

FIRST AMENDMENT TO TRANSITION AGREEMENT

THIS FIRST AMENDMENT TO TRANSITION AGREEMENT (the "First Amendment"), made as of the 21st day of March, 2010 (the "First Amendment Effective Date"), by and between STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, ("State") and CSX TRANSPORTATION, INC., a Virginia corporation, ("CSXT") amends that certain TRANSITION AGREEMENT dated as of November 30, 2007, by and between State and CSXT. Except as expressly provided herein or unless the context otherwise requires, capitalized terms have the meanings assigned to such terms in accordance with the Transition Agreement, including Appendix A to the Transition Agreement, "Central Florida Rail Corridor Definitions" and Appendix B to the Transition Agreement, "Transition Agreement Definitions."

WHEREAS, the Transition Agreement provides for the dispatching of Railroad Operations on the State Property during the Transition Period; and

WHEREAS, the parties wish to amend the Transition Agreement as set forth herein.

NOW, THEREFORE, the parties hereby agree to amend the Transition Agreement as follows:

1. (a) The Table of Milestones appearing in Section 2(a) is amended and restated in its entirety to read:

<i>Milestone</i>	<i>Date to be Achieved</i>
(1) Funding of final design, permit applications and long lead items re S-Line improvements.	April 1, 2010
(2) State procurement of design-build-maintain contractors.	May 30, 2010
(3) CSXT target date for the Development Order for the Terminal Facility.	Done
(4) Closing Date and State Management Date.	November 1, 2010
(5) State procurement of temporary dispatch services.	9 months from execution of JRPA – est. December 1, 2010
(6) Anticipated State procurement of permanent dispatch services.	About May 2012
(7) CSXT target date for the completion of the Terminal Facility.	24 months from Closing

<i>Milestone</i>	<i>Date to be Achieved</i>
(8) Commissioning and testing of Commuter Rail System.	May 2012
(9) Revenue Operation Date.	February 2013

(b) The phrase "Effective Date" in Section 2(b) is hereby amended to read "First Amendment Effective Date."

2. (a) Section 4 (c) (1) is amended and restated in its entirety to read:

"Within nine (9) months of the execution and delivery of that certain Joint Rail Project Agreement (Non-Federal), executed contemporaneously with that certain First Amendment to Transition Agreement, (hereinafter referred to as the "Joint Rail Project Agreement (Dispatch Desk)"), CSXT will create the Central Florida Dispatcher Desk, which is a new dispatcher desk for the territory corresponding to the entire approximately 61.5 miles of the State Property:

- (i) Northern limits, MP A 749.57 of the State Property; and
- (ii) Southern limits, MP A 813.82 of the State Property."

(b) A copy of the Joint Rail Project Agreement (Dispatch Desk) is attached as Appendix 1 to this First Amendment.

3. Section 4 (c) (2) is amended and restated in its entirety to read:

"At the north end of the State Property, the four interlocked signals at CP South DeLand shall be owned and maintained by State. Prior to State assuming dispatch, CP South DeLand crossover shall be controlled by State. To route a train onto the State Property, the CSXT JA Desk dispatcher will coordinate with the Central Florida Dispatcher Desk dispatcher to move the crossover to the required position, then, one of the two southbound signals will be initially requested by the CSXT JA Desk dispatcher. The Central Florida Dispatcher Desk dispatcher will see a computer screen indication that the

signal had been requested but not yet cleared. The Central Florida Dispatcher Desk dispatcher will then request the same signal and, if field conditions permit, the signal will be displayed and the train will have authority to enter the State Property. To route a train from the State Property to the CSXT Property, the Central Florida Dispatcher Desk dispatcher will coordinate with the CSXT JA Desk dispatcher to move the crossover to the required position, then, one of the two northbound signals will be initially requested by the Central Florida Dispatcher Desk dispatcher. CSXT's JA Desk dispatcher will see an indication that the signal has been requested but not yet cleared. The CSXT JA Desk dispatcher will then request the same signal and, if field conditions permit, the signal will be displayed and the train will have authority to enter the CSXT Property. The two dispatchers will communicate via dedicated phone line."

