

EXECUTION COPY

Agreement No.: _____
Financial Project I.D.: 412994-8-82-01
F.E.I.D. No: F546000720-021
Procurement No.: SS-DOT-09/10-5004DT
D.M.S. Catalog Class No.: 905-950

DISPATCHING SERVICES AGREEMENT

THIS DISPATCHING SERVICES AGREEMENT (this "Agreement"), made as of the 25th day of July, 2011 (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"). Except as otherwise provided herein or unless the context otherwise requires, capitalized terms have the meanings assigned to such terms in accordance with Appendix A and Appendix B to the Transition Agreement as that agreement and those appendices have been or may be amended.

WHEREAS, CSXT and State have agreed that upon the State Management Date, CSXT shall transfer to State, and State shall implement and be responsible for the operation, maintenance and dispatch of all Railroad Operations on the State Property, with the further agreement that, except as expressly provided herein, CSXT shall perform all dispatching responsibilities during the Transition Period pursuant to a contract with State.

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. Services.

CSXT shall provide all train dispatching over the State Property during the term of this Agreement, except as may occur pursuant to Section 7(a) of this Agreement.

Section 2. Term.

The term of this Agreement shall commence on that day that the parties agree that CSXT shall begin the qualifying services described in Section 5(b) of this Agreement, which is currently expected, but not guaranteed, to be in August 2011, and shall continue during the Transition Period unless the parties mutually agree upon an earlier termination date. Upon termination of this Agreement, the State's Operation and Maintenance Contractor shall perform all train dispatching over the State Property.

Section 3. Staffing.

(a) CSXT will create a temporary new dispatch desk (territory) at Dufford Control Center in Jacksonville in accordance with the provisions outlined in Subsection 4(c) of the Transition Agreement as amended by the First Amendment to the Transition Agreement. This desk shall be known as the "Central Florida Dispatcher Desk."

(b) Upon Closing and until the Central Florida Dispatcher Desk is completed and operational, CSXT will dispatch all Railroad Operations, including that portion of the A-Line that is State Property, from the JA Desk. CSXT will use all commercially reasonable efforts to staff the Central Florida Dispatcher Desk and begin dispatching all Railroad Operations on the State Property from the Central Florida Dispatcher Desk by December 1, 2011.

(c) Once the Central Florida Dispatch Desk becomes operational, CSXT shall not combine the Central Florida Dispatcher Desk with other dispatch desk territories at any time, except in the case of equipment failure or an emergency. Should CSXT combine the Central

Florida Dispatcher Desk with any other dispatch desk territory, it shall so inform State by telephone, using the dedicated line identified in Section 4, below, within one (1) hour of the event, indicating the reason for the combination and the expected duration. Prior to the State Management Date, State shall provide CSXT in writing with the responsible person (or position) and telephone number that CSXT is to call as required by the preceding sentence. State may change such information by notice to CSXT in accordance with the Transition Agreement. Within forty-eight (48) hours after the conclusion of such event, CSXT shall submit a written report to the State that fully explains the situation and the measures that CSXT will be undertaking to avoid any reoccurrence of the event.

(d) CSXT shall qualify six (6) dispatchers on the Central Florida Dispatcher Desk, in order to staff the Central Florida Dispatcher Desk at all times, twenty-four (24) hours per day, seven (7) days per week, weekends and holidays included. CSXT may use dispatchers who have been qualified on the Central Florida Dispatcher Desk on other assignments when not needed for coverage of the Central Florida Dispatcher Desk.

(e) Other than as set forth in Subsection 3(b) above, the Central Florida Dispatcher Desk shall be responsible for direction, supervision and control over the safe and efficient movement of all trains and on-track vehicles and protection of all other on-track activity on the State Property, including but not limited to movement of CSXT freight trains, Amtrak's passenger trains, and FCEN trains. The Central Florida Dispatcher Desk shall be governed by and subject to current operating and safety rules, procedures and regulatory standards of CSXT and FRA, including emergency procedures, as agreed to with State. The Central Florida Dispatcher Desk shall have responsibility for communications for movements prior to operating on the State Property that restricts operations on the State Property.

(f) The Central Florida Dispatcher Desk shall be supervised at all times by qualified CSXT supervisors.

Section 4. Communications with State's Design/Build Contractor.

