response shall include (i) a statement of the position of the party delivering the notice of dispute or the response, as the case may be, and a summary of arguments supporting its position, and, (ii) the name and title of the executive who will represent that party in the negotiation to resolve the dispute and of any other person who will accompany the executive.

(2) Negotiation Process. Within ten (10) business days after delivery of the disputing party’s notice, the executives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. The parties will cooperate with respect to reasonable requests for information made by one party to the other, subject to each party’s discretion with respect to confidential, proprietary
or other non-public information. In an effort to facilitate the negotiation process, such executives may agree to have an unrelated third party moderate and facilitate the negotiations, or may refer the matter to a panel of experts for resolution or recommendation. If a negotiator intends to be accompanied at a meeting by an attorney, the other negotiator shall be given at least three (3) business days notice of such intention and may also be accompanied by an attorney.

(3) Termination of Negotiations. If the dispute has not been resolved within ninety (90) calendar days after delivery of the disputing party’s notice; or if the parties fail to meet within twenty (20) calendar days after delivery of the disputing party’s notice; or if a panel of experts, having been determined to be appropriate as provided in this Subsection 17(a) fails to provide a recommendation within sixty (60) days of the parties’ request for a recommendation; or if within sixty (60) days after receipt of a recommendation of a panel of experts the parties fail to resolve the dispute, either party may give written notice to the other party declaring the negotiation process terminated.

(4) Obligation of Parties. The parties regard the obligations to notify the other party of a dispute and to negotiate such dispute pursuant to this Subsections 17(a) and (b) hereof as an essential provision of this Agreement and one that is legally binding on each of them. In case of a violation of such obligation by either party, the other may bring an action to seek enforcement of such obligation in any court of law having jurisdiction thereof.

(5) Payment of Fees And Costs. Each party shall each bear its own costs and expenses incurred in connection with any negotiations and dispute resolution.

(6) Failure to Resolve Dispute. Upon failure to resolve any dispute in accordance with this Subsection 17(a), the parties shall engage in arbitration pursuant to Subsection 17(b), unless the parties otherwise agree to engage in mediation or other dispute
resolution processes at their discretion.

(b) Arbitration

(1) Except as is otherwise provided in Subsection 17(a) hereof, any controversy under this Agreement shall be settled in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Arbitration shall be held at a mutually convenient location, and in the event the parties cannot agree, then at a location specified by the arbitrator(s). It is the intent of the parties hereto that the agreement to arbitrate contained in this Section shall be valid and irrevocable, shall extend to disputes as to whether particular disagreements are arbitrable, and shall be specifically enforceable by either of the parties hereto from and after the date of this Agreement. In interpreting this Agreement and resolving any dispute hereunder, the arbitrator(s) shall apply the laws of the State of Florida. In the event of arbitration, each party hereto shall pay the compensation, costs, fees and expenses of its own witnesses, exhibits and counsel. The compensation, costs, fees and expenses of the arbitrator(s) and the American Arbitration Association shall be paid equally by State and CSXT.

(c) It is understood and agreed by State and CSXT that the provisions of Subsection 17(b) are not applicable to and shall not be used: first, to alter, amend, change, modify, add to or subtract from any of the provisions of this Agreement, except to the extent mutually agreed to by State and CSXT in the submission of the matter to arbitration; second, to resolve any matter subject to the judgment or discretion of one party to this Agreement; and third, except as is otherwise expressly provided herein, to resolve any matter reserved for mutual agreement of State and CSXT.

SECTION 18. CLEARING OF WRECKS
Whenever State’s or CSXT’s use of the State Property requires re-railing, wrecking service or wrecking train service, State shall be responsible for the performance of such service, including, without limitation, the repair and restoration of roadbed, track and structures. CSXT shall assist State in the performance of such service to the extent requested by State. The liability, cost and expense of the foregoing, including, without limitation, loss of, damage to or destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be allocated and apportioned in accordance with the provisions of Section 19 hereof. All trains, locomotives, rail cars, and rail equipment and salvage from the same so picked up and removed which is owned by CSXT shall be promptly delivered to it. State shall perform the services under this Section in an expeditious manner in order to restore rail service on the line.

SECTION 19. LIABILITY[Subject to further State review]

(a) Notwithstanding any other provision of this Agreement to the contrary, the following words and terms shall have the following meanings for purposes of this Section 19.

The term "Rail Commuter Passenger(s)" shall mean and include any and all persons, ticketed or unticketed, using Commuter Rail Service on the State Property: first, while on board trains, locomotives, rail cars or rail equipment employed in Commuter Rail Service and/or entraining and detraining therefrom; and, second, while on or about the State Property for any purpose related to the Commuter Rail Service, including, without limitation, parking, inquiring about Commuter Rail Service or purchasing tickets therefor and coming to, waiting for, leaving from and/or observing rail commuter or other trains, locomotives, rail cars or rail equipment. The term Rail Commuter Passenger(s) shall also mean and include any and all persons meeting,
assisting or in the company of any person described in the immediately preceding sentence.

(b) Notwithstanding any other provision of this Agreement to the contrary, whenever any liability, cost or expense is to be assumed by, borne by or apportioned to a party hereto under any of the provisions of this Section 19, then that party shall forever protect, defend, indemnify and hold harmless the other party, its officers, agents and employees, from and against that liability, cost and expense assumed by that party or apportioned to it, regardless of whether or not the loss, damage, destruction, injury or death giving rise to any such liability, cost or expense is caused in whole or in part and to whatever nature or degree by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitor, indemnitee or its or their officers, agents and employees, and/or any other person or persons whomsoever.

(c) Except as is otherwise expressly provided by the last sentence of this Subsection (c), whenever any loss of, damage to or destruction of any property whatsoever and injury to or death of any person or persons whomsoever occurs on or about the State Property, including, without limitation, any loss, damage, destruction, injury or death of or to State’s contractors, agents or employees, Rail Commuter Passengers, trespassers on the State Property and/or any other person on, about or crossing the State Property at highway or roadway crossings or elsewhere by automobile, truck, foot or otherwise, then any and all liability, cost and expense for the loss, damage, destruction, injury or death so occurring shall be borne entirely by State. The foregoing provisions of this Subsection (c) shall not apply to or govern occurrences covered by Section 19(d) hereof.

(d) The following provisions shall govern the liability, cost and expense and the
responsibility of the parties hereto, as between themselves, therefor arising out of, resulting from or connected with the movement of trains, locomotives, rail cars and rail equipment on the State Property:

i. It is the specific and express intent of CSXT and State that State shall be solely responsible for liability, howsoever arising, without limitation, to Rail Commuter Passengers, and as between CSXT and State whenever Rail Commuter Passengers suffer any loss, damage, injury or death arising out of, resulting from or connected with any occurrence covered by this Section 19(d), State shall be solely responsible for and assume, without recourse against CSXT, any and all liability, cost and expense therefor.

ii. Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, Rail Commuter Passengers), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, only State being involved, State shall assume all liability therefor, and bear all cost and expense in connection therewith, including, without limitation, all cost and expense referred to in Section 18 hereof.

iii. Whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, only CSXT being involved, then (except for the liability, cost and expense for loss, damage, injury or death to Rail Commuter Passengers, the liability, cost and expense for which will be solely assumed by State, as aforesaid in Subsection
iv. Whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, Rail Commuter Passengers), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, both State and CSXT being involved, then: (A) State and CSXT shall separately assume and bear all liability, cost and expense for loss of, damage to or destruction of trains, locomotives, rail cars (including, without limitation, lading) and rail equipment operated by each of them; (B) State shall assume and bear all liability, cost and expense for injury to and death of Rail Commuter Passengers and State’s officers, agents and employees; (C) CSXT shall assume and bear all liability, cost and expense for injury to and death of CSXT’s officers, agents and employees; and (D) State and CSXT shall equally assume and bear all liability, cost and expense for loss of, damage to and destruction of all other property (including, without limitation, the State Property) so occurring, including, without limitation, all cost and expense referred to in Section 18 hereof.

v. Except as provided in paragraph (vi) below, whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, Rail Commuter Passengers), occurs with the trains, locomotives, rail cars or rail equipment of,
or in the account of, both CSXT and any other railroad using the State Property being involved (including, without limitation, FCEN, Amtrak and/or any detouring railroad), or both State and any other railroad using the State Property being involved, then FCEN and/or Amtrak and/or any other such railroad, shall be considered as State for the purpose of determining between State and CSXT, CSXT’s assumption and apportionment of liability, cost and expense under paragraph (iv) above.

vi. Whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, Rail Commuter Passengers), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, State, CSXT and any other railroad (including, without limitation, FCEN, Amtrak and/or a detouring railroad) using the State Property being involved, then FCEN and/or Amtrak and/or any other such railroad shall be jointly considered as State and a single party to this Agreement for the purpose of determining the assumption and apportionment of liability, cost and expense between CSXT and State under paragraph (iv) above; provided, however, that CSXT’s share of that liability, cost and expense that is to be borne equally by State and CSXT under said paragraph (iv) shall be reduced by the amount paid by any railroad involved that is jointly considered with State to be a single party under Section 19(d) hereof. Nothing contained in the aforesaid proviso shall be construed as limiting or modifying CSXT’s obligation to assume and bear all liability, cost and expense for: (A) loss of, damage to or destruction of the trains,
locomotives, rail cars and rail equipment operated by CSXT; and (B) injury to and death of CSXT's officers, agents, and employees; all as provided in said paragraph (iv).

vii. Notwithstanding any other provision of this Agreement to the contrary, for the purposes of this Section 19(d), the term “rail equipment” shall mean and be confined to maintenance of way and work train equipment and other vehicles and machinery (such as hi-rail trucks) which are designed for operation on and are being operated on railroad tracks on the State Property at the time of any occurrence under said Section 19(d).

viii. For purposes of this Section 19(d), pilots furnished by State to CSXT pursuant to Section 3(d) of this Agreement shall be considered as the employees of CSXT.

ix. For purposes of this Section 19(d), the term “person” shall include, without limitation, the employee(s) of a party hereto and the term “employee(s)” shall mean and include: (A) employees of a party hereto as defined in Appendix A to this Agreement; (B) for each party hereto the invitee(s) to the State Property of each such party, which shall include the employees of parties to agreements referred to in Section 7(a) hereof as further described in the Contract, excluding Rail Commuter Passengers.

(e) In every case of death or injury suffered by an employee of either State or CSXT, when compensation to such employee or employee’s dependents is required to be paid under any workmen’s compensation, occupational disease, employer’s liability or other law, and either of said parties, under the provisions of this
Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the assignment, expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

(f) The parties hereto understand that liability pertaining to interruptions and delays is governed by Section 3(j) hereof.