4. Section 4 (c) (3) is amended and restated in its entirety to read:

"Prior to the creation of the Central Florida Dispatcher Desk, CSXT shall retire the existing "back-to-back" automatic (uncontrolled) signals at MP A813.1 and install new "back to back" interlocking ("controlled") signals at MP A813.82 or as close as practicable to the limits of the State Property. After Closing, these two signals shall be owned and maintained by State. The northbound signal shall be controlled by the Central Florida Dispatcher Desk. The southbound signal shall be controlled by CSXT's JA Desk. To route a train onto the State Property, the northbound signal will be initially requested by the CSXT JA Desk dispatcher. The Central Florida Dispatcher Desk dispatcher will see a computer screen indication that the signal has been requested but not yet cleared. The Central Florida Dispatcher Desk dispatcher will then request the same signal and, if field conditions permit, the signal will be displayed and the train will have authority to

enter the State Property. To route a train from the State Property to the CSXT Property, the southbound signal will be initially requested by the Central Florida Dispatcher Desk dispatcher. The CSXT JA Desk dispatcher will see an indication that the signal has been requested but not yet cleared. The CSXT JA Desk dispatcher will then request the same signal and, if field conditions permit, the signal will be displayed and the train will have authority to enter the CSXT Property. The two dispatchers will communicate via a dedicated phone line."

5. Section 4(c)(4) is amended and restated in its entirety to read:

"During the Transition Period, State-funded changes to the existing wayside signaling/interlockings will be limited. If the parties mutually agree, there may be one or more wayside signaling/interlocking field changes, with associated database changes to the US&S system. All field work on the State Property associated with signaling/interlocking will be completed by State contractors. All field work on CSXT Property will be performed by CSXT forces at State's cost and expense, unless State has first obtained written consent from CSXT's Vice-President, Labor Relations, to use State contractors to perform the work. State shall pay CSXT a lump sum of \$650,000.00 for the establishment of the Central Florida Dispatcher Desk, including field and dispatch center modifications at CP South Deland and in the establishment of new back-to-back interlocking controlled signals at MP 813.82.

6. The dates appearing in Section 6(a) are hereby amended to February 2013 with respect to Phase 1 and February 2015 with respect to Phase 2.

7. The definition of "CFOMA" in Appendix A is hereby amended to read: "CFOMA' shall mean that certain Central Florida Operating and Management Agreement between State and CSXT dated as of November 30, 2007 as may be amended."

8. The definition of "Contract" in Appendix A is hereby amended to read: "Contract' shall mean that certain Contract For Sale and Purchase by and between State and CSXT dated as of November 30, 2007, as may be amended."

9. The definition of "Transition Agreement" in Appendix A is hereby amended to read: "'Transition Agreement' shall mean that certain Transition Agreement by and between State and CSXT dated as of November 30, 2007, as may be amended."

10. The definition of "Joint Rail Project Agreements" in Appendix B is hereby amended to read: "'Joint Rail Project Agreements' shall mean, collectively, (i) that certain Joint Rail Project Agreement (Non-Federal) entered into by State and CSXT and dated as of November 3, 2006, as may be amended, (ii) that certain Joint Rail Projects Agreement (Dispatch Desk) described in Section 4(c)(1) of this Transition Agreement, as may be amended, and (iii) that certain Roadway Project Agreement described in Section 7(e) of this Transition Agreement, as may be amended."

11. In Appendix B, references to the "AA Desk" shall be amended to refer to the "JA Desk," and references to "2007 Operating Rules" shall be to the then current operating rules.

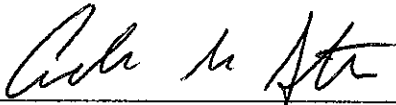
12. The Dispatching Services Agreement attached as Appendix C to the Transition Agreement shall be disregarded as of the First Amendment Effective Date and deemed to be replaced in its entirety by the Dispatching Services Agreement attached hereto as Appendix 2, as may be amended.

