THIS AGREEMENT, dated as of the ____ day of _____, 20__ is made and entered into by and between

CENTRAL OF GEORGIA RAILROAD COMPANY, a wholly owned subsidiary of Norfolk Southern Railway Company, whose mailing address is 650 West Peachtree Street NW – Box 45, Atlanta, Georgia 30308 (together, "RAILWAY"); and AUGUSTA, , GEORGIA a political subdivision of the State of Georgia, whose mailing address is 535 Telfair Street, Suite 910. Augusta, Georgia 30901 ("LICENSEE").

RECITALS

WHEREAS, LICENSEE, at its own cost and expense, has found it necessary to widen and make improvements to the Willis Forman Road (DOT# 734144H) (the "Facilities"), in the vicinity of RAILWAY Milepost GF-238.41, at or near Hephzibah, Georgia (the "Premises"), located substantially as shown upon print of Drawing marked Exhibit A; and

WHEREAS, upon RAILWAY's written approval of the final project plans, with preliminary plans and specifications included herein and marked as Exhibit B, RAILWAY is willing to permit LICENSEE to enter upon RAILWAY's right of way at the Premises for installation, construction, maintenance, operation and removal of the Facilities upon the terms and conditions of this Agreement (the "Proposed Work"), and in accordance with the final approved plans and specifications; and

WHEREAS, RAILWAY is willing, at LICENSEE's sole expense, to make modifications to RAILWAY's right of way and/or appurtenances rendered necessary by LICENSEE's installation, construction, maintenance, operation and removal of its Facilities in accordance with the force account estimate marked Exhibit D.

NOW THEREFORE, for and in consideration of the premises and mutual covenants contained in this Agreement, the parties agree as follows:

I. LICENSEE'S FACILITIES

1. Right-of-Entry. RAILWAY, insofar as its rights and title enables it to do so and subject to its rights to operate and maintain its RAILWAY and RAILWAY appurtenances along, in, and over its right-of-way, grants LICENSEE without compensation, the temporary and non-exclusive right to enter upon the Premises for the purpose of installation, construction, maintenance, operation and removal of the Facilities. It is intended that this temporary right to enter is granted for the sole benefit of LICENSEE, and only for entry on the Premises, as needed to perform, conduct, inspect, and observe the Proposed Work. Prior to entry upon lands of RAILWAY, any agent and/or contractor of LICENSEE must execute and deliver to RAILWAY a standard contractor right-of-entry agreement in a form approved by RAILWAY in its sole discretion, together with any certificate(s) of insurance or statement of self-insurance as required therein. Furthermore, any crossing of RAILWAY tracks by LICENSEE or any of its agents and/or contractors must be addressed by a standard temporary crossing agreement in a form approved by RAILWAY in its sole discretion. The temporary right to enter granted by this provision is limited to the Premises as shown on the attached Exhibit A attached hereto and made a part hereof. RAILWAY specifically does not grant to LICENSEE the right to install and/or modify or the authorization for others to install and/or modify any electric, water, sewer, storm sewer, gas, telecommunication line, cable or any fiber optic cable, or other facilities across, on, over, under, or along the Premises or any property of RAILWAY.

2. Use and Condition of the Premises. The Premises shall be used by LICENSEE only for the installation, construction, maintenance, operation, and removal of the Facilities and for no other purpose without the prior written consent of RAILWAY, which consent may be withheld by RAILWAY in its sole discretion. LICENSEE accepts the Premises in their current "as is" condition, as suited for the installation and operation of the Facilities, and without the benefit of any improvements to be constructed by RAILWAY except insofar as contemplated by Section II of this Agreement.