(g) Each provision of this Section 19 shall be interpreted so as to be effective and valid. In the event, however, that any provision of this Section 19 shall, for any reason, be held invalid, illegal or unenforceable in any respect, then this Section 19 shall be construed as if such provision had never been contained herein in order to effect to the fullest extent the purposes of this Section 19 and the intentions of the parties with respect thereto.

(h) Nothing expressed or implied in this Section 19, including, without limitation, Subsections 19(d)(v) and (vi) hereof is intended to or shall be construed to:
(A) confer upon or to give any person, firm, partnership, corporation or governmental entity other than the parties hereto, their respective legal representatives, successors or assigns any right or benefit under or by reason of this Section 19, or (B) limit or restrict either party hereto from seeking damages, indemnification, redress or other relief from any person, firm, partnership, corporation or governmental entity other than the parties hereto, their respective legal representatives, successors or assigns.

SECTION 20. INVESTIGATION

(a) Except as provided in Subsection (b) hereof, all claims, injuries, deaths, property
damages and losses arising out of or connected with this Agreement shall be investigated, adjusted and defended by the party bearing the liability, cost and expense therefor under provisions of this Agreement, including, without limitation, State's obligation to investigate any and all such claims, injuries, deaths, property damages and losses involving Rail Commuter Passengers.

(b) CSXT will investigate, adjust and defend all freight loss and damage claims filed with it in accordance with applicable provisions of law and all claims, injuries and deaths of CSXT’s employees, for which either CSXT or State solely or CSXT and State jointly may have any liability under the provisions of this Agreement.

(c) The party hereto receiving notice of the filing of a claim will promptly notify the other party of such filing where liability therefor may be joint or that of the other party hereto. State and CSXT will cooperate with each other in all such investigations, adjustments and defenses, and State and CSXT will provide each other, upon request therefor, a copy of documents and written communications and produce witnesses, experts or exhibits in their employment or control to assist in the preparation and defense of any such claim and/or litigation with respect thereto.

(d) In the event a claim or suit is asserted against any party which is another’s duty hereunder to investigate, adjust or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment and defense of such claim or suit, and the party relieved of duties in respect of such claim or suit shall cooperate as requested by the party investigating, adjusting or defending said claim or suit.

(e) All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit under this Agreement shall be included as costs and
expenses in applying the liability provisions set forth in this Agreement.

(f) CSXT shall not settle or compromise any claim, demand, suit or cause of action of any CSXT employee for which State has any liability under this Agreement without the concurrence of State if the consideration for such settlement or compromise exceeds Fifty Thousand and no/100 Dollars ($50,000.00).

(g) It is understood that nothing in this Section 20 shall modify or waive the conditions, obligations, assumptions, or apportionments provided in Section 19 or elsewhere in this Agreement.

SECTION 21. INSURANCE [Subject to further State insurance review].

It is understood by the parties hereto that the provisions of this Section 21 are designed to establish parity between the parties and are based upon their financial ability to meet various obligations for which each of them is responsible under the various liability provisions of this Agreement. Toward this end, the parties shall review, on an annual basis, the provisions of this Section 21 and use their reasonable best efforts to agree upon any modifications thereto that may be appropriate due to changed circumstances. In the absence of any such agreement, the provisions of this Section 21 shall remain in full force and effect.

a) Notwithstanding any provision of this Agreement to the contrary, the parties hereto understand that State as a sovereign creature cannot contractually indemnify and save harmless CSXT or any other party without an express waiver of sovereign immunity by the Florida legislature. As of the date of this Agreement, no such waiver exists except and to the extent as allowed under Section 768.28, Florida Statutes (2006). State is permitted by law, however, to purchase commercial insurance for protection in amounts above those limits stated in Section 768.28,
Florida Statutes (2006). Accordingly, and notwithstanding any provision of this Agreement to the contrary, State shall purchase insurance and establish and maintain an adequate, segregated self-insurance retention fund which will cover claims and liabilities for loss, damage, injury or death arising out of or connected with this Agreement, including, without limitation, State’s contractual liabilities under this Agreement, in the amounts and as provided for in Subsection 21(b) hereof, which insurance shall be in lieu of a specific contractual obligation by State to indemnify and save harmless CSXT as otherwise prohibited by law. The parties hereto recognize that said insurance and fund shall be the sole source upon which State’s liability and/or indemnification under this Agreement rests beyond that provided under the limited waiver of sovereign immunity contained in the aforesaid Florida Statutes. The obtaining of such policy of insurance and the establishment of said fund by State is a condition precedent to the commencement of Commuter Rail Service on the State Property, and the obtaining and maintenance of said insurance and fund in full force and effect shall thereafter throughout the term of this Agreement be considered a condition subsequent to the continuation of Commuter Rail Service on the State Property. In the event said insurance policy is canceled for any reason and/or the deductibles or self-assumed amounts of said insurance policy is unfunded, in the opinion of CSXT, then State shall replace said policy during the notification period with another policy in like amount and coverage protection or, in the case of the fund, State shall replenish the fund and, should State fail in its performance of these contractual obligations to CSXT, then State shall immediately cease operation of any and all Commuter Rail Service on the State Property until such time, if any, that State
shall obtain and thereafter maintain insurance in like amount and coverage protection to that described in this Section 21 and/or replenish the fund, as the case may be. It is understood and agreed by the parties hereto that State’s cessation of Commuter Rail Service on the State Property, as aforesaid, shall not in any manner modify, amend, limit or restrict the CSXT Easement or CSXT’s rights hereunder with respect to the provision of Rail Freight Service and/or Intercity Rail Passenger Service on the State Property, and shall not modify or amend any other obligation of State under this Agreement.

b) State, at its sole cost and expense, shall procure and shall maintain during the entire term of this Agreement, liability insurance covering CSXT as a named insured as agreed and provided in the terms and conditions of Section 21(a) hereof. The said liability insurance shall have a limit of not less than Two Hundred Million and No/100 Dollars ($200,000,000.00) combined single limit for personal injury and property damage per occurrence, with deductibles or self-assumed amounts not in excess of Five Million and No/100 Dollars ($5,000,000.00). The said liability coverage within its terms and conditions shall extend coverage to CSXT for third party personal injury and property damage, and shall not exclude punitive damages. Coverage shall provide employer’s liability coverage for liabilities incurred by State to employees involved under any applicable employee liability regime, including without limitation, the Federal Employer’s Liability Act.

c) State shall furnish CSXT’s insurance department, 500 Water Street, C-907, Jacksonville, FL 32202, a certified copy of the liability insurance policy for CSXT’s approval, which approval will not be unreasonably withheld. The
policy shall be endorsed to provide for not less than sixty (60) days' notice to CSXT prior to termination of or change in the coverage.

d) In the event that any operating practice of CSXT jeopardizes the obtaining and maintaining of the insurance policies required of State hereunder, then, upon reasonable request and notice from State (which notice shall include all communications with respect to the offending operating practice between State and its insurance carrier), CSXT shall modify the offending operating practice in a manner sufficient to obtain or maintain such insurance, provided that in no event shall CSXT be required to adopt a practice that is not consistent with generally accepted operating practices in the railroad industry. As used herein, the term “operating practice” shall exclude any practice that would require CSXT to modify any facilities and/or equipment, unless the cost and expense of such modifications to facilities and/or equipment are borne and paid entirely by State.

e) The amount of insurance required of State under this Section 21 shall be adjusted from time to time during the term of this Agreement to reflect the effects of inflation and such other matters as may be mutually agreed upon by the parties hereto. The parties hereto recognize that the amount of insurance required of State herein reflects the risks attendant with Commuter Rail Service and such amount shall be adjusted by mutual agreement of the parties during any period during the term of this Agreement that such Commuter Rail Service may be suspended or cancelled. The parties hereto also recognize that the amount of insurance required herein of State reflects the risks attendant with the limited waiver of sovereign immunity under the aforesaid Florida Statutes in effect as of the date of this
Agreement and that should such limited waiver be changed, then such amount of insurance shall be adjusted by mutual agreement of the parties hereto consistent with the risks of Commuter Rail Service at the time of such change.

f) As of the date hereof, CSXT maintains system-wide insurance (which covers, inter alia, its Rail Freight Service on the State Property) with a limit in excess of Two Hundred Million and No/100 Dollars ($200,000,000.00) and deductibility or self-assumed amounts of Twenty-five Million and No/100 Dollars ($25,000,000.00). It is understood by the parties hereto that from time to time during the term of this Agreement CSXT may, at its option, change the limits, coverage and deductibility or self-assumed amounts of its aforesaid insurance. In the event that CSXT assigns this Agreement pursuant to the provisions of Section 37 hereof to any person, firm, partnership or corporation that is not affiliated with CSXT, then: first, the amount of insurance required of State under Subsections (a) and (b) hereof may, at State’s option, be reduced to a limit of Ten Million and No/100 Dollars ($10,000,000.00), and, second, as a condition to the conduct of operations by such person, firm, partnership or corporation on the State Property, State may, at its option, require such entity to maintain during the remainder of the term of this Agreement insurance having a limit of Ten Million and No/100 Dollars ($10,000,000.00) combined single limit for personal injury and property damage per occurrence, with deductibles or self-assumed amounts not in excess of One Million and No/100 Dollars ($1,000,000.00). To the extent and in the event mutually agreeable to State and such other entity, the aforesaid limits and/or amounts of insurance required of State and such other entity may be changed from time to time during the term of this
Agreement

SECTION 22. FORCE MAJEURE

Whenever a period of time is provided in this Agreement for either party to do or perform any act or thing, said party shall not be liable or responsible for any delays due to strike, embargo, derailment, lockout, casualty, fire, flood, weather condition, earthquake, act of God, war, terrorism or threatened acts of terrorism, court order, work stoppage, nuclear incident, riot, civil disturbance, public disorder, criminal act of other entities, governmental regulation or control, governmental or judicial restraint or other such causes beyond the reasonable control of said party (collectively, "Force Majeure"); and in any such event of Force Majeure, said time period shall be extended for the amount of time said party is so delayed, provided that this Section 22 shall not be construed to affect the responsibilities of said party hereunder to do or perform such act or thing once such event of Force Majeure has been removed.