[signature page follows]

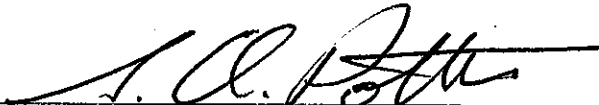
IN WITNESS WHEREOF, CSX TRANSPORTATION, INC. and STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, pursuant to due corporate and statutory authority, have caused their names to be signed to this First Amendment to Transition Agreement by officer(s) or official(s) duly authorized and duly attested as of the day and year first above written.

ATTEST

CSXT TRANSPORTATION, INC.



ANDREW M. SUTTER

By: 

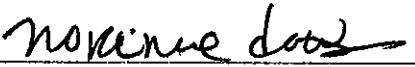
Steven Potter
Its Assistant Vice President,
Network Planning & Joint Facility

ATTEST

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION



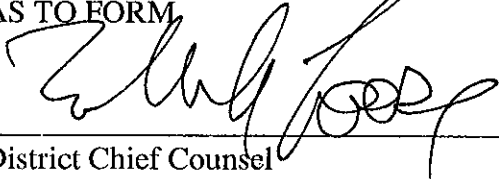
Jennifer Byann

By: 

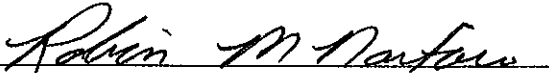
Noranne Downs, P.E.
District Secretary, District 5

REVIEWED AND APPROVED AS TO FORM

APPROVED AS TO FINANCIAL TERMS AND FUNDS ARE PROGRAMMED



District Chief Counsel
District 5, Florida Department of Transportation



Office of the Comptroller
Florida Department of Transportation

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
JOINT RAIL PROJECT AGREEMENT (NON-FEDERAL)

Financial Project No.:	Fund:	FLAIR Approp.:
412994-2-38-01	Function:	FLAIR Obj.:
(item-segment-phase-sequence)		Org. Code:
Contract No.:		Vendor No.:
	Catalog of State Financial Assistance Number:	

JOINT RAIL PROJECT AGREEMENT (NON-FEDERAL) BETWEEN

THE FLORIDA DEPARTMENT OF TRANSPORTATION

AND

CSX Transportation, Inc.

THIS AGREEMENT, made and entered into this _____ day of March, 2010, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida hereinafter referred to as the Department, and CSX Transportation, Inc. hereinafter referred to as the Railroad.

WITNESSETH:

WHEREAS, the Railroad has the authority to enter into this Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Section 341.303(2), Florida Statutes, to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations herein, the parties agree as follows:

1.00 Purpose of Agreement: The purpose of this Agreement is to provide state financial assistance to the Railroad for creating the new Central Florida Dispatcher Desk, as described in Exhibit "A" attached and made part hereof, hereinafter referred to as "the project," in accordance with this Agreement and that certain Transition Agreement between the Department and the Railroad executed and effective as of November 30, 2007, as may be amended, (the "Transition Agreement") and to also state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

2.00 Accomplishment of the Project: The Railroad shall commence, and complete the project with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable federal, state, and local laws.

3.00 Project Cost: The total cost of the project is \$650,000.00, plus the monthly cost described in Section 4.00. The Railroad agrees to bear all costs in excess of the total cost of the project.

4.00 Department Participation: The Department agrees to participate, including contingencies, in a lump sum of 100% of the project cost identified in Section 3.00 of \$650,000.00 payable upon completion of the project and the Department shall thereafter pay the Railroad \$58,000.00 per month until the earlier of (i) Closing, as set forth in Section 6 of that certain Contract for Sale and Purchase dated November 30, 2007, as may be amended, (the "Contract") and the commencement of that certain Dispatching Services Agreement executed contemporaneously with Closing (the "Dispatching Services Agreement"); or (ii) receipt by the Railroad of a notice of termination of the Contract, which notice may not be dated earlier than December 31, 2010.