3. Construction and Maintenance of the Facilities. Upon RAILWAY's written approval of the final plans and specifications, LICENSEE shall construct and maintain the Proposed Work, at its expense, in such a manner as will not interfere with the operations of RAILWAY or endanger persons or property of RAILWAY, and in accordance with (a) plans and specifications (if any) shown on said print(s) marked as Exhibit B and any other specifications prescribed by RAILWAY, (b) applicable governmental regulations or laws, and (c) applicable specifications adopted by the American RAILWAY

Engineering and Maintenance of Way Association when not in conflict with plans, specifications or regulations mentioned in (a) and (b) above. Without limiting the foregoing, LICENSEE and any and all of LICENSEE contractors entering the Premises shall fully comply with roadway worker protection regulations, as may be applicable to their work. For purposes of clarity, any maintenance, repair, or renewal work conducted after the initial construction of the Facilities that requires access to or otherwise affects RAILWAY's right of way or operations will be subject to an appropriate right of entry agreement for such work and nothing in this Agreement grants access rights absent such further agreement on scope and specifications for such access.

4. Indemnification.

(a) LICENSEE hereby agrees to indemnify and save harmless, or agrees to require that its contractor indemnify and save harmless, RAILWAY from and against any and all liability, claims, losses, damages, expenses (including attorneys' fees) or costs for personal injuries (including death) and/or property damage to whomsoever or whatsoever occurring (collectively or individually, "Damages") that arise or in any manner grow out of (i) any allegation that RAILWAY is an employer or joint employer of a LICENSEE or is liable for related employment benefits or tax withholdings; or (ii) any decision by RAILWAY to bar or exclude LICENSEE from the Premises pursuant to the terms of this Agreement.

(b) LICENSEE hereby agrees to indemnify and save harmless, or agrees to require that its contractor indemnify and save harmless, RAILWAY from and against any and all Damages that arise or in any manner grow out of the installation, construction, maintenance, operation, and removal of the Facilities on the Premises and/or the presence of LICENSEE, its employees, agents, and/or contractors on or about the Premises, regardless of whether negligence on the part of RAILWAY caused or contributed to said Damages in whole or in part.

(c) If the agreement to indemnify against the indemnified party's sole negligence as provided for herein is invalid under the law applicable to enforcement of this Agreement, then in that event LICENSEE agrees to require that its contractor indemnify and save harmless, RAILWAY from and against any and all Damages that arise or in any manner grow out of the installation, construction, maintenance, operation, and removal of the Facilities on the Premises and/or the presence of LICENSEE, its employees, agents, and/or contractors on or about the Premises, even if such Damages are caused or contributed to by RAILWAY except if such Damages are caused solely by the negligence of RAILWAY.

(d) If the agreement to indemnify against the indemnified party's negligence as provided for herein is invalid under the law applicable to enforcement of this Agreement, then in that event LICENSEE agrees to require that its contractor indemnify and save harmless, RAILWAY from and against any and all Damages that arise or in any manner grow out of the installation, construction, maintenance, operation, and removal of the Facilities on the Premises and/or the presence of LICENSEE, its employees, agents, and/or contractors on or about the Premises, except to the extent that any such Damages are caused or contributed to by the negligence of the RAILWAY.

5. Environmental Matters.

(a) LICENSEE assumes all responsibility for any environmental obligations imposed under applicable laws, regulations or ordinances relating to the installation, construction, maintenance, operation, and removal of the Facilities and/or to any contamination of any property, water, air or groundwater arising or resulting from LICENSEE's operations on or uses of RAILWAY's property pursuant to this Agreement. In addition, LICENSEE shall obtain any necessary permits to install the Facilities.

(b) LICENSEE agrees to require that its contractor indemnify and hold harmless, RAILWAY from and against any and all liability, fines, penalties, claims, demands, costs (including attorneys' fees), losses or lawsuits brought by any person, company or governmental entity relating to contamination of any property, water, air or groundwater due to the use or presence of the Facilities (collectively, "Environmental Damages"), regardless of whether negligence on the part of RAILWAY caused or contributed to said Environmental Damages

in whole or in part. If the agreement to indemnify against the indemnified party's sole negligence is invalid under the law applicable to enforcement of this Agreement, then in that event LICENSEE agrees to indemnify and save harmless or to require that its contractor indemnify and hold harmless, RAILWAY from and against any and all Environmental Damages, even if such Environmental Damages are caused or contributed to by RAILWAY, except if such Environmental Damages are caused solely by the negligence of RAILWAY. If the agreement to indemnify against the indemnified party's negligence is invalid under the law applicable to enforcement of this Agreement, then in that event LICENSEE agrees to indemnify and save harmless or to require that its contractor indemnify and hold harmless, RAILWAY from and against any and all Environmental Damages except to the extent that any such Environmental Damages are caused or contributed by the negligence of the RAILWAY.