(a) CSXT shall install a dedicated direct telephone line for the purpose of allowing CSXT supervisors to communicate with the State's Design/Build Contractor's supervisors regarding track outages, Rule 707 provisions and other construction-related coordination of the operations on the State Property. A direct line shall be installed for communication between the Central Florida Dispatcher Desk, when established, and CSXT JA Desk. The Design/Build Contractor shall not use existing CSXT radio channels for communication between its personnel and CSXT dispatchers at the Central Florida Dispatcher Desk or other controlling desk such as the CSXT JA Desk. However, the existing CSXT communication system will be used for communication between the Design/Build Contractor's Employee in Charge and CSXT dispatchers at the Central Florida Dispatcher Desk or other controlling desk such as the CSXT JA Desk. The Design/Build Contractor shall be governed by and subject to current operating and safety rules, procedures and regulatory standards of CSXT and FRA governing working on track, operating equipment, and working near equipment being operated, including emergency procedures, as agreed to with State.

(b) CSXT and State acknowledge that timely and effective communication between the Design/Build Contractor and the CSXT dispatchers at the Central Florida Dispatcher Desk will facilitate the timely completion of the capital improvements on the State Property. CSXT agrees to minimize the use of automatic train dispatching, interlocked signal fleeting and other dispatching strategies that require long cancellation times in order to provide a track outage or otherwise jeopardize timely response to Design/Build Contractor requests.

Section 5. Compensation.

(a) CSXT shall be paid a monthly fee for its contract dispatching of the State Property in the amount of Fifty-eight Thousand dollars (\$58,000.00) per month for each month of the Transition Period (pro rata for the number of days in the first or last month of the Transition Period). This fee shall be modified by the change in annual CPI on each annual anniversary date of this Agreement.

(b) CSXT shall be paid, in advance, a one-time qualifying expense fee of Fifty Thousand Dollars (\$50,000.00) at least thirty (30) days prior to the Closing Date. This fee is for CSXT to qualify CSXT dispatchers to Dispatch Rail Operations over State Property at the Central Florida Dispatcher Desk. The qualification of dispatchers is required since State Property will be a new dispatch territory. This advance payment has been authorized by the Chief Financial Officer of the State of Florida under Section 215.422(14), Florida Statutes.

(c) Should the Closing not occur and the qualifications not occur, CSXT will refund the \$50,000 within 30 days of determination. Otherwise, CSXT shall retain the \$50,000.

(d) There shall be no payment or reimbursement for travel expenses under this Agreement.

Section 6. Applicable Operating Rules.

CSXT shall dispatch the State Property in accordance with the CSXT Operating Rules, as may be modified or amended by CSXT.

Section 7. Transition to Operation and Maintenance Contractor.

(a) Upon termination of this Agreement, the State's Operation and Maintenance Contractor shall perform all train dispatching services over the State Property using a dispatch center and supervisory control system to be built by the State approximately six (6) months prior

to the Commencement Date. This will provide time for the State's Design/Build Contractor to place in service all of the new/revised interlockings planned for the State Property. For a period of two (2) months prior to the transfer of dispatch from CSXT to State, State's dispatch center shall operate in "shadow mode," displaying all Central Florida track circuit occupancies, switch positions, signal status and the information described in Section 7(b) below. During the "shadow mode" period, it shall not be possible for State or its Operation and Maintenance Contractor to control any equipment under the control of the CSXT Central Florida Dispatcher Desk. State and CSXT shall mutually agree on a date (the "Cut Over Date") when State and its Operation and Maintenance Contractor will take control of dispatch over the State Property, subject to the possible reversion to CSXT described below. The Cut Over Date will be determined at least one (1) month prior to the planned Cut Over Date. Upon the Cut Over Date, State and its Operation and Maintenance Contractor shall assume dispatch responsibility over the State Property, provided, however, that CSXT shall maintain both staffing and all associated equipment (including hardware, software and communications equipment) for a period of seven (7) days (the "Cut Over Period") after the Cut Over Date, in case a return to CSXT control is required, and, except for the assumption of dispatch responsibility described above, this Transition Agreement shall remain in full force and effect until the expiration of the Cut Over Period. The Commencement Date shall not occur prior to the expiration of the Cut Over Period. Upon the expiration of the Cut Over Period, CSXT shall maintain all associated equipment (including hardware, software and communications equipment) but without staffing for a period of two (2) months, in case a return to CSXT control is requested by State, provided, however, (i) that State acknowledges that staffing for the Central Florida Dispatcher Desk after the Cut Over Period will not be immediately available, will require re-bidding of the jobs associated with the Central