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5.00 Project Cost Eligibility: Project costs eligible for Department participation will be allowed only from the effective date of this Agreement. It is understood that Department participation in eligible project costs is subject to:

- (1) Legislative approval of the Department's appropriation request in the work program year that the project is scheduled to be committed;
- (2) Availability of funds as stated in paragraph 21.00 of this Agreement;
- (3) Approval of all plans, specifications, contracts, or other obligating documents and all other terms of this Agreement. The Department acknowledges that the project has been approved.

6.00 Accounting Records and State Audit: The administration of resources awarded by the Department to the Railroad may be subject to audits and/or monitoring by the Department, as described in this section.

In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits and/or other procedures. By entering into this Agreement, the Railroad agrees to comply with all applicable law and cooperate fully with such monitoring procedures/processes.

The Railroad shall permit, and shall require its contractors to permit, the Department's authorized representatives to inspect all work, materials, payrolls, and records pertaining to the financing and development of the project; and to audit the books, records, and accounts pertaining to the financing and development of the project.

The Railroad is to have audits done annually using the following criteria:

- (1) In the event that the Railroad expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of the Railroad, the Railroad must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the Chief Financial Officer of the State of Florida, and Chapter 10.650 (non-profit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended in its fiscal year, the Railroad shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.
- (2) In connection with the audit requirements addressed in the above paragraph, the Railroad shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(d), Florida Statutes, and Chapter 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- (3) If the Railroad expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the Railroad expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Railroad's resources, i.e. the cost of such an audit must be paid from the Railroad's resources obtained from other than state entities.
- (4) State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and the Department's name.

The Railroad shall follow up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers during the Railroad's normal business hours shall be given to the Department, the Department of Financial Services, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

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Copies of financial reporting packages required in this section shall be submitted by or on behalf of the Railroad **directly** to:

- 1) The Department at the following address:

Florida Department of Transportation
Rail Office
133 S. Semoran Boulevard
Orlando, Florida 32808

- 2) The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Copies of reports required in this section shall be submitted by or on behalf of the Railroad **directly** to:

- 1) The Department at the following address:

Florida Department of Transportation
Rail Office
133 S. Semoran Boulevard
Orlando, Florida 32808

Any reports or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely in accordance with Chapter 10.650 (nonprofit and for-profit organization), Rules of the Auditor General, as applicable.

The Railroad, when submitting financial reporting packages to the Department for audits done in accordance with Chapter 10.650 (nonprofit and for-profit organization), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Railroad in correspondence accompanying the reporting package.

The Railroad shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least five years from the date the audit report is issued, and shall allow the Department, or its designee, Chief Financial Officer, or Auditor General of the State of Florida access to such records upon request. The Railroad shall ensure that audit working papers are made available to the Department, or its designee, Chief Financial Officer, or Auditor General of the State of Florida upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department.

7.00 Insurance: Execution of this Agreement constitutes a certification, only with respect to project equipment on the Railroad facility, that the Railroad has and will maintain the ability to repair or replace any project equipment or facilities in the event of loss or damage due to any accident or casualty prior to Closing, and post Closing until the expiration or termination of the Dispatching Services Agreement. In the event of the loss of such equipment or facilities on the Railroad's facility, prior to Closing, or post Closing prior to the expiration or termination of the Dispatching Services Agreement, the Railroad shall either replace the equipment or facilities or reimburse the Department to the extent of its interest in the lost equipment or facility.

8.00 Requisitions and Payments: In order to obtain any Department funds, the Railroad shall file with the Department of Transportation, Central Public Transportation Office, Tallahassee, Florida, 32399-0450, its requisition on a form or forms prescribed by the Department to justify and support the payment requisitions.

Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

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Payment will begin in the year the project or project phase is scheduled in the work program as of the date of the Agreement. Lump sum payments will be made for percentage of total work completed as of the date the invoice is submitted with the final payment due upon receipt of a final invoice.