(c) It is agreed that the indemnity provision in Section I.5(b) extends to any cleanup costs related to LICENSEE's activities upon RAILWAY's property, excluding contamination caused by RAILWAY that was present on RAILWAY's property prior to LICENSEE's use, and to any costs related to cleanup of the Facilities or to other property caused by the use of the Facilities. Notwithstanding the exclusion in the foregoing sentence, LICENSEE shall be fully responsible for proper removal and disposal of any soil or debris, whether or not contaminated and regardless of the source of contamination, as needed for the construction or installation of the Facilities, and LICENSEE shall pay all costs associated therewith.

6. Special Provisions for Protection of Railway Interests. In connection with LICENSEE's Proposed Work, it is agreed that the safety of people and the safety and continuity of RAILWAY's operations shall be of first importance. LICENSEE shall always act and shall require its employees, agents, contractors, and invitees to act, with the highest regard for safety and RAILWAY operations continuity and shall require its employees, agents, contractors, and invitees to utilize and comply with RAILWAY's directives in this regard. LICENSEE shall itself comply and shall require its employees, agents, contractors, and invitees to comply with all RAILWAY "Special Provisions for Protection of Railway Interests" ("Special Provisions"), as may be amended from time to time, attached hereto in current form as Exhibit C and hereby incorporated by reference. As used in the Special Provisions, LICENSEE shall be deemed subject to the additional obligations of "Contractor" (and shall be additionally deemed to be a "contractor" hereunder) should LICENSEE enter onto the Premises to perform any work contemplated by this Agreement. To ensure such compliance, LICENSEE shall assign a project manager to function as a single point-of-contact for LICENSEE (referred to as the "Sponsor's Engineer" in Exhibit C).

7. Qualified Protective Services. Except as specifically agreed otherwise between the parties, LICENSEE agrees that it will require its contractor to furnish and maintain qualified protective services equipped to operate around RAILWAY operations to protect LICENSEE or its contractor(s) when installation, construction, maintenance, operation, or removal activities are taking place on or adjacent to RAILWAY property and/or has the potential to foul RAILWAY's tracks or operations. All expenses for the qualified protective services shall be borne by LICENSEE. Any contractor providing qualified protective services on behalf of LICENSEE's contractor is subject to prior approval from RAILWAY to ensure safety.

8. Insurance. Without limiting in any manner the liabilities and obligations assumed by LICENSEE under any other provision of this Agreement, and as additional protection to RAILWAY, LICENSEE shall procure and maintain (and/or cause LICENSEE's agent or contractor to procure and maintain, as applicable), at LICENSEE's expense, insurance as defined in the Special Provisions.

9. Railway Support. RAILWAY shall, at RAILWAY's option, furnish, at the sole expense of LICENSEE, labor and materials necessary, in RAILWAY's sole judgment, to support its tracks and/or to protect its traffic during the installation, construction, maintenance, operation, or removal of the Facilities.

10. Safety of Railway Operations. If RAILWAY becomes aware of any safety violations committed by LICENSEE, its employees, agents, and/or contractors, RAILWAY shall so notify LICENSEE, and LICENSEE shall promptly correct such violation. In the event of an emergency threatening immediate danger to persons or property,

RAILWAY may take corrective actions and shall notify LICENSEE promptly thereafter. LICENSEE shall reimburse RAILWAY for actual costs incurred in taking such emergency measures. RAILWAY assumes no additional responsibility for safety on the Premises for LICENSEE, its agents/or contractors by taking these corrective actions, and LICENSEE, its agents/contractors shall retain full responsibility for such safety violations.

11. Corrective Measures. If LICENSEE fails to take any corrective measures requested by RAILWAY in a timely manner, or if an emergency situation is presented that, in RAILWAY's judgment, requires immediate repairs to the Facilities, RAILWAY, at LICENSEE's expense, may undertake such corrective measures or repairs as it deems necessary or desirable.