Florida Dispatcher Desk and will incur additional expense to be absorbed by State if State elects to return dispatching responsibility to CSXT, (ii) nothing herein shall require CSXT to accept such return of dispatching responsibility, and (iii) the parties agree that CSXT will not dispatch commuter trains. For the purpose of Section 5 of this Agreement, the Cut Over Period shall be considered part of the Transition Period but the two months after the Cut Over Period referred to above, during which CSXT will maintain the equipment only, shall not be considered part of the Transition Period.

(b) CSXT shall make available to the State real-time data transmission of track circuit occupancy of existing mainline and controlled siding (where applicable) trackage north and south of the State Property for a distance mutually-agreed by the parties, said distance to be a minimum of five (5) miles in each direction. If practicable, train ID's associated with track circuit occupancy shall be provided in the real-time data transmission.

(c) State shall make available to CSXT real-time data transmission of track circuit occupancy of planned mainline trackage at the north and south ends of the Central Florida Rail Corridor for a distance mutually-agreed by the parties, said distance to be a minimum of five (5) miles in each direction. If practicable, train ID's associated with track circuit occupancy shall be provided in the real-time data transmission.

Section 8. Labor Protection.

CSXT shall be responsible for its Labor Protection costs, if any, occasioned by the provision of services under this Agreement. As used herein, "Labor Protection" shall mean the costs, if any, incurred by CSXT as a result of its provision of the dispatching services described in this Agreement, which costs may be incurred pursuant to the provision of a collective bargaining agreement, bargained by CSXT as a result of this Agreement or pursuant to rule,

decision or final order of any governmental agency having jurisdiction thereover. 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 transfer of dispatching to the State's Operations and Maintenance Contractor pursuant to law, a collective bargaining agreement or otherwise ("Labor Challenge"). State and CSXT acknowledge a policy of non-interference with respect to labor protective decisions by employees.

Section 9. Liability.

Notwithstanding any other provision of this Agreement to the contrary, Section 19 and Section 21 of CFOMA shall govern the liability of the parties hereto whenever any loss of, or damage to or destruction of any property whatsoever or injury to or death of any person or persons whomsoever occurs under this Agreement, with the same force and effect as if set forth herein in full.

Section 10. Standard Provisions.

(a) Before making any additions or deletions to the services described herein, and before undertaking any changes or revisions to such services, the parties shall negotiate any necessary cost changes and shall enter into an amendment covering such services and compensation. Reference herein to this Agreement shall include any amendment(s).

(b) CSXT agrees to provide project schedule progress reports in a format acceptable to State and at intervals established by State. State shall be entitled at all times to be advised, at its request, as to the status of services being done by CSXT and of the details thereof. Coordination shall be maintained by CSXT with representatives of State, or agencies of State interested in the

project on behalf of State. Either party to this Agreement may request and be granted a conference.

(c) Except for the approved advance payment, payments by State under this Agreement shall be made after satisfactory performance of the services. Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(d) Participants providing goods and services to the State should be aware of the following time frames. Upon receipt, the State has five (5) working days to inspect and approve the goods and services. The State has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the later of the date the invoice is received or the goods or services are received, inspected, and approved. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to CSXT. Interest penalties of less than one (1) dollar shall not be enforced unless CSXT requests payment. Invoices which have to be returned to CSXT because of CSXT preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to State.

(e) The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to Section 287.057(23), Florida Statutes, all payments shall be assessed a transaction fee of one percent (1%), which CSXT shall pay to State. For payments within the State accounting system (FLAIR or its successor), the transaction fee shall, when possible, be automatically deducted from payments to CSXT. If automatic deduction is not possible, CSXT shall pay the transaction fee

pursuant to Rule 60A-1.031(2), Florida Administrative Code. By submission of these reports and corresponding payments, CSXT certifies their correctness. All such reports and payments shall be subject to audit by State or its designee. CSXT shall receive a credit for any transaction fee paid by CSXT for the purchase of any item(s) if such item(s) are returned to CSXT through no fault, act, or omission of CSXT. Notwithstanding the foregoing, a transaction fee is non-refundable when an item is requested or returned, or declined, due to CSXT's failure to perform or comply with specifications or requirements of the Agreement.