If any real property is acquired, the Railroad will submit to the Department:

- (1) the date the Railroad acquired the real property,
- (2) a statement by the Railroad certifying that the Railroad has acquired said real property, and amount of consideration paid for the real property, and
- (3) a statement by the Railroad certifying that the appraisal and acquisition of the real property together with any attendant relocation of occupants was accomplished in compliance with all federal laws, rules, and procedures required by any federal oversight agency, and with all applicable state laws, rules, and procedures.

Subject to other provisions hereof, the Department will honor such requisitions in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment on the project if:

- (1) The Railroad shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;
- (2) There is then pending litigation with respect to the performance by the Railroad of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement, or payments to the project;
- (3) The Railroad shall have taken any action pertaining to the project which, under this Agreement, requires the approval of the Department or has made related expenditures or incurred related obligations without having been advised by the Department that same are approved;
- (4) There has been any violation of the conflict of interest provisions contained herein; or
- (5) The Railroad is in default under any of the provisions of this Agreement. In determining the amount of the payment, the Department will exclude all project costs which are not provided for in the latest approved budget for the project and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

If, after project completion, any claim is made by the Department resulting from an audit performed pursuant to this Agreement, the Department may offset such amount from payments due the Railroad under any other funding agreements if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting amounts by the Department shall not be considered a breach of this Agreement.

9.00 Termination or Suspension of Project: If the Railroad abandons or, before completion, permanently discontinues the project; or if, by reason of any of the events or conditions herein, or for any other reason, the commencement, prosecution, or timely completion of the project by the Railroad is rendered improbable, infeasible, impossible, or illegal, the Department will, by written notice to the Railroad, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or the Department may terminate any or all of its obligations under this Agreement, except where such inability to perform is solely due to an action by the Department. Unless the inability to perform is proximately caused by the Railroad, the Railroad will be entitled to payment in a lump sum equal to the product of the project cost times the percentage of the project that is complete.

Upon receipt of any final termination or suspension notice, the Railroad shall proceed promptly to carry out the actions required which may include any or all of the following:

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- (1) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to the minimum the costs upon the basis of which the financing is to be computed;
- (2) furnish a statement of the project activities and contracts, and other undertakings the cost of which are otherwise includable as project costs; and
- (3) carry out the termination or suspension in conformity with the latest schedule, plan, and budget as approved by the Department or upon the basis of terms and conditions reasonably determined by the Department upon the failure of the Railroad to furnish the schedule, plan, and budget within a reasonable time. The approval of a remittance by the Railroad or the closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

The Department reserves the right to unilaterally cancel this Agreement for refusal by the Railroad to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement, excluding material exempt from a public record request made pursuant to the provisions of Chapter 119, Florida Statutes.

10.00 Third Party Agreements: Except as otherwise authorized in writing by the Department, the Railroad shall not execute any contract or obligate itself in any manner requiring the disbursement of Department joint project funds, including consultant, construction, or purchase of commodities contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department shall not be obligated or liable to any person or entity not a party to this Agreement.

11.00 Disadvantaged Business Enterprise Policy and Obligation: It is the policy of the Department that disadvantaged business enterprises as defined in 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The Railroad agrees to ensure that disadvantaged business enterprises have the maximum opportunity to participate in the performance of contracts under this Agreement.

12.00 Non-Discrimination: The Railroad shall not discriminate on the basis of race, age, color, national origin, or sex in the award and performance of this Agreement. The Railroad shall insert the foregoing provision in all subcontracts. When the project involves installation, construction, demolition, removal, site improvement, or similar work, the Railroad shall post, in conspicuous places available to employees and applicants for employment, the non-discrimination clause.

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids 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.

13.00 Prohibited Interests: Neither the Railroad nor any of its contractors or subcontractors shall enter into any contract, subcontract, or arrangement in connection with the project or any property included or planned to be included in the project, in which any member, officer, or employee of the Railroad during his tenure and for two years thereafter acquires any interest, direct or indirect, unless such interest is fully disclosed to the Railroad and the Department, and such interest does not prevent the individual or entity from objectively performing the work under this Agreement without bias and any appearance of a conflict of interest.