SECTION 23. EXTENSION, WAIVER AND AMENDMENT

a) This Agreement may be amended or modified at any time and in any and all respects only by an instrument in writing executed by both of the parties hereto.

b) In each instance in which either State or CSXT is entitled to any benefit hereunder, State or CSXT, as the case may be, may: (i) extend the time for the performance of any of the obligations or other acts of the other party hereto; (ii) waive, in whole or in part, any inaccuracy in or breach of the representations, warranties and covenants of the other party hereto contained herein; and (iii) waive, in whole or in part, compliance with any of the terms and conditions of this Agreement by the other party hereto. Any agreement on the part of either State or
CSXT to any such extension or waiver shall be valid only if set forth in an instrument in writing signed and delivered on behalf of such party.

SECTION 24. NOTICES

(a) Any and all notices or other communications hereunder shall be in writing and shall be deemed given if delivered personally or through the United States Postal Service, certified mail postage prepaid, or received by facsimile telephone transmission or other electronic transmission (provided that an original of the electronically transmitted document is delivered within five (5) days after the document was electronically transmitted) upon the date so delivered to or received by the person to which it is addressed at the following addresses:

If to CSXT, to:

President
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

with a copy to:

Peter J. Shudtz
CSX Corporation
Suite 560, National Place
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

If to State:

Secretary of Transportation
Florida Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, FL 32399-0450

with copy to:

State Public Transportation andModal Administrator
Florida Department of Transportation
Haydon Burns Building
605 Suwannee Street
Tallahassee, FL 32399-0450
b) Either party to this Agreement may provide changes to its address or addressees by furnishing a notice of such change to the other party to the Agreement, in the same manner as provided above for all other notices.

SECTION 25. GOVERNING LAW

It is the intention of the parties hereto that the laws of the State of Florida shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto. Venue for any legal proceedings under this Agreement shall be in Leon County, Florida.

SECTION 26. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

SECTION 27. INTERPRETATION

State and CSXT acknowledge that the language used in this Agreement is language developed and chosen by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other genders whether used in the masculine or feminine or neuter gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein", "hereof", "hereby", "hereunder" and "hereinafter" refer to this Agreement as a whole and not to the particular sentence, paragraph or section where they appear, unless the context otherwise requires. All words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition of such words, terms and phrases in the railroad industry,
provided that in the event of any inconsistency between such definition and any definition set forth in Appendix A hereto, the latter shall govern. Whenever reference is made to a Section of this Agreement, such reference is to the Section as a whole, including all of the subsections and subparagraphs of such Section, unless the reference is expressly made to a particular subsection or subparagraph of such Section.

SECTION 28. EXHIBITS

All exhibits attached hereto are hereby incorporated by reference into, and made a part of, this Agreement.

SECTION 29. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof, and supersedes all other prior agreements and understandings, both written and oral, between the parties hereto with respect to the subject matter hereof, including, without limitation, that certain Non-binding Term Sheet dated as of August 2, 2006.

SECTION 30. WAIVER

Neither the failure to exercise nor any delay in exercising on the part of either party hereto any exception, reservation, right, privilege, license, remedy or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any exception, reservation, right, privilege, license, remedy or power under this Agreement preclude any other or further exercise of the same or of any other exception, reservation, right, privilege, license, remedy or power, nor shall any waiver of any exception, reservation, right, privilege, license, remedy or power with respect to any occurrence be construed as a waiver of such exception, reservation, right, privilege, license, remedy or power with respect to any other occurrence.
SECTION 31. EXPENSES

Except to the extent otherwise expressly provided in this Agreement, any and all expenses incurred by either party hereto in connection with this Agreement and the transactions contemplated hereby shall be borne by the party incurring such expenses.

SECTION 32. FURTHER ASSURANCES

Both parties hereto shall exert their reasonable best efforts to fulfill all conditions and obligations of such party under this Agreement.

SECTION 33. TIME OF THE ESSENCE

It is understood and agreed by the parties hereto that the prompt and timely performance of all obligations, responsibilities and conditions under this Agreement is of the essence of this Agreement.

SECTION 34. PERFORMANCE OF AGREEMENT

Except as is otherwise expressly provided in this Agreement, where any service required or permitted of either party to this Agreement, the performance of such service may be delegated to such agent, contractor or employee as either such party may designate; provided, however, that nothing contained herein shall be construed as creating or diminishing any right in State or CSXT or to cause a transfer, release or discharge of any or all of State's or CSXT's obligations under this Agreement. State understands that a substantial portion of CSXT's employees are covered by collective bargaining agreements that govern the terms and conditions of their employment with CSXT, including, without limitation, rates of pay and scope of work.

SECTION 35. PROHIBITION OF THIRD PARTY BENEFICIARIES

Nothing herein expressed or implied is intended to or shall be construed to confer upon or to give any person, firm, partnership, corporation or governmental entity other than the parties
hereto and their respective legal representatives, successors or assigns any right or benefit under or by reason of this Agreement; provided, however that nothing contained in the foregoing provision shall be construed to limit or restrict the enjoyment and use of the rights contained in Sections 7 and 8 of this Agreement and the Exhibits hereto or any other party’s(ies’) enjoyment and use of any and all of the rights that may be granted or conferred to such other party(ies) by contract(s), agreement(s), lease(s) license(s) or easement(s) entered into between State or CSXT and such other party(ies) pursuant to Sections 7 and 8 hereof and the Exhibits hereto.

SECTION 36. TERM

(a) This Agreement shall become effective on the Commencement Date, and shall continue in effect until such time as CSXT, its successors or assigns, secures and exercises appropriate regulatory authority to abandon and/or discontinue all Rail Freight Service on the State Property, or in the event that such authority is not required, until such time as CSXT, its successors or assigns, gives six (6) months’ prior written notice of termination of this Agreement. It is understood by the parties hereto that this Agreement may be terminated, in part, upon the securing of the aforesaid authority or the giving of the aforesaid notice, as the case may be, as it pertains to a portion of the State Property.

(b) Termination of this Agreement, in whole or in part, shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof. The foregoing provision shall apply whether or not it is so expressly stated elsewhere in this Agreement where a right of termination, in whole or in part, is expressly accorded either or both of the parties hereto.

SECTION 37. SUCCESSORS AND ASSIGNS
(a) This Agreement and all of its terms, conditions, covenants, rights and obligations herein contained shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, subject to the following: at any time during the term of this Agreement: (i) State shall not convey any interest in the State Property underlying the CSXT Easement to any person, firm, partnership, corporation or governmental entity unless State has first complied with Section 38 of this Agreement and, (ii) as a condition to such conveyance, this Agreement is assigned to the party acquiring such property to the extent of the conveyance so involved. CSXT shall not transfer the CSXT Easement, in whole or in part, to any person, firm, partnership, corporation or governmental entity unless CSXT shall have first obtained the prior written consent of State (which consent shall not be unreasonably withheld, conditioned or delayed) and as a condition to such transfer, this Agreement is assigned to the party acquiring such Easement to the extent of the transfer so involved.

(b) The provisions of this Agreement pertaining to State’s prior consent to a transfer of the CSXT Easement shall not apply to any assignment by CSXT of this Agreement, in whole or in part, or any of CSXT’s rights, interests or obligations hereunder to any person, firm, partnership or corporation now or hereafter affiliated with CSXT; provided, however, that CSXT unconditionally guarantees to State the performance of all obligations of CSXT under this Agreement by any such affiliate. The provisions of this Agreement pertaining to CSXT’s right of first refusal shall not apply to any assignment by State of this Agreement, in whole or in part, or any of State’s rights, interests or obligations hereunder to any other agency of State or local governmental agency in the State of Florida; provided, however, that such agency, its successors and assigns, shall take such assignment subject to the aforesaid provisions pertaining to CSXT’s right of first refusal to the extent applicable at the time of such assignment; and, provided,
further, that State unconditionally guarantees to CSXT the performance of all obligations of State under this Agreement by any such agency or any other assignee hereunder.

(c) Except as is otherwise provided in Subsection (d) hereof, any assignment of this Agreement, in whole or in part, by CSXT, its successors or assigns, shall forever release and discharge CSXT: (i) from the performance of its obligations and covenants under this Agreement, or with respect to the part hereof so assigned, as the case may be, from and after the date of such assignment, and (ii) from any liability, cost and expense arising out of or connected with this Agreement, or with respect to the part thereof so assigned, as the case may be, from and after the date of such assignment; provided, however, that any such assignment shall be made in strict accordance with and subject to the provisions set forth in this Section 37 relating to the assignment of this Agreement, including, without limitation, the provisions governing the State’s right to consent to such assignment, provided such consent may not be unreasonably withheld, conditioned or delayed.

(d) Assignment of this Agreement, in whole or in part, shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been incurred by such party under the terms of this Agreement prior to the assignment hereof. The foregoing provision shall apply whether or not it is so expressly stated elsewhere in this Agreement where a right of assignment, in whole or in part, is expressly accorded either or both parties.

SECTION 38. CSXT’S RIGHT OF FIRST REFUSAL

(a) If at any time or from time to time during the term of this Agreement, State receives from a ready, willing and able purchaser a bona fide written offer acceptable to State for the acquisition of State’s rights, interests and obligations in the State Property underlying the
CSXT Easement and this Agreement, in whole or in part, then State shall formally notify CSXT of such offer and provide CSXT with a true copy of such offer. (If State believes negotiations with a prospective offeror may lead to State’s receipt of a bona fide offer for the aforesaid acquisition, then State shall advise CSXT to that effect prior to State’s giving CSXT the aforesaid formal notification.) As a consequence of State’s acceptance of such offer, CSXT shall have a right of first refusal to acquire State’s rights, interests and obligations in the property underlying the CSXT Easement and this Agreement, upon the same terms and conditions, including, without limitation, compensation, set forth in the aforesaid bona fide offer acceptable to State. (In the event that the aforesaid offer’s terms and conditions include an exchange of property in lieu of cash, then a cash equivalent acceptable to the offeror and State shall also be set forth in said bona fide offer.) CSXT shall exercise its aforesaid right of first refusal herein granted by giving written notice thereof to State within forty-five (45) days of State’s aforesaid formal notice to CSXT. CSXT’s aforesaid right of first refusal shall be subject to any preferent right(s) for the acquisition of State’s rights, interests and obligations in the State Property underlying the CSXT Easement and this Agreement that may exist from time to time during the term of this Agreement under any and all federal, state or local law(s).

(b) In the event that CSXT declines or fails, for any reason, to exercise its aforesaid right of first refusal, or in the event that CSXT exercises said right but is unable, for any reason, to consummate the acquisition and/or assignment in accordance with the terms and conditions of the bona fide offer, then CSXT’s aforesaid right of first refusal as it pertains to such offer shall automatically terminate and be of no further force and effect.