(f) A vendor ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The vendor ombudsman may be contacted at (850) 413-5516.

(g) Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to State at all times during the period of this Agreement and for five (5) years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records shall be furnished to State upon request. Records of costs incurred shall include CSXT's general accounting records and the project records, together with supporting documents and records of CSXT and all subcontractors performing work on the project, and all other records of CSXT and subcontractors reasonably required by State for a proper audit of project costs.

(h) The Department of Transportation (the "Department"), 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 such 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. Accordingly, the Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

(i) CSXT shall carry and keep in force the insurance to the extent required by Section 21(f) of CFOMA.

(j) Section 15(b) of CFOMA concerning public access to documents shall apply to all documents made or received by CSXT on behalf of State under this Agreement with the same force and effect as if set forth herein in full.

(k) CSXT shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age, or disability in the performance of work under this Agreement.

(l) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of

the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months following the date being placed on the convicted vendor list.

(m) An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity, may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded, or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity.

(n) The Department shall consider the employment by CSXT of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act.

(o) Pursuant to Section 216.347, Florida Statutes, CSXT may not expend any State funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency.

(p) CSXT shall maintain an adequate and competent staff so as to enable CSXT to timely perform under this Agreement and may associate with it such subcontractors, for the purpose of its services hereunder, without additional cost to State, other than those costs within the limits and terms of this Agreement. CSXT is fully responsible for satisfactory completion of all subcontracted work. CSXT, however, shall not sublet, assign, or transfer any work under this Agreement to other than subcontractors specified in the proposal, bid, and/or Agreement without the written consent of State.

(q) CSXT and its employees, agents, representatives, or subcontractors are not employees of the Department and are not entitled to the benefits of State of Florida employees. CSXT agrees to include this provision in all of its subcontracts under this Agreement.

(r) All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

(s) It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

(t) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

(u) The dispute resolution and arbitration process of Section 17 of CFOMA is hereby incorporated into this Agreement.

(v) Time is of the essence as to each and every obligation under this Agreement

(w) The default and breach provisions of Section 16 of CFOMA are hereby incorporated into this Agreement. Venue for any legal proceedings under this Agreement shall be in Leon County, Florida.


(x) In compliance with State of Florida Executive Order Number 11-116, CSXT will utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CSXT during the term of this Agreement, and will include in such subcontracts the requirement that subcontractors performing work or providing services pursuant to this Agreement utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Agreement.

(y) If the Agreement is for goods or services of \$1 million or more and was entered into or renewed on or after July 1, 2011 and the Department determines that the Vendor submitted a false certification under Section 287.135(5), Florida Statutes, or if the Vendor has been placed on the Scrutinized Companies with Activities in the Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Department shall have the option of (a) terminating the Agreement after it has given the Vendor notice and an opportunity to demonstrate the agency's determination of false certification was in error pursuant to Section 287.135(5)(a), Florida Statutes, or (b) maintaining the Agreement if the conditions of Section 287.135(4), Florida Statutes, are met.

[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 to be hereunto affixed as of the day and year first above written.

CSX TRANSPORTATION, INC.

By: 
Print Name: Steven Potter
Title: Assistant Vice President
Network Planning and Joint Facilities

**STATE OF FLORIDA DEPARTMENT
OF TRANSPORTATION**

By: _____
Print Name: Ananth Prasad
Title: Secretary

APPROVED AS TO FINANCIAL TERMS
AND FUNDS ARE PROGRAMMED

LEGAL REVIEW:

Special Counsel

Office of the Comptroller

[signature page of Dispatching Services Agreement]

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OF TRANSPORTATION**

By: Ananth Prasad
Print Name: Ananth Prasad
Title: Secretary

APPROVED AS TO FINANCIAL TERMS
AND FUNDS ARE PROGRAMMED

LEGAL REVIEW:

E. Clay McConagill, Jr.
Special Counsel

Robin M. Narfow
Office of the Comptroller

[signature page of Dispatching Services Agreement]