14.00 When Rights and Remedies Not Waived: In no event shall the making by the Department of any payment to the Railroad constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist, on the part of the Railroad, and the making of such payment by the Department while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

15.00 How Agreement Is Affected by Provisions Being Held Invalid: If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

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16.00 Bonus or Commission: By execution of the Agreement the Railroad represents that it has not paid and, also, agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the funding hereunder.

17.00 Project Facilities and Equipment: The Railroad agrees that the project facilities and equipment will be used by the Railroad to provide or support public transportation as described in the Transition Agreement. The Railroad further agrees to maintain the project facilities and equipment in good working order prior to Closing and with respect to project facilities on Railroad owned property, for the term of the Transition Agreement.

If the Railroad disposes of any project facility or equipment without the consent of the Department prior to Closing or, with respect to equipment on Railroad owned property, prior to the State Management Date, as defined in the Transition Agreement, the Railroad agrees to remit to the Department a proportional amount of the proceeds from the disposal of the facility or equipment. Said proportional amount shall be determined on the basis of the ratio of the Department financing of the facility or equipment as provided in this Agreement.

18.00 Contractual Indemnity: To the extent provided by law, the Railroad shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Railroad, its agents, or employees, during the performance of the Agreement, except that neither the Railroad, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by the Railroad in the performance of services required under this Agreement, the Department will immediately forward the claim to the Railroad. The Railroad and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Railroad in the defense of the claim or to require that the Railroad defend the Department in such claim as described in this section. The Department's failure to promptly notify the Railroad of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by the Railroad. The Department and the Railroad will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

19.00 Plans and Specifications: In the event that this Agreement involves the purchase of capital equipment or the constructing and equipping of facilities, the Railroad shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Railroad written approval with any approved portions of the project and comments or recommendations concerning any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Railroad written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause for nonpayment by the Department.

20.00 Project Completion, Railroad Certification: The Railroad will certify in writing on or attached to the final invoice, that (i) the project was completed in accordance with applicable plans and specifications; (ii) the project is or was, prior to Closing, in place on the Railroad facility; (iii) adequate title to the project is or was, prior to the Closing, in the Railroad with respect to equipment or property being conveyed to the Department; and (iv) the project is accepted by the Railroad as suitable for the intended purpose.

21.00 Appropriation of Funds: The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated: "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 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 one 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."

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22.00 Expiration of Agreement: The Railroad agrees to use all commercially reasonable efforts to complete the project on or before December 31, 2010. If the Railroad does not complete the project within this time period, this Agreement will expire unless an extension of the time period is requested in writing by the Railroad and granted in writing prior to the above date by the State Public Transportation and Modal Administrator. Expiration of this Agreement will be considered termination of the project, provided, both parties shall remain responsible for obligations arising prior to termination or expiration, including the Railroad's entitlement to payment for work accomplished prior to expiration or termination in a lump sum equal to the product of the project cost times the percentage of the project that is complete. Any work performed after the expiration or termination of this Agreement will not be paid by the Department.

23.00 Final Invoice: The Railroad must submit the final invoice on this project to the Department within 180 days after the expiration or termination of this Agreement. Invoices submitted after the 180 day time period will not be paid.

24.00 Agreement Format: 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.

25.00 Execution of Agreement: This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

26.00 Restrictions on Lobbying: No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.

27.00 Vendors Rights: Vendors (in this document identified as Railroad) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has 30 working days to inspect and approve the goods and services. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days after receipt of the invoice and receipt, inspections and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), Florida Statutes, will be due and payable, in addition to the invoice amount to the Railroad. Invoices which have to be returned to a Railroad because of 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 the Department.