(c) CSXT’s aforesaid right of first refusal shall not apply to any transfer or assignment of State’s rights, interests and obligations in the State Property underlying the CSXT
Easement and this Agreement, in whole or in part, to any other agency of the State of Florida or local governmental agency in the State of Florida; provided, however, that such agency, its successors and assigns, shall take such transfer or assignment subject to the aforesaid provisions pertaining to CSXT’s right of first refusal to the extent applicable at the time of such transfer or assignment; and, provided, further, that State unconditionally guarantees to CSXT the performance of all obligations of State under this Agreement by any such agency.

(d) The rights, interests and obligations of State and CSXT under this Section 38 shall be in addition to their respective rights, interests and obligations under Section 11 hereof.

(Signature page follows)
IN WITNESS WHEREOF, CSX TRANSPORTATION, INC. and STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, pursuant to due corporate and statutory authority, have caused their names to be signed hereto by officer(s) or official(s) hereunto duly authorized, and the seal of each, duly attested, to be hereunto affixed.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

__________________________________________

__________________________________________

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

__________________________________________

__________________________________________

THE AFOREMENTIONED CONTRACT HAS BEEN REVIEWED AND APPROVED AS TO FORM

__________________________________________

__________________________________________

CSX TRANSPORTATION, INC.

By: ________________________________

Attest: ______________________________

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By: ________________________________

Attest: ______________________________

Funds are approved and available

__________________________________________
APPENDIX A

DEFINITIONS

The following terms and phrases shall be defined as follows for the purposes of this Agreement:

a) "Amtrak" shall mean the National Railroad Passenger Corporation, its successors and assigns.

b) "Amtrak Agreement" shall mean that certain agreement dated June 1, 1999 as supplemented, between CSXT and Amtrak.

c) "Ancillary Agreements" shall have the meaning given to it in the Contract.

d) "Commuter Rail Service" shall mean the transportation of commuters and other passengers by rail provided by State or its assignee or designee.

e) "Commencement Date" shall be that date upon which all of the conditions in this Agreement have been satisfied, or waived by the party entitled to performance thereof, and each of the parties, in their sole and absolute discretion, mutually agree that State is prepared to assume, and CSXT is prepared to turn over, their respective obligations under and in accordance with this Agreement in a manner that will allow the safe, economical and efficient continuation of Railroad Operations without interruption or termination thereof. The parties shall cooperate to accomplish the development of the operating rules and other practices applicable to the Subject Property.

f) "Contract" shall mean that certain Contract For Sale and Purchase dated as of [___________], 2007, by and between State and CSXT.

g) "CSXT Easement" shall mean the perpetual easement retained by
CSXT over the properties acquired by the State (as set forth in the Deed dated as of __________) limited to reserving to CSXT the exclusive right to provide Freight Service on the State Property.

h) "CSXT Property" shall mean all of the rights-of-way and associated property, and all of the tracks, rails, ties, switches, crossings, bridges, trestles, culverts, buildings, structures, facilities, signals, crossing protection devices, communication lines, poles, radio masts and all other improvements or fixtures located on such rights-of-way and property that connect with the State Property and are owned, controlled or used by CSXT, being properties contiguous to the State Property that were not acquired by State under the Contract.

i) "EOT Unit" shall mean a caboose or other non-revenue rail car in a freight train for the use of the train’s crew during certain switching operations.

j) "Deed" shall have the meaning given to it in the Contract.

k) "Employees" shall include, in addition to those regular or part-time persons in the employ of either party hereto, the independent contractors or agents used by a party hereto to perform services contemplated by this Agreement relating to the State Property and the invitees of such party.

l) "FCEN" shall mean the Florida Central Railroad Company, its successors and assigns, which operates over a portion of the State Property pursuant to certain agreements between CSXT and FCEN.

m) "Force Majeure" shall have the meaning given to it in Section 22 of this Agreement.

n) "Intercity Rail Passenger Service" shall mean the transportation of
intercity passengers by rail provided by Amtrak on the State Property.

o) "Rail Commuter Passenger(s)" shall have the meaning given to it in Section 19(a) of this Agreement.

p) "Rail Freight Service" shall mean the transportation by rail of property and movable articles of every kind, character and description over the State Property, including but not limited to rail freight transportation service to current and future industries, customers and facilities located along the State Property, and supporting activities, over the Subject Property pursuant to the CSXT Easement and this Agreement, but excluding detour movements of other railroads permitted by State pursuant to Section 3(m) hereof.

q) "Railroad Operations" shall have the meaning given to it in Section 1(a) of this Agreement.

r) "Sidetracks" shall mean tracks on the State Property for which State shall have no financial obligation and used exclusively by CSXT to provide Rail Freight Service to industries, customers and facilities located along the State Property.

s) "State Property" shall mean all of the rights-of-way and associated property and all of the tracks, rails, ties, switches, crossings, bridges, trestles, culverts, buildings, structures, facilities, signals, crossing protection devices, communication lines, poles, radio masts and all other improvements or fixtures thereto, being all of the properties that State acquired under the Contract (all as described in Exhibit 1 to the Contract).

t) "STB" shall mean the federal Surface Transportation Board.
EXHIBITS

Exhibit 1 CFCRT FREIGHT SERVICE PLAN (REVISION 5)
CFCRT Freight Service Plan (Revision 5)  October, 2006

The following Freight Operations Service Plan was developed jointly by FDOT and CSXT up to revision 4 and reflects the implementation of the CFCRT corridor capital upgrades to the A - Line for commuter rail service and the relocation of through freights to the upgraded S - Line.

Revision 5 reflects the additional following mutually agreed to changes and modifies the plan with the relocation of the K928/K929 Fly Ash trains to the S- Line, the deletion of a proposed local A800 for deliveries to Harwood Brick and the termination of the Q455/Q455 train from Barberville at Rand Yard rather than Taft Yard and the introduction of new local train transfer runs replacing truncated Q455/6 south of Rand Yard to move cars between Rand and Taft yards.

Section 1: Local/Switcher Operating Plan

- Typical Train Make-up -- 1 Switcher Locomotive (1500/3000 HP) and 10 - 15 cars
  60 tons/60 feet per car (600/900 ton train of 600/900 feet length)

A766 - Two operating patterns, pattern 1 reflects operation on Mon, Wed and Fri and pattern 2 reflects operation on Tue and Thu

A766 – Pattern 1 – Mon, Wed and Fri

- On duty at 7 AM at Rand
- Two hours and 20 minutes at Rand for switching and to make up its trains
- Southbound shove move - depart Rand at 9:20 AM from Blvd Track and using crossovers at 765.7 - 765.9 run on main track to MP 767.7.
- Train occupies the main for one hour at MP 767.7 to switch Sunlight Foods (Sunlight Foods switch is at 767.4).
- Northbound pull move - depart from MP 767.7 and go to DeLand Spur.
- Work industries on DeLand spur for 3 hours (clear off the main) and R/A the train for southbound move.
- Southbound pull move on the main from Deland spur connection to Blvd Track Rand yard.
- Switch Transflo for 1 hour
- End of duty.

A766 – Pattern 2 – Tue and Thu

- On duty at 7 AM at Rand
• Two hours and 20 minutes at Rand for switching and to make up its trains
• Southbound shove move on the main - depart Rand at 9:20 AM from Blvd Track and using crossovers at 765.7 – 765.9 run on main track to MP 767.7. Train occupies the main for one hour at MP 767.7 to switch Sunlight Foods (Sunlight Foods switch is at 767.4).
• Northbound pull move - depart from MP 767.7 and go to Blvd Track
• Pull down into yard, run-around train, pull southward from Boulevard Track to main track (HT XO) and pull into Aloma Spur.
• Stay on Aloma Spur switching industries for 2 hrs 30 minutes clear of main.
• Northbound pull move from Aloma spur (after being away for 2:30 hours) to clear north switch at Sanford approx MP 763.5 and stop
• Southbound shove move from MP 763.5 to Blvd track into Rand Yard.
• Switch Transflo for 1 hour.

A775- Two operating patterns, pattern 1 Mon, Wed and Fri and pattern 2 Tue and Thu

A775 – Pattern 1 – Mon, Wed and Fri

• On duty at 7 PM at Taft – Manifest yard
• One and a half hours at Taft for switching and to make up its trains
• Northbound pull move from Taft to MP 795.5 - depart Taft at – 8:30 PM from manifest yard.
• Train occupies the main for one hour at MP 795.5 to switch Inland Container (Inland Container switch is at MP 795.4).
• Northbound pull move - depart from MP 795.5 and go to MP 793.5 and stop south of switch to Boise Cascade 1 & 2
• Train occupies the main for one hour at MP 793.5 to switch Boise Cascade 1 & 2 (Boise Cascade 1 & 2 switch is at 793.4/793.6)
• Northbound pull move from MP 793.5 to MP 792.6 to work Southern Warehouse North
• Train occupies the main for one hour at MP 792.6 to switch Southern Warehouse North (Southern Warehouse North switch is at MP 792.5)
• Northbound pull move from MP 792.6 over crossover at MP 792.4 from main to service track and stop after clearing switch.
• Southbound shove move on service track into Pine Loch yard
• Work Southern Warehouse West for one hour and then pull into Kaley Yard.
• Work Great Western Meat in (Yard Track #4) in Kaley Yard for one hour and leave train at Kaley
• Southbound pull move with industry cars over the crossover at MP 792.4 to MP 792.8
• Train occupies the main for one hour at MP 792.8 to switch Southern Warehouse South (Southern Warehouse south switch is at MP 793.0)
• Northbound shove move over the crossover into Kaley Yard. In Kaley for 45 minutes.
• Return Southbound pull move from Kaley to Taft manifest yard.
Deleted Harwood Brick Train A800

A775 – Pattern 2 – Tue and Thu

- On duty at 7 PM at Taft – Manifest yard
- One and a half hours at Taft for switching and to make up its trains
- Northbound pull move from Taft to MP 793.5 - depart Taft at 8:30 PM from manifest yard.
- Train occupies the main for one hour at MP 793.5 to switch Boise Cascade 1 & 2 (Boise Cascade 1 & 2 switch is at 793.4/793.6)
- Southbound pull move from MP 793.5 to MP 792.6 to work Southern Warehouse North
- Train occupies the main for one hour at MP 792.6 to switch Southern Warehouse North (Southern Warehouse North switch is at MP 792.5)
- Northbound pull move from MP 792.6 over crossover at MP 792.4 from main to service track and stop after clearing switch.
- Southbound shove move on service track into Pine Loch yard
- Work Southern Warehouse west for one hour and then pull into Kaley Yard.
- Train/swatcher is in Kaley Yard for 3 to 4 hours to work Great Western Meat (one hour), Commercial Iron (1 hour) and CKS Packaging (1 hour).
- About 45 minutes to assemble train and then pull from Kaley and return to Taft with train

A779 - Two operating patterns, Pattern 1 reflects operation on Mon, Wed and Fri and Pattern 2 reflects operation on Tue and Thu

A779 – Pattern 1 – Mon, Wed and Fri

- On duty at 10 AM at Taft Yard
- One hour at Taft for switching and to make up its train
- Southbound pull move - depart Taft at 11 AM from manifest yard (yard south lead switch is at MP 797.2/792.3) to MP 798.2
- Northbound push move over crossover at approx MP 797.8 from trk # 2 to trk # 1 and then to the TOFC yard. This transfer move from manifest to TOFC yard, located on the opposite side of the main, takes about 30 minutes.
- Switcher works – 8/9 hours in TOFC yard.
- The reverse transfer move from TOFC to manifest yard occurs at 20:00 hours and also takes about 30 minutes.