12. Railway Changes. If RAILWAY shall make any changes, alterations or additions to the line, grade, tracks, structures, roadbed, installations, right-of-way or works of RAILWAY, or to the character, height or alignment of the Electronic Systems, at or near the Facilities, LICENSEE shall at its sole expense, upon thirty (30) days prior written notice from RAILWAY, make such changes in the location and character of the Facilities as, in the opinion of the chief engineering officer of RAILWAY, shall be necessary or appropriate to accommodate any construction, improvements, alterations, changes or additions of RAILWAY.

13. Assumption of Risk. Unless caused solely by the negligence of RAILWAY or caused solely by the willful misconduct of RAILWAY, LICENSEE hereby assumes all risk of damage to the Facilities and LICENSEE's other property relating to its use and occupation of the Premises or business carried on the Premises and any defects to the Premises; and LICENSEE hereby declares and states that RAILWAY shall not be responsible for any liability for such damage.

14. Liens; Taxes. LICENSEE will not permit any mechanic's liens or other liens to be placed upon the Premises, and nothing in this Agreement shall be construed as constituting the consent or request of RAILWAY, express or implied, to any person for the performance of any labor or the furnishing of any materials to the Premises, nor as giving LICENSEE any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that could give rise to any mechanic's liens or other liens against the Premises. In addition, LICENSEE shall be liable for all taxes levied or assessed against the Facilities and any other equipment or other property placed by LICENSEE within the Premises. In the event that any such lien shall attach to the Premises or LICENSEE shall fail to pay such taxes, then, in addition to any other right or remedy available to RAILWAY, RAILWAY may, but shall not be obligated to, discharge the same. Any amount paid by RAILWAY for any of the aforesaid purposes, together with related court costs, attorneys' fees, fines and penalties, shall be paid by LICENSEE to RAILWAY within ten (10) days after RAILWAY's demand therefor.

15. Default; Remedies.

(a) The following events shall be deemed to be events of default by LICENSEE under this Agreement:

(i) LICENSEE shall fail to pay any sum of money due hereunder and such failure shall continue for a period of ten (10) days after the due date thereof;

(ii) LICENSEE shall fail to comply with any provision of this Agreement not requiring the payment of money, all of which terms, provisions and covenants shall be deemed material, and such failure shall continue for a period of thirty (30) days after written notice of such default is delivered to LICENSEE;

(iii) LICENSEE shall become insolvent or unable to pay its debts as they become due, or LICENSEE notifies RAILWAY that it anticipates either condition;

(iv) LICENSEE takes any action to, or notifies RAILWAY that LICENSEE intends to file a petition under any section or chapter of the United States Bankruptcy Code, as amended from time to time, or under any similar law or statute of the United States or any State thereof; or a petition shall be filed against LICENSEE under any such statute; or

(v) a receiver or trustee shall be appointed for LICENSEE's license interest hereunder or for all or a substantial

part of the assets of LICENSEE, and such receiver or trustee is not dismissed within sixty (60) days of the appointment.

(b) Upon the occurrence of any event or events of default by LICENSEE, whether enumerated in this paragraph 15 or not, RAILWAY shall have the option to pursue any remedies available to it at law or in equity without any additional notices to LICENSEE. RAILWAY's remedies shall include, but not be limited to, the following: (i) termination of this Agreement, in which event LICENSEE shall immediately surrender the Premises to RAILWAY; (ii) entry into or upon the Premises to do whatever LICENSEE is obligated to do under the terms of this Agreement, in which event LICENSEE shall reimburse RAILWAY on demand for any expenses that RAILWAY may incur in effecting compliance with LICENSEE's obligations under this Agreement, but without rendering RAILWAY liable for any damages resulting to LICENSEE or the Facilities from such action; and (iii) pursuit of all other remedies available to RAILWAY at law or in equity, including, without limitation, injunctive relief of all varieties.