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 the Department. The Vendor Ombudsman may be contacted by calling the Department of Financial Services Hotline, 1-800-848-3792.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
JOINT RAIL PROJECT AGREEMENT (NON-FEDERAL)

725-090-85
RAIL
08/05
Page 8 of 8

Financial Project No. 412994-2-38-01
Contract No. _____
Agreement Date _____

IN WITNESS WHEREOF, the parties hereto have caused these presents be executed, the day and year first above written.

CSX Transportation, Inc.

NAME OF RAILROAD

AUTHORIZED SIGNATURE

PRINTED NAME

TITLE

FDOT

See attached Encumbrance Form for date of Funding Approval by Comptroller

LEGAL REVIEW
DEPARTMENT OF TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

TITLE

Exhibit "A"

Project Description and Responsibilities

This Exhibit A forms an integral part of that certain Joint Rail Project Agreement (Non-Federal) ("JRPA (Dispatch Desk)") dated _____, between the State of Florida, Department of Transportation (Department or State) and CSX Transportation, Inc. (Railroad or CSXT), and its terms shall govern in case of conflict with any term in the JRPA (Dispatch Desk) except where prohibited by Florida or Federal law.

PROJECT LOCATION: CSX Transportation, Inc. railroad corridor in Volusia, Seminole, Orange, and Osceola Counties, Florida between mileposts MP 749.57 and 813.82.

PROJECT DESCRIPTION: Create the new Central Florida Dispatcher Desk, which is the new dispatcher desk for the territory corresponding to the entire approximately 61.5 miles of the State Property that is the subject of the Contract for Sale and Purchase dated November 30, 2007 by and between the Department and Railroad, as may be amended ("Contract"). Project provides field signal changes, US&S software changes, CSXT mainframe changes, hardware, and communications. Capitalized terms not defined herein shall have the meaning given to them in the Contract or the Transition Agreement.

SPECIAL CONSIDERATIONS BY RAILROAD: None.

SPECIAL CONSIDERATIONS BY DEPARTMENT: None.

RAILROAD RESPONSIBILITIES

1. Railroad may implement the project through the use of its own forces and/or a contractor(s) it hires to perform some or all of the work.
2. Railroad shall continue operation of rail service and manage construction zone safety and rail operations during the work period.
3. Referring to Section 8.00 of the JRPA (Dispatch Desk), the Railroad shall submit for payment a single lump sum invoice for the project costs identified in Section 3.00 and monthly requisitions for the monthly project cost identified in Section 4.00. Requisition shall be submitted to the Department's project manager at the address shown in Section 8.00. At time of execution, the project manager is Tawny Olore.
4. Railroad shall monitor and inspect the construction of the project to assure compliance with any specifications and suitable levels of quality. Railroad shall conduct a final acceptance inspection of the project prior to final invoicing. The Department reserves the right to participate in such final inspection with prior notice to the Railroad.

CLARIFICATION OF TERMS

1. Referring to Section 17.00, first paragraph of the JRPA (Dispatch Desk), the purpose of the project is to facilitate improved rail service to the public. Nothing in the JRPA (Dispatch Desk) obligates Railroad to provide or allow use of the project on Railroad property for rail passenger service throughout the useful life of the project or equipment.
2. "Project" means only the equipment, hardware and changes made to the equipment and hardware identified on this Exhibit A to the JRPA (Dispatch Desk), but does not include the CSXT mainframe.

SCOPE OF WORK

CSXT will create the Central Florida Dispatcher Desk, which is a new dispatcher desk for the territory corresponding to the entire approximately 61.5 miles of the State Property:

1. Northern limits, MP 749.57 of the State Property,
2. Southern limits, MP 813.82 of the State Property.

Field Signal Changes

Modification of signals at MP 749.57 to provide coordination between State and CSXT dispatcher, control by State dispatcher for entrance to the State Property and control by CSXT dispatcher for entrance to CSXT Property. It is understood that, pursuant to the Transition Agreement, the initial installation of the new back-to-back signal at MP 813.82 has occurred, however, as part of the scope of work, CSXT will cut the new signal at MP 813.82 into the existing system and retire the existing uncontrolled signal at MP 813.1. After Closing, the signals at MP 749.57 and MP 813.82 to be owned and maintained by State. Estimated cost includes installation, material, labor and additives.