A779 – Pattern 2 – Tue and Thu

- On duty at – 10 AM at Taft Yard
- Two and half hours at Taft for switching and to make up its trains
CSXT A-Line Capacity Analysis for Commuter Service

- Southbound pull move - depart Taft at 12:30 hrs from manifest yard (yard lead south switch at MP 797.2/792.3) to MP 806.6 trk # 2.
- Train occupies the # 2 main for one hour at MP 806.6 to switch Team Track (Team Track switch is at 806.6).
- Southbound pull move on # 2 main - depart from MP 806.6 and go off the main at MP 813.8 to Poinciana Industrial Track spur.
- Work industry on Poinciana Industrial Track spur for 6 hours (clear off the main) and R/A the train for northbound move,
- Northbound pull move from MP 813.8, trk #2 to MP 805.0, trk #1 to work at 84 Lumber.
- Train occupies the # 1main for one hour at MP 805.0 to switch 84 Lumber (84 Lumber switch is at 805.0).
- Northbound pull move on the main from MP 805.0, trk #1 to Taft yard.

A784 - Mon, Tue and Wed

- On duty at 8 PM (20:00 hrs) at Taft Yard
  One hour at Taft for switching and to make up its train
- Southbound pull move - depart Taft at 21:00 hrs from manifest yard (yard south lead switch is at MP 797.2/792.3) to MP 798.2
- Northbound push move over crossover at approx MP 797.8 from trk # 2 to trk # 1 and then to the TOFC yard. This transfer move from manifest to TOFC yard, located on the opposite side of the main, takes about 30 minutes.
- Switcher works 7 / 8 hours in TOFC yard.
- The reverse transfer move from TOFC to manifest yard occurs at 05:00 hours and also takes about 30 minutes.

A786 - Mon, Tue, Wed, Thu and Fri

- On duty at 11 PM (23:00 hrs) at Taft Yard
- One hour at Taft for switching and to make up its train
- Southbound/westbound pull move - depart Taft at 24:00 hrs from manifest yard from yard track to Sexton Branch (does not require use of the main).
- Stays on Sexton Spur about 4 hours
- Do SO/PU at yard, one hour.
- Southbound pull move from Taft yard MP 797.3 to MP 799.2 on main track #1 to go to Regency Park spur
- Work industry on the Regency Park spur for 4:00 hours and return to Taft yard
- Northbound move on main track #1 from MP 799.2 to Taft yard at around 09:00 hours.
- Works in yard 45 minutes before going off duty
A798 – Tue and Fri

- On duty at 22:00 at Taft Yard. Works main track locations AM Wednesday and Saturday
- Two hours at Taft for switching and to make up its train
- Southbound/westbound shove move - depart Taft at 00:::00 hrs from manifest yard to MP 797.5 to switch Amerigas.
- Train occupies the # 1 main for one hour at MP 797.5 to switch Amerigas (Amerigas switch is at 797.5 off trk # 1).
- Northbound move from MP 797.5, trk # 1 to MP 796.2 trk # 2 to work Constar
- Switcher currently works off the service track that will become number 2 main. Train occupies the # 2 main for a total period of 3 hours, one hour at MP 796.2 to switch Constar, one hour to switch Chemical Central and one hour to switch Howard Fertilizer.
- Must run-around train using mains to work Constar
- To cross back into the manifest yard - northbound move to the single track section to clear the switch at MP 796.0 and shove move into the manifest yard at the north end.

A776 and A 777 are Taft yard switchers.. and do not occupy the main.

NEW TRANSFER RUNS REPLACING TRUNCATED Q455/6 SOUTH OF RAND YARD

A455a - Mon, Tue, Wed, Thu, and Fri
Loco HP Cars ft tons
1 4000 45 2250 3600

Train Starts in Rand Yard, off the main, at 11:30, builds train and performs brake test.

Train departs Rand Yard at 13:00 +/- 15 minutes and proceeds southbound to Taft Yard.

Train occupies #1 Main Track at Taft for 30 minutes to put the train in short yard tracks.

A455b – Mon, Tue, Wed, Thu, and Fri
Loco HP Cars ft tons
1 4000 45 2250 3600

Train starts at Rand Yard, off the main, at 01:30 AM, builds train and performs brake test for 01:30 hours

Train departs Rand Yard between 03:00 AM and 03:30 AM and proceeds southbound to Taft Yard.
Train occupies #1 Main Track at Taft for 30 minutes to put the train in short yard tracks.

A456a – Mon, Tue, Wed, Thu, and Fri  
Loco  HP  Cars  ft  tons  
1  4000  45  2250  3600  
  
Train starts between Midnight and 00:30 AM  
  
Train occupies Main Track #1 at Taft to build the train and perform brake test for 01:30 hours before departing for Rand Yard before 02:00 AM.  
  
Train arrives at Rand Yard by 03:00 AM, leaves Main, and terminates.

A456b – Mon, Tue, Wed, Thu, and Fri  
Loco  HP  Cars  ft  tons  
1  4000  45  2250  3600  
  
Train starts between 02:00 AM and 02:30 AM.  
  
Train occupies Main Track #1 at Taft to build the train and brake test for 01:30 hours before departing by 04:00 AM. for Rand Yard.  
  
Train arrives at Rand Yard by 05:00 AM, leaves Main, and terminates.

O682 – Mon, Tue, Wed, Thu and Fri  
• On duty at 7 PM at Tampa. Transfer move between Tampa and Taft.  
• Local enters simulation at Davenport at 11:45 PM  
• Northbound pull move from Davenport to Taft manifest yard.  
• Works Taft yard to SO/PU for 2 hours  
• Southbound pull move from Taft to Davenport after working for 2 hours at Taft

Z915 FCEN – Mon, Tue, Wed, Thu and Fri  
• Local enters simulation at MP 790 at 21:00 hours at FCEN connection off track #1 at MP 790.0 (Robinson Street)  
• Southbound pull move from MP 790.0 to Taft manifest yard.  
• Works Taft yard to SO/PU for 2 hours  
• Northbound return move from Taft manifest yard to MP 790.0. Leaves Taft around 23:30 and is clear of the main track by about 24:00 hours.

January 12, 2006  
Attachment 2 - Page 6
Section 2: Rock/Fly Ash Trains Operating Plan

Rock Trains

- Typical Train Make-up -- HP/ton ratio 0.8 - 1.0 loads and 1.5 - 2.0 to hp/ton for empty 70 cars per train 115 tons/55 feet per car (8450 ton train of 4000 feet length)

K791/K792 – 4/4 trips per week

K791 (Load) – Mon, Tue, Wed and Thu

Train enters simulation at Barberville MP 738.7 at 22:00 hrs
- Southbound pull move from MP 738.7 to Benson Junction, 761.2
- Train occupies the # 2 main during the switching operation (about 1 hr). Cut 35 cars pull 35 cars south for tail end to clear switch for shove move into the Conrad Yelvington
- Locomotive return, hook up, brake test etc. for the southbound move. Southbound pull move with remaining 35 cars to Kaley Yard.
- Train occupies the # 1 main during the switching operation (about 1 hr) and shove move into Conrad Yellington.

K792 (Empty) – Tue, Wed, Thu and Fri

- Train enters simulation at Kaley Yard MP 791.2 at 13 hrs on Tue and Thu and 22 hrs departure on Wed and Fri
- Train occupies the # 1 main during the switching operation (about 30 mins) and for locos to run around the train for the pull move.
- Northbound pull move from Kaley yard, MP 791.2 to Benson Junction, MP 760.5, track # 2
- Locomotives P/U 35 empty cars from Conrad Yelvington Train occupies the # 2 during the switching operation (about 1 hour).
- Locomotive return with cut of cars, hook up, brake test etc, for the northbound move.
- Northbound pull move from Benson Junction, MP 760.5, track #2 to Barberville.

K940/K941 – 3/2 trips per week

K940 (Load) – Mon, Wed and Fri

- Train enters simulation at Davenport MP 825 at -10AM
- Northbound pull move from MP 825 to TaftYard, 796.5.
• Train is in the yard during the switching operation (about one hour). Leave a cut of 35 cars in the yard.
• Hold train in the yard till 13:00 for northbound pull. Northbound pull move with remaining 35 cars to Sanford Yard.

K941 (Empty) – Tue and Thu

On duty at 22 hrs at Rand Yard and dwell of hour
• Train departs Rand Yard, MP 765 at 23 hrs
• Southbound pull move from Rand Yard to Taft Yard, MP 760.5,
• Locomotives P/U 35 empty cars from Taft Yard. Train is in the yard during the switching operation (about 1 hour).
• Locomotive return with cut of cars, hook up, brake test etc, for the southbound move.
• Southbound pull move from Taft Yard to Davenport.

K948/K947 – Florida Rock 3/3 trips per week

K948 (Load) – Mon, Wed and Fri

Train enters simulation at Davenport MP 825 at 9AM
• Northbound pull move from MP 825 to Taft Yard, MP 796.5.
• Train enters the yard from the south end and pulls up to the north end.
• Shove move from the yard track to the Sexton Branch.

K947 (Empty) – Mon, Tue and Thu

• On duty at 21:00 hrs at Taft Yard
• Two hours to pull empties from Sexton Brach - using the yard track, R/A train in the Taft yard for southbound move.
• Southbound pull move/Departure at 23:00 hrs from Taft Yard to Davenport.