16. Railway Termination Right. Notwithstanding anything to the contrary in this Agreement, RAILWAY shall have the right to terminate this Agreement and the rights granted hereunder, after delivering to LICENSEE written notice of such termination no less than sixty (60) days prior to the effective date thereof, upon the occurrence of any one or more of the following events:

(a) If LICENSEE shall discontinue the use or operations of the Facilities; or

(b) If RAILWAY shall be required by any governmental authority having jurisdiction over the Premises to remove, relocate, reconstruct or discontinue operation of its railroad on or about the Premises; or

(c) If RAILWAY, in the good faith judgment of its Superintendent, shall require a change in the location or elevation of its railroad on or about the location of the Facilities or the Premises that might effectively prohibit the use or operation of the Facilities; or

(d) If RAILWAY, in the good faith judgment of its Superintendent, determines that the maintenance or use of the Facilities unduly interferes with the operation and maintenance of the facilities of RAILWAY, or with the present or future use of such property by RAILWAY, its lessees, affiliates, successors or assigns, for their respective purposes.

17. Condemnation. If the Premises or any portion thereof shall be taken or condemned in whole or in part for public purposes, or sold in lieu of condemnation, then this Agreement and the rights granted to LICENSEE hereunder shall, at the sole option of RAILWAY, forthwith cease and terminate. All compensation awarded for any taking (or sale proceeds in lieu thereof) shall be the property of RAILWAY, and LICENSEE shall have no claim thereto, the same being hereby expressly waived by LICENSEE.

18. Removal of Facilities; Survival. The Facilities are and shall remain the personal property of LICENSEE. In the event this Agreement is terminated prior to LICENSEE's completion of the Facilities, upon the termination of this Agreement, LICENSEE shall remove the Facilities from the Premises within thirty (30) days after the effective date thereof. If this Agreement is terminated after completion of LICENSEE's construction of the Facilities, the Facilities shall remain in place and LICENSEE shall continue to be responsible for the maintenance and repair of the Facilities. If LICENSEE fails to properly maintain and repair the Facilities, then LICENSEE shall remove the Facilities from the Premises within thirty (30) days after RAILWAY's notice to LICENSEE of such failure to maintain. In performing any such removal pursuant to this paragraph, unless otherwise directed by RAILWAY, LICENSEE shall restore the Premises to the same condition as existed prior to the installation or placement of Facilities, reasonable wear and tear excepted, or such other condition as mutually agreed by the parties hereto. In the event LICENSEE shall fail to so remove the Facilities or restore the Premises in accordance with this paragraph, the Facilities shall be deemed to have been abandoned by LICENSEE, and at RAILWAY's option, the same shall become the property of RAILWAY for RAILWAY to use, remove, destroy or otherwise dispose of at its discretion and without responsibility for accounting to LICENSEE therefor; provided, however, in the event RAILWAY elects to remove the Facilities,

RAILWAY, in addition to any other legal remedy it may have, shall have the right to recover from LICENSEE all costs incurred in connection with such removal and the restoration of the Premises. Notwithstanding anything to the contrary contained in this Agreement, the termination of this Agreement shall not relieve LICENSEE from LICENSEE's obligations accruing prior to the termination date, and such obligations shall survive any such termination of this Agreement.

19. Interests in Real Property

(a) LICENSEE shall acquire or settle all property, property rights and all damages to property outside the Premises that are affected by the installation, construction, maintenance, and operation of the Facilities. The cost of said property, property rights and damages to property shall be borne by LICENSEE. RAILWAY shall have no duty or responsibility to obtain any third-party property rights relating to the installation, construction, maintenance, and operation of the Facilities.

(b) RAILWAY, insofar as it has the legal right so to do, shall permit LICENSEE to enter upon lands owned or operated by RAILWAY to construct the Facilities and to occupy RAILWAY's property with sufficient width to permit construction, operation, and maintenance of the Facilities. It is understood that the foregoing right of entry is a permissive use only, and this Section is not intended to convey or obligate RAILWAY to convey any interest in its land.