Union Switch & Signal Software Changes

Programming of territory parameters to provide changes in the USS dispatching system to recognize field signal modification at MP 749.57 and changes at MP 813.1 and 813.82 in dispatching system, remove the approximately 61.5-mile line segment from control of current JA dispatcher and provide separate dispatching control and functionality on new dispatching console. This includes: territory alignment (subdivisions), creation of new territory, moving station names and milepost data, creating new dispatcher console position, configuration changes, dispatcher overview alignment, testing, tape load.

CSXT Mainframe Changes

Programming changes in CSXT mainframe computer system to pass information to/from CADS (Computer Aided Dispatcher System), i.e., train sheets, train bulletins, employee qualifications, train profiles, work authorities, archival for FRA requirements.

Union Switch & Signal console License and Hardware

Union Switch & Signal software license for additional user (new console), computer hardware, cabling, labor for establishing new console in CSXT dispatching center Jacksonville.

Communications

Field changes (material and labor) and office changes to effect road channel and communications for the approximately 61.5-mile segment and new console.

Facility Changes

Electrical, cubicle, as needed, to implement new desk location in dispatching center Jacksonville.

9283325_v1

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

Contract #APW09 Contract Type: AK Method of Procurement: R
 Vendor Name: CSX TRANSPORTATION
 Vendor ID: VF621051971001
 Beginning date of this Agmt: 03/26/10
 Ending date of this Agmt: 03/01/13

Description:
 Central Florida Dispatcher Desk

ORG-CODE (FISCAL YEAR) AMENDMENT ID	*EO *BUDGET ENTITY *SEQ.	*OBJECT *AMOUNT *BUDGET ENTITY *USER ASSIGNED ID	*FIN PROJECT *FCT *CFDA *CATEGORY/CAT YEAR *ENC LINE(6S)/STATUS
---	--------------------------------	--	---

Action: NEW Funds have been: APPROVED

55	05200531	*PT	*131501	*	650000.00	*41299423801	*215	*
2010			*55100100			*088809/10		
0001			*00	*		*0001/04		

 TOTAL AMOUNT: *\$ 650,000.00 *

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER
 DATE: 03/25/2010

Appendix 2

Agreement No.: _____
Financial Project I.D.: _____
F.E.I.D. No: _____
Procurement No.: _____
D.M.S. Catalog Class No.: _____

DISPATCHING SERVICES AGREEMENT

THIS DISPATCHING SERVICES AGREEMENT (this "Agreement"), made as of the ____ day of _____, 2010 (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, "Central Florida Rail Corridor Definitions" and Appendix B, "Transition Agreement Definitions."

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.

This Agreement shall begin upon the Closing Date 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) 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.

(c) 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.

(d) 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.

(e) 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 a one-time qualifying expense of Fifty Thousand Dollars (\$50,000.00). This advance payment has been authorized by the Chief Financial Officer of the

State of Florida under Section 215.422(14), Florida Statutes.

(c) There shall be no payment or reimbursement for travel expenses under this Contract.

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 and within sixty (60) days of receipt by State of a monthly invoice. 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) 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 latter of the date the invoice is received or the services are received. If a payment is not available within forty (40) days, a separate interest penalty as established pursuant to Section 215.422, Florida Statutes, shall 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 shall 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 or by calling the Customer Hotline, 1-877-693-5236.

(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 three (3) 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 funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained 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.

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

ATTEST

CSX TRANSPORTATION, INC.

By: _____

ATTEST

STATE OF FLORIDA DEPARTMENT
OF TRANSPORTATION

By: _____

THE AFOREMENTIONED CONTRACT
HAS BEEN REVIEWED AND APPROVED
AS TO FORM

FUNDS ARE APPROVED AND
AVAILABLE

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