Fly Ash

K928/K929 – Fly Ash Moved to S - Line
Section 3: Freight Trains Operating Plan

Intermodal
Q177 - Intermodal - train shifted to S-Line
Q178 - Intermodal - train shifted to S-Line

Manifest
Q455 - Manifest - Barberville to Rand Yard. Arrival time at Barberville

<table>
<thead>
<tr>
<th>Mon</th>
<th>Tue</th>
<th>Wed</th>
<th>Thu</th>
<th>Fri</th>
<th>Loco HP</th>
<th>Cars ft</th>
<th>tons</th>
</tr>
</thead>
<tbody>
<tr>
<td>14:02</td>
<td>12:32</td>
<td>13:02</td>
<td>10:00</td>
<td>10:30</td>
<td>2</td>
<td>8000</td>
<td>90</td>
</tr>
</tbody>
</table>

Train leaves the main at Rand Yard and terminates.

Q456 - Manifest - Rand Yard to Barberville. Train start time at Rand.

<table>
<thead>
<tr>
<th>Mon</th>
<th>Tue</th>
<th>Wed</th>
<th>Thu</th>
<th>Fri</th>
<th>Loco HP</th>
<th>Cars ft</th>
<th>tons</th>
</tr>
</thead>
<tbody>
<tr>
<td>04:24</td>
<td>03:39</td>
<td>03:54</td>
<td>04:09</td>
<td>03:24</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Train Builds at Rand Yard for 01:30 hours
Train depart time from Rand:

<table>
<thead>
<tr>
<th>Mon</th>
<th>Tue</th>
<th>Wed</th>
<th>Thu</th>
<th>Fri</th>
<th>Loco HP</th>
<th>Cars ft</th>
<th>tons</th>
</tr>
</thead>
<tbody>
<tr>
<td>05:54</td>
<td>05:09</td>
<td>05:24</td>
<td>05:39</td>
<td>04:54</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Coal
N170- Load Coal – Shows up at 02:00 AM with +/- 2 hrs variability at Davenport for Stanton Connection.
N171- Empty Coal – Return move from the power plant after 9 hrs with +/- 1 hr variability.

<table>
<thead>
<tr>
<th></th>
<th>Loco</th>
<th>HP</th>
<th>Cars</th>
<th>ft</th>
<th>tons</th>
</tr>
</thead>
<tbody>
<tr>
<td>N170- Load Coal</td>
<td>2</td>
<td>8800</td>
<td>95</td>
<td>5200</td>
<td>13200</td>
</tr>
<tr>
<td>N171- Empty Coal</td>
<td>1</td>
<td>4400</td>
<td>95</td>
<td>5200</td>
<td>2500</td>
</tr>
</tbody>
</table>

Revisions on December 2, December 6, December 9, and December 14, 2005

January 12, 2006
Attachment 2 - Page 9
EXISTING (2005)  FUTURE (CFCRT BUILD)

DeLand
Saxon
St. Johns River
Rand Yard, Sanford
Longwood
Kaley Yard
Orlando Amtrak Station
Taft Yard, Orlando TOFC
Orange Avenue
Kissimmee
Poinciana Blvd.
Davenport

Volusia County
Seminole County
10.0 Through 1.2 Locals/Switchers

Seminole County
Orange County
10.4 Through 4.0 Locals/Switchers
2.6 Through 6.0 Locals/Switchers

Orange County
Osceola County
10.0 Through 9.6 Locals/Switchers
3.0 Through 2.8 Locals/Switchers

CSXT "A" LINE
Daily Weekday Through & Local/Switcher Freight
By Location and Time of Day
Existing (2005) vs. Future (CFCRT Build)

Graphic Scale
1 Train
2 Trains
4 Trains
8 Trains
16 Trains

Through Freight, Midnight-5 AM
Through Freight, 1 PM - 3 PM
Through Freight, 9 AM - 1 PM, 10 PM - 12 AM
Locals/Switchers, Midnight-5AM
Locals/Switchers, 1 PM - 3 PM
Locals/Switchers, All Other Times
APPENDIX F

NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

Central Florida Operating and Management Agreement [FDOT DRAFT 060407 mark-up of CSXT Draft as of February 28, 2007]

SECTION 19. LIABILITY

(a) Notwithstanding any other provision of this Agreement to the contrary, the following words and terms shall have the following meanings for purposes of this Section 19.

(i) The term “Rail Commuter Passenger(s)” shall mean and include any and all persons, ticketed or unticketed, using Commuter Rail Service on the State Property: first, while on board trains, locomotives, rail cars or rail equipment employed in Commuter Rail Service and/or entraining and detraining therefrom; and, second, while on or about the State Property for any purpose related to the Commuter Rail Service, including, without limitation, parking, inquiring about Commuter Rail Service or purchasing tickets therefor and coming to, waiting for, leaving from and/or observing rail commuter or other trains, locomotives, rail cars or rail equipment. The term Rail Commuter Passenger(s) shall also mean and include any and all persons meeting, assisting or in the company of any person described in the immediately preceding sentence.

(b) Notwithstanding any other provision of this Agreement to the contrary, whenever any liability, cost or expense is to be assumed by, borne by or apportioned to a party hereto under any of the provisions of this Section 19, then that party shall be responsible for said liability, cost or expense, regardless of whether or not the loss, damage, destruction, injury or death giving rise to any such liability, cost or expense is caused in whole or in part and to whatever nature or degree by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of that party, the other
APPENDIX F

NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

...party, or its or their officers, agents and employees, and/or any other person or persons whomsoever.

(c) Except as is otherwise expressly provided by the last sentence of this Subsection (c), whenever any loss of, damage to or destruction of any property whatsoever or injury to or death of any person or persons whomsoever occurs on or about the State Property, including, without limitation, any loss, damage, destruction, injury or death of or to State’s contractors, agents or employees, Rail Commuter Passengers, trespassers on the State Property and/or any other person on, about or crossing the State Property at highway or roadway crossings or elsewhere by automobile, truck, foot or otherwise, then any and all liability, cost and expense for the loss, damage, destruction, injury or death so occurring shall be borne entirely by State. The foregoing provisions of this Subsection (c) shall not apply to or govern occurrences covered by Section 19(d) hereof.

(d) The following provisions shall govern the liability, cost and expense and the responsibility of the parties hereto, as between themselves, therefor arising out of, resulting from or connected with the movement of trains, locomotives, rail cars and rail equipment on the State Property:

1. It is the specific and express intent of CSXT and State that State shall be solely responsible for liability, howsoever arising, without limitation, to Rail Commuter Passengers, and as between CSXT and State whenever Rail Commuter Passengers suffer any loss, damage, injury or death arising out of, resulting from or connected with any occurrence covered by this Section 19(d), State shall be solely responsible for and
NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

assume, without recourse against CSXT, any and all liability, cost and expense therefor.

ii. Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, Rail Commuter Passengers), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, only State being involved, State shall assume all liability therefor, and bear all cost and expense in connection therewith.

iii. Whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, only CSXT being involved, then (except for the liability, cost and expense for loss, damage, injury or death to Rail Commuter Passengers, the liability, cost and expense for which will be solely assumed by State, as aforesaid in Subsection 19(d)(i)), CSXT shall assume all liability therefor, and bear all cost and expense in connection therewith.

iv. Whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, Rail Commuter Passengers), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, both State and CSXT being involved, then: (A) State and CSXT shall separately assume and bear all liability, cost and expense for loss of, damage to or destruction of trains, locomotives, rail cars (including, without limitation, lading) and rail equipment operated by each of them; (B) State shall assume and bear all liability, cost and expense for injury to and death of Rail Commuter Passengers and
NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

State's officers, agents and employees; (C) CSXT shall assume and bear all liability, cost and expense for injury to and death of CSXT's officers, agents and employees; and (D) State and CSXT shall equally assume and bear all liability, cost and expense for injury to or death of any persons not referenced in subparagraph 19(d)(iv)(B) or 19(d)(iv)(C) and for loss of, damage to and destruction of all other property not referenced in subparagraph 19(d)(iv)(A) (including, without limitation, the State Property) so occurring.

v. Except as provided in paragraph (vi) below, whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, Rail Commuter Passengers), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, both CSXT and any other railroad using the State Property being involved, or both State and any other railroad using the State Property being involved, then any other such railroad, shall be considered as State for the purpose of determining between State and CSXT, CSXT's assumption and apportionment of liability, cost and expense under paragraph (iv) above.

vi. Whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, Rail Commuter Passengers), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, State, CSXT and any other railroad using the State Property being involved, then any other such railroad shall be jointly considered as State and a single party to this Agreement for the purpose of determining the assumption and apportionment of liability, cost and expense between CSXT and State under paragraph iv.
NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

above; provided, however, that the respective shares of that liability, cost and expense that is to be borne equally by State and CSXT under said paragraph (iv) shall be reduced equally by the amount paid by any railroad involved that is jointly considered with State to be a single party under Section 19(d) hereof. Nothing contained in the aforesaid proviso shall be construed as limiting or modifying CSXT's obligation to assume and bear all liability, cost and expense for: (A) loss of, damage to or destruction of the trains, locomotives, rail cars and rail equipment operated by CSXT; and (B) injury to and death of CSXT's officers, agents, and employees; all as provided in said paragraph iv.

vii. Notwithstanding any other provision of this Agreement to the contrary, for the purposes of this Section 19(d), the term "rail equipment" shall mean and be confined to maintenance of way and work train equipment and other vehicles and machinery (such as hi-rail trucks) which are designed for operation on and are being operated on railroad tracks on the State Property at the time of any occurrence under said Section 19(d).

viii. For purposes of this Section 19(d), pilots furnished by State to CSXT pursuant to Section 3(d) of this Agreement shall be considered as the employees of CSXT.

ix. For purposes of this Section 19(d), the term "person" shall include, without limitation, the employee(s) of a party hereto and the term "employee(s)" shall mean and include: (A) employees of a party hereto as defined in Appendix A* to this Agreement;

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* Appendix A, Definition k) provides:

"Employees" shall include, in addition to those regular or part-time persons in the employ of either party hereto, the independent contractors or agents used by a party hereto to perform services contemplated by this Agreement relating to the State Property and the invitees of such party.
APPENDIX F

NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

(B) for each party hereto the invitee(s) to the State Property of each such party, which shall include the employees of parties to agreements referred to in Section 7(a) hereof as further described in the Contract, excluding Rail Commuter Passengers.

(e) In every case of death or injury suffered by an employee of either State or CSXT, when compensation to such employee or employee’s dependents is required to be paid under any workmen’s compensation, occupational disease, employer’s liability or other law, and either of said parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the assignment, expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

(f) The parties hereto understand that liability pertaining to interruptions and delays is governed by Section 3(j) hereof.

