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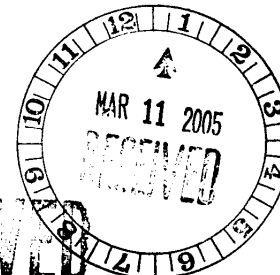
March 11, 2005

Tracie D. Spear
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BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

FILING FEE WAIVED



Re: STB Docket No. 34665
Petition for Declaratory Order Regarding the Acquisition of Rail
Lines of Georgia & Florida Railnet, Inc. and the City of
Willacoochee by the Georgia Department of Transportation

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten
copies of the **Petition of Georgia Department of Transportation for Declaratory
Order.**

Should any questions arise regarding this filing, please feel free to contact me.
Thank you for your assistance in this matter.

Respectfully submitted,

ENTERED
Office of Proceedings

MAR 11 2005

Part of
Public Record

Tracie D. Spear
Attorney for Georgia Department of
Transportation

Enclosures

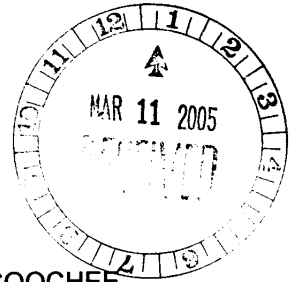
BOSTON • DALLAS • HARRISBURG • LONDON • LOS ANGELES • MIAMI • NEWARK • NEW YORK • PITTSBURGH • SAN FRANCISCO • WASHINGTON

213523

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34665

PETITION FOR DECLARATORY ORDER
REGARDING THE ACQUISITION OF RAIL LINES OF
GEORGIA & FLORIDA RAILNET, INC. AND THE CITY OF WILLACOOCHIEE
BY THE GEORGIA DEPARTMENT OF TRANSPORTATION



**PETITION OF GEORGIA DEPARTMENT OF TRANSPORTATION
FOR DECLARATORY ORDER**

ENTERED
Office of Proceedings

MAR 11 2005

Part of
Public Record

FILING FEE WAIVED

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Tracie D. Spear
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LLP
1800 Massachusetts Avenue – 2nd Floor
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**ATTORNEYS FOR GEORGIA
DEPARTMENT OF TRANSPORTATION**

Dated: March 11, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34665

PETITION FOR DECLARATORY ORDER
REGARDING THE ACQUISITION OF RAIL LINES OF
GEORGIA & FLORIDA RAILNET, INC. AND THE CITY OF WILLACOOCHEE BY
THE GEORGIA DEPARTMENT OF TRANSPORTATION

**PETITION OF GEORGIA DEPARTMENT OF TRANSPORTATION
FOR DECLARATORY ORDER**

I. INTRODUCTION

Pursuant to 5 U.S.C. § 554(e) and 49 U.S.C § 721, petitioner Georgia Department of Transportation (“GDOT”), respectfully requests the Surface Transportation Board (the “Board”) to issue a declaratory order that: i) the Board does not have jurisdiction over GDOT’s acquisition of certain rail lines owned by Georgia & Florida RailNet, Inc. (“GFRR”) and the City of Willacoochee (the “City”), as described herein; ii) GDOT will not become a rail carrier subject to Board jurisdiction as a result of its acquisition of such rail lines; and iii) upon consummation of GDOT’s acquisition of the Willacoochee Line and GFRR’s acquisition of the Willacoochee Freight Easement (defined below), GFRR will be the sole common carrier on the Willacoochee Line.

II. FACTS

A. Background

GDOT, an agency of the State of Georgia, owns rail lines in the states of Alabama, Georgia and Tennessee. These rail lines are leased and operated by several short line railroads. GDOT also owns abandoned rail property. GDOT is not a rail carrier subject to Board jurisdiction.