(c) In the event the Facilities require a leasehold or other property interest in the Premises, and RAILWAY agrees to grant such property interest in its sole discretion, LICENSEE and RAILWAY shall enter into good faith negotiations for a price to be consistent with the property interest determined by LICENSEE to be needed for the proposed improvement, subject to a separate agreement. The price to be paid by LICENSEE to RAILWAY for said conveyances (representing the fair market value thereof plus damages, if any, to the residue) shall be as mutually agreed upon within nine (9) months from the date of occupancy by LICENSEE, and if agreement as to price is reached, an additional period of ninety (90) days shall be allowed for settlement, it being agreed however, that if no agreement as to price is reached within the aforesaid nine (9) month period, LICENSEE will, within ninety (90) days thereafter, institute an eminent domain proceeding authorized by law for the determination of the value of same. The provisions of this Agreement shall survive the institution of such eminent domain proceeding. In the event of such conveyance of a property interest, LICENSEE shall furnish the plans and descriptions for any such conveyance.

II. SCOPE AND REIMBURSEMENT OF RAILROAD PROJECT

1. Scope of Work. The scope of the work by RAILWAY shall include any necessary railroad-related permitting, administrative and legal handling, design, construction, and construction-related activities, including, but not limited to, inspection and superintendence, within and along RAILWAY property necessary to facilitate LICENSEE's Proposed Work, as set forth in the force account estimate included in Exhibit D ("Railroad Project"). In the event the Facilities require RAILWAY to acquire right of way to continue its operations, LICENSEE shall be responsible for such acquisition, including costs therefor, and shall ensure such lands are deeded to RAILWAY as appropriate.

2. Construction of the Railroad Project. RAILWAY shall construct the Railroad Project in accordance with the force account estimate, attached as Exhibit D and herein incorporated by reference, including any future amendments thereto, and all applicable state and federal laws.

(a) All work performed by RAILWAY related to the Railroad Project and consistent with the force account estimate will be deemed reimbursable project expenses and shall be at no cost to RAILWAY.

(b) RAILWAY shall accomplish work on the Railroad Project by use of one or more of the following: (i) railroad force account; (ii) existing continuing contracts at reasonable costs; (iii) contracting with the lowest responsible bidder based on appropriate solicitation; or (iv) contract without competitive bidding for minor work at reasonable costs.

3. Maintenance and Ownership of the Railroad Project. Upon completion of the Railroad Project, RAILWAY shall own and, at its own cost and expense, maintain the Railroad Project improvements until such time as RAILWAY deems such maintenance and/or ownership to no longer be necessary.

4. Construction of the Railroad Project. Execution of this Agreement constitutes LICENSEE's issuance of a notice to proceed to RAILWAY with the Railroad Project ("Notice to Proceed"). RAILWAY shall make commercially reasonable efforts to commence construction on the Railroad Project as soon as possible, in RAILWAY's sole discretion, after the date of availability for RAILWAY to commence its construction activities on the Railroad Project. To the extent any state laws or regulations are preempted by applicable federal laws, including without limitation the ICC Termination Act ("ICCTA"), the Federal laws and regulations shall control.

5. Reimbursement by LICENSEE.

(a) RAILWAY shall furnish, or cause to be furnished, at the expense of LICENSEE all the labor costs, overhead and indirect construction costs, materials and supplies, contracted services, transportation, equipment, and other related costs and items required to perform and complete the Railroad Project.

(b) Except as otherwise provided in this Agreement, LICENSEE shall reimburse RAILWAY for the actual cost of the work performed by RAILWAY or on behalf of RAILWAY. The current estimate for the work is _____ **DOLLARS AND ZERO CENTS ($_____ .00)** but this estimate is not a cost cap and LICENSEE shall pay all actual costs. It is agreed that progress payments will be made by LICENSEE to RAILWAY for the total amount of work done as shown on monthly statements. LICENSEE shall pay each RAILWAY statement within forty-five (45) days of receipt. Upon receipt of the final bill, RAILWAY shall be reimbursed in such amounts as are consistent with this Agreement. In the event LICENSEE fails to pay all or a portion of the amounts due to RAILWAY within the timelines set forth herein, interest will accrue, and LICENSEE shall pay such interest, at the prevailing statutory legal rate of interest established by the state under which this this Agreement is interpreted, as calculated from the original due date for such payment.