(g) Each provision of this Section 19 shall be interpreted so as to be effective and valid. In the event, however, that any provision of this Section 19 shall, for any reason, be held invalid, illegal or unenforceable in any respect, then this Section 19 shall be construed as if such provision had never been contained herein in order to effect to the fullest extent the purposes of this Section 19 and the intentions of the parties with respect thereto.

(h) Nothing expressed or implied in this Section 19, including, without limitation, Subsections 19(d)(v) and (vi) hereof is intended to or shall be construed to: (A) confer upon or to give any person, firm, partnership, corporation or governmental entity other than the parties
NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

hereto, their respective legal representatives, successors or assigns any right or benefit under or by reason of this Section 19, or (B) limit or restrict either party hereto from seeking damages, redress or other relief from any person, firm, partnership, corporation or governmental entity other than the parties hereto, their respective legal representatives, successors or assigns.(k) No provision in this Agreement shall constitute or be construed to constitute a waiver of the State's sovereign immunity. The parties hereto recognize and agree that the insurance and self-retention fund required under Section 21 below shall be the sole source upon which State's liability under this Section 19 rests beyond that provided under the limited waiver of sovereign immunity contained in Section 768.28, Florida Statutes (2006).

(l) The parties recognize that the State does not presently have the statutory authority to enter into the liability allocation provisions contained in this Section 19, and agree to use their best efforts to have legislation adopted by the Florida Legislature to establish that the State has such authority.
NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

Central Florida Operating and Management Agreement

SECTION 21. INSURANCE [Subject to further State insurance review].

It is understood by the parties hereto that the provisions of this Section 21 are designed to establish parity between the parties and are based upon their financial ability to meet various obligations for which each of them is responsible under the various liability provisions of this Agreement. Toward this end, the parties shall review, on an annual basis, the provisions of this Section 21 and use their reasonable best efforts to agree upon any modifications thereto that may be appropriate due to changed circumstances. In the absence of any such agreement, the provisions of this Section 21 shall remain in full force and effect.

a) Notwithstanding any provision of this Agreement to the contrary, the parties hereto understand that State as a sovereign creature cannot contractually indemnify and save harmless CSXT or any other party without an express waiver of sovereign immunity by the Florida Legislature. As of the date of this Agreement, no such waiver exists except and to the extent as allowed under Section 768.28, Florida Statutes (2006). State is permitted by law, however, to purchase commercial insurance for protection in amounts above those limits stated in Section 768.28, Florida Statutes (2006). In addition, State has agreed to pursue enabling legislation to establish a self-insurance retention fund and purchase insurance for the purpose of paying the deductible limit established in insurance policies to be obtained for operation of Commuter Rail Service on the State Property. Accordingly, and notwithstanding any provision of this Agreement to the contrary, State shall purchase insurance and establish and maintain
APPENDIX F

NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

an adequate, segregated self-insurance retention fund which will cover claims and liabilities for loss, damage, injury or death arising out of or connected with this Agreement, including, without limitation, State’s contractual liabilities under this Agreement, in the amounts and as provided for in Subsection 21(b) hereof, which insurance shall be in lieu of a specific contractual obligation by State to indemnify and save harmless CSXT as otherwise prohibited by law. The parties hereto recognize that said insurance and fund shall be the sole source upon which State’s liability and/or indemnification under this Agreement rests beyond that provided under the limited waiver of sovereign immunity contained in the aforesaid Florida Statutes. The obtaining of such policy of insurance and the establishment of said fund by State is a condition precedent to the commencement of Commuter Rail Service on the State Property, and the obtaining and maintenance of said insurance and fund in full force and effect shall thereafter throughout the term of this Agreement be considered a condition subsequent to the continuation of Commuter Rail Service on the State Property. In the event said insurance policy is canceled for any reason and/or the deductibles or self-assumed amounts of said insurance policy is unfunded, in the opinion of CSXT, then State shall replace said policy during the notification period with another policy in like amount and coverage protection or, in the case of the fund, State shall replenish the fund and, should State fail in its performance of these contractual obligations to CSXT, then State shall immediately cease operation of any and all Commuter Rail Service on the State Property until such time, if any, that State shall obtain and thereafter maintain insurance in like amount and coverage protection to that described in this Section 21 and/or replenish the fund, as the case may be. It is understood and agreed by the parties hereto that State’s cessation of Commuter Rail Service on
APPENDIX F

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the State Property, as aforesaid, shall not in any manner modify, amend, limit or restrict the CSXT Easement or CSXT's rights hereunder with respect to the provision of Rail Freight Service and/or Intercity Rail Passenger Service on the State Property, and shall not modify or amend any other obligation of State under this Agreement.

b) State, at its sole cost and expense, shall procure and shall maintain during the entire term of this Agreement, liability insurance covering CSXT as a named insured as agreed and provided in the terms and conditions of Section 21(a) hereof. The said liability insurance shall have a limit of not less than Two Hundred Million and No/100 Dollars ($200,000,000.00) combined single limit for personal injury and property damage per occurrence, with deductibles or self-assumed amounts not in excess of Five Million and No/100 Dollars ($5,000,000.00). The said liability coverage within its terms and conditions shall extend coverage to CSXT for third party personal injury and property damage, and shall not exclude punitive damages. Coverage shall provide employer's liability coverage for liabilities incurred by State to employees involved under any applicable employee liability regime, including without limitation, the Federal Employer's Liability Act.

c) State shall furnish CSXT's insurance department, 500 Water Street, C-907, Jacksonville, FL 32202, a certified copy of the liability insurance policy for CSXT's approval, which approval will not be unreasonably withheld. The policy shall be endorsed to provide for not less than sixty (60) days' notice to CSXT prior to termination of or change in the coverage.

d) In the event that any operating practice of CSXT jeopardizes the obtaining and maintaining of the insurance policies required of State hereunder, then, upon reasonable request and notice from State
APPENDIX F

NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

(which notice shall include all communications with respect to the offending operating practice between State and its insurance carrier), CSXT shall modify the offending operating practice in a manner sufficient to obtain or maintain such insurance, provided that in no event shall CSXT be required to adopt a practice that is not consistent with generally accepted operating practices in the railroad industry. As used herein, the term “operating practice” shall exclude any practice that would require CSXT to modify any facilities and/or equipment, unless the cost and expense of such modifications to facilities and/or equipment are borne and paid entirely by State.

e) The amount of insurance required of State under this Section 21 shall be adjusted from time to time during the term of this Agreement to reflect the effects of inflation and such other matters as may be mutually agreed upon by the parties hereto. The parties hereto recognize that the amount of insurance required of State herein reflects the risks attendant with Commuter Rail Service and such amount shall be adjusted by mutual agreement of the parties during any period during the term of this Agreement that such Commuter Rail Service may be suspended or canceled. The parties hereto also recognize that the amount of insurance required herein of State reflects the risks attendant with the limited waiver of sovereign immunity under the aforesaid Florida Statutes in effect as of the date of this Agreement and that should such limited waiver be changed, then such amount of insurance shall be adjusted by mutual agreement of the parties hereto consistent with the risks of Commuter Rail Service at the time of such change.

f) As of the date hereof, CSXT maintains system-wide insurance (which covers, inter alia, its Rail Freight Service on the State Property) with a limit in excess of Two Hundred Million and No/100
APPENDIX F

NOTE: THE FOLLOWING REVISED LANGUAGE FOR SECTIONS 19 AND 21 OF THE CENTRAL FLORIDA OPERATING AND MANAGEMENT AGREEMENT (CFOMA) SUPERSEDES THE LANGUAGE CONTAINED IN THE FOREGOING CSXT WORKING DRAFT DATED 2/27/07

79 Dollars ($200,000,000.00) and deductibility or self-assumed amounts of Twenty-five Million and
80 No/100 Dollars ($25,000,000.00). It is understood by the parties hereto that from time to time during
81 the term of this Agreement CSXT may, at its option, change the limits, coverage and deductibility or
82 self-assumed amounts of its aforesaid insurance. In the event that CSXT assigns this Agreement
83 pursuant to the provisions of Section 37 hereof to any person, firm, partnership or corporation that is
84 not affiliated with CSXT, then: first, the amount of insurance required of State under Subsections (a)
85 and (b) hereof may, at State’s option, be reduced to a limit of Ten Million and No/100 Dollars
86 ($10,000,000.00), and, second, as a condition to the conduct of operations by such person, firm,
87 partnership or corporation on the State Property, State may, at its option, require such entity to maintain
88 during the remainder of the term of this Agreement insurance having a limit of Thirty Million and
89 no/100 Dollars ($30,000,000.00) combined single limit for personal injury and property damage per
90 occurrence, with deductibles or self-assumed amounts not in excess of One Million and no/100 Dollars
91 ($1,000,000.00). To the extent and in the event mutually agreeable to State and such other entity, the
92 aforesaid limits and/or amounts of insurance required of State and such other entity may be changed
93 from time to time during the term of this Agreement.
APPENDIX G

An Act to be entitled ....

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 341.301, Florida Statutes, is amended by adding Subsections 341.301(8) and 341.301(9):

341.301 Definitions; ss. 341.302 and 341.303.—As used in ss. 341.302 and 341.303, the term:

1. through (7) No change.

2. "Commuter rail service" shall mean the transportation of commuters and other passengers by rail pursuant to a rail program provided by the state or other governmental entities.

3. "Rail commuter passenger(s)" shall mean and include any and all persons, ticketed or unticketed, using commuter rail service on the State Property: first, while on board trains, locomotives, rail cars, or rail equipment employed in Commuter Rail Service or entraning and detraining therefrom; and, second, while rail service, including, without limitation, parking, inquiring about commuter rail service or purchasing tickets therefor and coming to, waiting for, leaving from or observing commuter rail or other trains, locomotives, rail cars or rail equipment.

4. The term rail commuter passenger(s) shall also mean and include any and all persons meeting, assisting or in the company of any person described in the immediately preceding sentence.

Section 2. Section 341.302, Florida Statutes, is amended by inserting a new Subsection 341.302(17), and renumbering thereafter, to read:

341.302 Rail program, duties and responsibilities of the department.—The
department, in conjunction with other governmental units and the private sector, shall develop
and implement a rail program of statewide application designed to ensure the proper
maintenance, management, safety, revitalization, and expansion of the rail system to assure its
continued and increased availability to respond to statewide mobility needs. Within the resources
provided pursuant to chapter 216, and as authorized under federal law Title 49 C.F.R. part 212,
the department shall:

(1) through (16) No change.