GFRR, a Class III rail carrier, owns and operates rail lines in the states of Florida and Georgia, including a rail line extending between approximately milepost GF 30.6 in Valdosta, GA and approximately milepost GF 57.2 in Nashville, GA (the "Nashville Line"), a distance of approximately 26.6 miles. GFRR acquired the Nashville Line from Gulf & Ohio Railways, Inc. ("GORR") in 1999.¹ GFRR currently provides common carrier freight rail service over the Nashville Line.²

The City of Willacoochee is located in Atkinson County, Georgia. The City owns a rail line extending between approximately milepost 57.2 in Nashville, GA (at a point of connection with the Nashville Line) and approximately milepost GF 73.8 in Willacoochee (the "Willacoochee Line"), a distance of approximately 16.6 miles. The Willacoochee Line is leased to Langboard, Inc., a fiberboard manufacturer.

By decision served March 22, 1996, the Board granted Central of Georgia Railway Company ("CGR") authority to abandon, among other things, the Willacoochee Line.³ In November, 1996, CGR sold the Willacoochee Line to Langboard. Although CGR has told GDOT that it consummated the abandonment before the sale to Langboard, GDOT does not have any documents or other evidence that CGR ever did so. In December of 1996, Langboard sold and leased-back the Willacoochee Line to/from the City. Neither the CGR sale to Langboard nor the Langboard/City sale/lease-back was treated as a transaction subject to Board jurisdiction apparently because of

¹ See, Georgia & Florida RailNet, Inc.-Acquisition and Operation Exemption-Lines of Gulf & Ohio Railways, Inc., Finance Docket No. 33716 (Board served May 13, 1999).

² It is our understanding that the ownership of North American Railnet, Inc., parent owner of GFRR, could change over the course of the next 30-60 days.

³ See Central of Georgia, Railway Company – Abandonment Exemption – In Atkinson, Berrien and Coffee Counties, GA, Docket No. AB-290 (Sub-No. 170X) (Board served March 22, 1996).

the belief on the part of all involved parties that CGR had consummated its abandonment authority before the sale to Langboard.

GFRR and Langboard then entered into an agreement pursuant to which GFRR agreed to provide freight rail service to Langboard. Langboard was GFRR's only shipper on the Willacoochee Line until early 2004, when GFRR began providing rail service on the Willacoochee Line to Willacoochee Industrial Fabrics. At all times, GFRR has treated the Willacoochee Line as an industrial spur.

B. The Subject Transactions

As explained above, the Nashville Line and the Willacoochee Line are two connecting rail lines. Pursuant to the instant transactions, GDOT will acquire the Nashville Line from GFRR and the Willacoochee Line from the City, as described below.

1. GDOT's Acquisition of the Nashville Line

Pursuant to a Railroad Quitclaim Deed, GFRR will grant GDOT its right, title and interest in the Nashville Line. See Railroad Quitclaim Deed, attached hereto as Exhibit A. Pursuant to the Deed, GFRR will retain an exclusive, perpetual, assignable railroad freight easement on the Nashville Line to conduct freight rail service (the "Nashville Freight Easement").

By virtue of the Nashville Freight Easement, GFRR will retain all common carrier rights and obligations on the Subject Line. GDOT will not hold itself out as willing or able to conduct any freight rail operations on the Subject Line.

2. GDOT's Acquisition of the Willacoochee Line

Pursuant to a Railroad Deed, the City will grant GDOT all of its right, title and interest in the Willacoochee Line. See Railroad Deed, attached hereto as Exhibit B.

Pursuant to the Railroad Deed, the City will retain an exclusive, perpetual, assignable railroad freight easement over the Willacoochee Line to conduct freight rail service (the "Willacoochee Freight Easement"). The City will not conduct service but simultaneously will convey the Willacoochee Freight Easement to GFRR.⁴ See Willacoochee Freight Easement, attached hereto as Exhibit C. Pursuant to the Willacoochee Freight Easement, GFRR will obtain "an exclusive perpetual easement over the [Willacoochee Line]...for the purpose of providing common carrier rail freight transportation service..., and all of [the City's] right, title, interest and claim to operate trains, locomotives, rail cars and rail equipment over the [Willacoochee Line]...." See Willacoochee Freight Easement.