(c) Incurred Costs. If LICENSEE is subject to federal funding guidelines and procedures due to receipt of federal funding, the reimbursement amounts for all costs billed under this Agreement shall be subject to the applicable Federal principles and based on the full actual costs plus labor additives. Design costs incurred by RAILWAY prior to issuance of the Notice to Proceed shall be reimbursed by LICENSEE. In particular, LICENSEE agrees to reimburse costs and expenses, including without limitation labor surcharges, insurance, department support costs, vehicles and equipment, and fixed general and administrative costs, using the most current additive rates as audited and approved by the Georgia Department of Transportation and the Federal Highway Administration, in accordance with applicable provisions of the Federal-Aid Policy Guide, 23 C.F.R. Part 140 Subpart I. LICENSEE shall promptly reimburse RAILWAY for invoices properly rendered.

(d) Licensee Funding Availability. At the time this Agreement was executed, there were funds appropriated or available for the Proposed Work and Railroad Project; however, in the event LICENSEE becomes aware that insufficient funds will be or have been appropriated or otherwise available to LICENSEE for the Proposed Work and Railroad Project, including applicable indemnity provisions hereunder, any new payment obligations assumed by LICENSEE under this Agreement shall cease and this Agreement shall be terminated in accordance with the terms of the Agreement. LICENSEE shall provide thirty (30) days' notice to RAILWAY of such impending funding unavailability and LICENSEE shall reimburse RAILWAY for all actual and related indirect costs of the work actually completed to facilitate the Proposed Work and Railroad Project, plus any additional expenses incurred by RAILWAY in restoring its system to normal operation conditions.

III. GENERAL PROVISIONS

1. In the event LICENSEE receives federal or state funding that obligates LICENSEE to include contract provisions regarding administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, LICENSEE understands and acknowledges that RAILWAY is not subject to and/or is exempt from certain of those requirements and, to the extent RAILWAY is considered a contractor of LICENSEE pursuant to those funding mechanisms, LICENSEE shall incorporate in any contract with its contractor, and shall require its contractors to incorporate in any subcontracts, an allowance for exclusion from any such federal requirements as and to the extent the contractor or subcontractor are not subject to or are exempt from the requirements. By way of example only, certain entities, including RAILWAY, are or may be exempt from requirements of the Prevailing Wage and/or Single Audit Act and those entities' contracts with LICENSEE or its contractors should not require compliance therewith.

2. Assignment and Successors. This Agreement shall be binding upon and shall inure to the benefit of, and shall be enforceable by, the parties hereto and their respective permitted successors and assigns.

3. Limitations Upon Damages. Notwithstanding any other provision of this Agreement, RAILWAY shall not be liable for breach of this Agreement or under this Agreement for any consequential, incidental, exemplary, punitive, special, business damages or lost profits, or any claims for death, personal injury, and property loss and damage that occur by reason of, or arise out of, or are incidental to the interruption in or usage of the Facilities placed upon or about the Premises by LICENSEE, including without limitation any damages under such claims that might be considered consequential, incidental, exemplary, punitive, special, business damages or loss profits.

4. Miscellaneous. All exhibits, attachments, riders and addenda referred to in this Agreement are incorporated into this Agreement and made a part hereof for all intents and purposes. Time is of the essence with regard to each provision of this Agreement. This Agreement shall be construed and interpreted in accordance with and governed by the laws of the State in which the Premises are located. Each covenant of RAILWAY and LICENSEE under this Agreement is independent of each other covenant under this Agreement. No default in performance of any covenant by a party shall excuse the other party from the performance of any other covenant.

5. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the contact below except as otherwise provided in this Agreement or unless otherwise specifically advised.

As to LICENSEE:
c/o City of Augusta, GA
535 Telfair Street
Augusta, Georgia 30901
Attention: City Engineer

As to RAILWAY:
c/o Norfolk Southern Railway Company
Engineering – Design & Construction
650 West Peachtree Street NW – Box 45
Atlanta, Georgia 30308
Attention: Engineer Public Improvements

Either party may, by notice in writing, direct that future notices or demands be sent to a different address. All notices hereunder shall be deemed given upon receipt (or, if rejected, upon rejection).

6. Severability. The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

7. No Third Party Beneficiary. This Agreement shall be for the benefit of the parties only, and no person, firm or corporation shall acquire any rights whatsoever by virtue of this Agreement, except LICENSEE and RAILWAY and their successors and assigns.