(17) In conjunction with the acquisition, ownership, construction, operation, maintenance and
management of a rail corridor have the authority to:
(a) Purchase by directly contracting with local, national, or international insurance companies to
provide liability insurance which the department may be contractually or legally obligated to
provide as to commuter rail services and other uses of the rail corridor, or which the department
determines to be in the public interest and necessary to protect users of the rail corridor, and
which insurance may provide coverage for all damages, including, but not limited to
compensatory, special, and exemplary, the requirements of s. 287.022(1), notwithstanding; and
to establish a self-insurance retention fund for the purpose of paying the deductible limit
established in insurance policies it may obtain for commuter rail service, other uses of the rail
corridor, or to protect users of the rail corridor, or in connection with the ownership, operation,
maintenance, and management of a commuter rail transit system, to maintain an adequate fund
to cover claims and liabilities for loss, damage, injury or death arising out of or connected with
the ownership, operation, maintenance, and management of a commuter rail transit system;
provided, however, that neither the purchase of insurance or establishment of a self-insurance
retention fund shall be deemed to be a waiver of any defense of sovereign immunity or to have
increased the limits of its liability as a result of purchasing insurance or establishing a self-
insurance retention fund.
(b) If necessary to institute commuter rail service, and irrespective of s. 768.28(5) or
768.28(9)(a), agree by contract to assume all liability for the death, injury, or loss to commuter
52 passengers resulting from negligence, and to allocate by contract other liabilities within the rail
53 corridor resulting from negligence, in lieu of a determination of comparative fault on an incident
54 by incident basis; however, such provision does not waive the sovereign immunity of the state or
55 otherwise alter the requirements of s. 768.28.
56 (c) The provisions of this subsection 341.302(17) shall apply to any other governmental or legal
57 entity, including but not limited to entities created under s. 163.01, providing commuter rail
58 service on publicly owned right-of-way.
59 (18) Have the authority to incur expenses for advertising, marketing, and promotion of
60 commuter rail service.
61 (19) No change.
62
63 Section 2. Section 768.28, Florida Statutes is amended by inserting the following
64 new language in subsection (10)(d), to read:
65 (d) For the purposes of this section, operators, dispatchers, and providers of security for rail
66 services and rail facility maintenance providers in the South Florida Rail Corridor, Central
67 Florida Rail Corridor, or any other publicly owned rail corridor, or any of their employees or
68 agents, performing such services under contract with and on behalf of the South Florida Rail
69 Corridor or the Department of Transportation, or other governmental entity designated by
70 the Department of Transportation, shall be considered agents of the state while acting within the
71 scope of and pursuant to guidelines established in said contract or by rule.
72
73 Section 3. This act shall take effect upon becoming a law.
# Preliminary Commuter Rail Cost Allocation Analysis Year of Expenditure LPA Assessment, revised June 2007

## Preliminary Commuter Rail Cost Allocation Analysis

### Year of Expenditure LPA Assessment

#### Station and Distance (Non-Station Items) Allocation Method

Revised June 2007 - 5% Escalation

<table>
<thead>
<tr>
<th>Station</th>
<th>Track Miles</th>
<th>Non-Station Cost Allocation</th>
<th>Station Cost</th>
<th>Total Capital Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Volusia County</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>DeLand Amtrak Station</td>
<td>12.7</td>
<td>$87,900,000</td>
<td>$5,700,000</td>
<td>$104,700,000</td>
</tr>
<tr>
<td>DeBary/Saxon Blvd. Extension Station</td>
<td></td>
<td></td>
<td>$11,100,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total Volusia County</strong></td>
<td>12.7</td>
<td>$87,900,000</td>
<td>$16,800,000</td>
<td>$104,700,000</td>
</tr>
<tr>
<td><strong>Seminole County</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sanford/SR 46 Station</td>
<td>16.44</td>
<td>$128,400,000</td>
<td>$14,900,000</td>
<td>$183,300,000</td>
</tr>
<tr>
<td>Lake Mary Station</td>
<td></td>
<td></td>
<td>$10,300,000</td>
<td></td>
</tr>
<tr>
<td>Longwood Station</td>
<td></td>
<td></td>
<td>$8,700,000</td>
<td></td>
</tr>
<tr>
<td>Altamonte Springs Station</td>
<td></td>
<td></td>
<td>$21,000,000</td>
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<tr>
<td><strong>Total Seminole County</strong></td>
<td>16.44</td>
<td>$128,400,000</td>
<td>$54,900,000</td>
<td>$183,300,000</td>
</tr>
<tr>
<td><strong>Orange County</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maitland</td>
<td>16.3</td>
<td>$127,300,000</td>
<td>$4,600,000</td>
<td></td>
</tr>
<tr>
<td>Winter Park/Park Avenue Station</td>
<td></td>
<td></td>
<td>$3,000,000</td>
<td></td>
</tr>
<tr>
<td>Sand Lake Road Station</td>
<td></td>
<td></td>
<td>$18,600,000</td>
<td></td>
</tr>
<tr>
<td>Meadow Woods Station</td>
<td></td>
<td></td>
<td>$6,900,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total Orange County</strong></td>
<td>16.3</td>
<td>$127,300,000</td>
<td>$33,100,000</td>
<td>$160,400,000</td>
</tr>
<tr>
<td><strong>City of Orlando</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Florida Hospital Station</td>
<td>5.5</td>
<td>$42,900,000</td>
<td>$4,100,000</td>
<td></td>
</tr>
<tr>
<td>LYNX Central Station</td>
<td></td>
<td></td>
<td>$2,400,000</td>
<td></td>
</tr>
<tr>
<td>Church/South Street Station</td>
<td></td>
<td></td>
<td>$2,300,000</td>
<td></td>
</tr>
<tr>
<td>Orlando AMTRAK/ORMC Station</td>
<td></td>
<td></td>
<td>$2,600,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total Orange County</strong></td>
<td>5.5</td>
<td>$42,900,000</td>
<td>$11,400,000</td>
<td>$54,300,000</td>
</tr>
<tr>
<td><strong>Osceola County</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Osceola Parkway Station</td>
<td>9.6</td>
<td>$74,900,000</td>
<td>$13,300,000</td>
<td></td>
</tr>
<tr>
<td>Kissimmee AMTRAK Station</td>
<td></td>
<td></td>
<td>$11,400,000</td>
<td></td>
</tr>
<tr>
<td>Poinciana Industrial Park Station</td>
<td></td>
<td></td>
<td>$7,400,000</td>
<td></td>
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<tr>
<td><strong>Total Osceola County</strong></td>
<td>9.6</td>
<td>$74,900,000</td>
<td>$32,100,000</td>
<td>$107,000,000</td>
</tr>
</tbody>
</table>

### Year of Expenditure Totals

| Year of Expenditure Totals | $461,400,000 | $148,300,000 | $609,700,000 |

### Full Cost Assumption:
- Federal Share (50%) $307,500,000
- State Share (25%) $153,750,000
- Local Share (25%) $153,750,000
- **Total Local Share** $153,750,000

| **Volusia County** | 17.2% | $26,500,000 |
| **Seminole County** | 30.0% | $46,200,000 |
| **Orange County** | 26.2% | $40,350,000 |
| **City of Orlando** | 8.9%  | $13,700,000 |
| **Osceola County** | 17.6% | $27,100,000 |

Note: Soft costs are included in non-station costs.
### Central Florida Commuter Rail Transit Station Development - Construction Estimate

#### Proposed MAITLAND STATION - PARKER LUMBER SITE
(without any land acquisition or any new surface parking)

<table>
<thead>
<tr>
<th>Category</th>
<th>Maitland</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LAND COSTS</strong></td>
<td></td>
</tr>
<tr>
<td>Land Acquisition Costs</td>
<td>$ -</td>
</tr>
<tr>
<td>Site Preparation (clearing)</td>
<td>$ -</td>
</tr>
<tr>
<td>Site Mitigation</td>
<td>$ 25,000</td>
</tr>
<tr>
<td><strong>VEHICULAR CIRCULATION</strong></td>
<td></td>
</tr>
<tr>
<td>Signal and intersection Modifications</td>
<td>$ -</td>
</tr>
<tr>
<td>Surface Parking &amp; Walks, 250 car</td>
<td>$ -</td>
</tr>
<tr>
<td>Structured Parking</td>
<td>$ -</td>
</tr>
<tr>
<td>Bus Circulation &amp; Pedestrian Walk</td>
<td>$ 87,512</td>
</tr>
<tr>
<td>Vehicle area Utilities</td>
<td>$ 7,000</td>
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<tr>
<td><strong>STATION ELEMENTS</strong></td>
<td></td>
</tr>
<tr>
<td>Utility Connections</td>
<td>$ 108,000</td>
</tr>
<tr>
<td>Commuter Platforms</td>
<td>$ 260,000</td>
</tr>
<tr>
<td>Cross-track pedestrian circulation</td>
<td>$ 1,171,900</td>
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<tr>
<td>Platform Facilities</td>
<td>$ 457,000</td>
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<tr>
<td>Plumbing Facilities</td>
<td>$ 7,900</td>
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<tr>
<td><strong>Landscaping</strong></td>
<td>$ 12,500</td>
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<tr>
<td><strong>SITE UTILITIES</strong></td>
<td></td>
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<tr>
<td>$ 148,900</td>
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<tr>
<td><strong>SIGNAGE</strong></td>
<td>$ 23,800</td>
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<tr>
<td><strong>GENERAL CONDITIONS</strong></td>
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<tr>
<td>SUBTOTALS</td>
<td>$ 2,579,512</td>
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<tr>
<td>CONTINGENCY (Weighted average)</td>
<td>$ 1,083,395</td>
</tr>
<tr>
<td><strong>CONCEPTUAL TOTAL 2005 dollars</strong></td>
<td>$ 3,662,907</td>
</tr>
<tr>
<td>Year of Expenditure Dollars (2009)</td>
<td>$ 4,600,000</td>
</tr>
</tbody>
</table>

#### Assumptions
- Assume Parker Lumber is the selected station site.
- 1% Art element assumed included in cost of platform design as presented.
- Open access to unoccupied sites is assumed, day shift hours without overtime.
- Assumes easy excavation in soils suitable for reuse. Rock excavation excluded.
- Year of expenditure dollars assumes 5% escalation rate with an additional 2.5% added.

#### Exclusions
- Right of way purchase for parking garage and parking garage costs by others.
- Removal or Abatement of contaminated, regulated, or hazardous materials in demolished Buildings.
- Trackwork, Rail Signals, Railroad Force Accounts.
- At-grade pedestrian track crossings.
- Cost of Engineering, Contract Management.