8. Force Majeure. The parties agree to pursue the completion of the Railroad Project in accordance with the requirements of this Agreement. No party shall be held responsible to the other for delays caused by Force Majeure events, and such delays shall not be deemed a breach or default under this Agreement. In no event shall Force Majeure events excuse LICENSEE from its obligation to make payment to RAILWAY in accordance with this Agreement. The parties agree that the resolution or

settlement of strikes or other labor disputes shall not be deemed to be within the control or reasonable control of the affected party. If any party is unable to complete work assigned to it due to a condition of Force Majeure or other conditions beyond the reasonable control of said party, then said party will diligently pursue completion of the item that is delayed once said condition or conditions are no longer in effect. For purposes of this Agreement, Force Majeure events are defined as circumstances beyond a party's reasonable control that delay performance and may include, but are not limited to, acts of God, actions or decrees of governmental bodies (beyond control of the parties), acts of the public enemy, labor disputes, fires, insurrections, and floods.

9. Amendment; Entire Agreement. This Agreement may be amended only in writing executed by authorized representatives of the parties hereto. No verbal change, modification, or amendment shall be effective unless in writing and signed by authorized representatives of the parties. The provisions hereof constitute the entire Agreement between the parties and supersede any verbal statement, representations, or warranties, stated or implied.

10. Waiver of Workers Compensation Immunity. In the event that all or a portion of the Premises is located in the State of Ohio, LICENSEE, with respect to the indemnification provisions contained in this Agreement, hereby expressly waives any defense or immunity granted or afforded LICENSEE pursuant to Section 35, Article II of the Ohio Constitution and Section 4123.74 of the Ohio Revised Code. In the event that all or a portion of the Premises is located in the Commonwealth of Pennsylvania, LICENSEE, with respect to the indemnification provisions contained in this Agreement, hereby expressly waives any defense or immunity granted or afforded LICENSEE pursuant to Pennsylvania Workers' Compensation Act, 77 P.S. 481.

11. Independent Parties. The parties agree that LICENSEE and its agents and/or contractors shall not be deemed either agents or independent contractors of RAILWAY. Except as otherwise provided by this Agreement, RAILWAY shall exercise no control whatsoever over the employment, discharge, compensation of, or services rendered by LICENSEE or its contractors. Notwithstanding the foregoing, this paragraph shall in no way affect the absolute authority of RAILWAY to temporarily prohibit LICENSEE, its agents and/or contractors, or persons not associated with LICENSEE from entering RAILWAY property, or to require the removal of any person from RAILWAY property, if RAILWAY determines, in its sole discretion, that such person is not acting in a safe manner or that actual or potential hazards in, on, or about the Premises exist.

12. Meaning of "Railway". The word "RAILWAY" as used in this Agreement shall include any other company whose property at the aforesaid location may be leased or operated by RAILWAY. Said term also shall include RAILWAY's officers, directors, agents, and employees, and any parent company, subsidiary or affiliate of RAILWAY and their respective officers, directors, agents and employees.

13. Approval of Plans. By RAILWAY's review and approval, if any, of the preliminary plans marked as Exhibit B and any final plans derived therefrom, RAILWAY signifies only that the plans and improvements to be constructed in accordance with the final plans satisfy RAILWAY's requirements. RAILWAY expressly disclaims all other representations and warranties in connection with said plans, including, but not limited to, the integrity, suitability or fitness for the purposes of LICENSEE or any other person(s) of the plans or improvements constructed in accordance with the final plans. LICENSEE agrees that any improvements constructed in accordance with the final plans shall be in compliance with any applicable laws, rules, ordinances, or regulations of any federal, state, or local government or agency having jurisdiction over the improvements. LICENSEE hereby agrees that the improvements shall be completed in a good and workmanlike manner and in accordance with the approved final plans and specifications.

IN WITNESS WHEREOF, the parties have, through duly authorized representatives, entered into this

Agreement effective the day and year first written above.

AUGUSTA, GEORGIA

By: _____

Name: _____

Title: _____

Date: _____

CENTRAL OF GEORGIA RAILROAD COMPANY

By: _____

Name: _____

Title: _____

Date: _____

NS File: CX0113011