By virtue of the Willacoochee Freight Easement, GFRR will obtain all common carrier rights and obligations on the Willacoochee Line. GDOT will not hold itself out as willing or able to conduct any freight rail operations on the Willacoochee Line. GDOT will not acquire the right or obligation to provide common carrier freight service on the Willacoochee Line.

3. GDOT's Lease of the Nashville Line and the Willacoochee Line

Pursuant to a Lease Agreement by and between GDOT and GFRR (the "Lease Agreement"), GDOT will lease its interests (i.e., excluding the Nashville Freight Easement and the Willacoochee Freight Easement) in the Nashville Line and the Willacoochee Line to GFRR. See Lease Agreement, attached hereto as Exhibit D.

⁴ GFRR has filed separately a notice of exemption with the Board to operate on, and acquire an easement over the Willacoochee Line. See Georgia & Florida Railnet, Inc. -Acquisition and Operation Exemption-Georgia Department of Transportation, Finance Docket No. 34655 (Board filed February 10, 2005).

Section 2.04 of the Lease Agreement provides that GFRR “shall have and hereby assumes all duties and obligations with respect to the use, repair and maintenance of the [Nashville Line and Willacoochee Line]....” GFRR will be required to maintain the track facilities of the Nashville Line and the Willacoochee Line to FRA Class 2 Track Standards. See Lease Agreement at Section 10.02.

Under Section 6.02, GDOT will retain the right to “enter into and terminate agreements, easements and licenses with third parties,” but such agreements, easements and licenses may not “unreasonably interfere with...[GFRR’s] operations,” and GDOT must obtain written consent from GFRR before entering into and terminating such agreements, easements and licenses. In the event that GDOT does not intend to renew the Lease Agreement, it will be required to give GFRR notice of such intent six (6) months prior to the end of the term. See Lease Agreement at Section 2.01.

Upon consummation of the transactions described above: i) GDOT will own the Nashville Line and the Willacoochee Line; ii) GFRR will possess freight railroad operations easements over the Nashville Line and the Willacoochee Line; and iii) GFRR will possess a leasehold in GDOT’s interests in the Nashville Line and the Willacoochee Line.

III. DISCUSSION

A. A Declaratory Order is Warranted

Under 5 U.S.C. § 554(e) and 49 U.S.C § 721, the Board may issue a declaratory order to terminate a controversy or remove uncertainty. See, e.g. State of Wisconsin Department of Transportation – Petition for Declaratory Order, Finance Docket No. 34623 (STB served December 23, 2004); H&M International Transportation, Inc. –

Petition for Declaratory Order, Finance Docket No. 34277 (STB served Nov. 10, 2003).

Here, GDOT will acquire the Nashville Line from GFRR, and GFRR will reserve a freight railroad operations easement over the Nashville Line. Thus, if the Board grants the relief requested herein, it will remove any uncertainty regarding whether the Board has jurisdiction over GDOT's acquisition of the Nashville Line and whether GDOT will become a carrier on the line as a result of such acquisition.

With respect to the Willacoochee Line, GFRR has been operating freight service over the Willacoochee Line as if it were an industrial spur, but the status of the Willacoochee Line is unclear. As explained in Section II.A, supra, the Board granted CGR authority to abandon the Willacoochee Line; however, it is unclear whether CGR ever exercised such abandonment authority. CGR subsequently sold the Willacoochee Line to Langboard, which then sold and leased-back the Willacoochee Line to/from the City. GFRR and Langboard then entered into an agreement pursuant to which GFRR agreed to provide freight rail service to Langboard. It is unclear whether any of these transactions required Board approval. Nonetheless, at all times GFRR has treated the Willacoochee Line as an industrial spur.

GDOT is not asking the Board to rule as to whether CGR's abandonment of the Willacoochee Line was ever consummated, as GDOT does not possess the factual information necessary for the Board to make such a determination. However, if the Board grants the relief requested herein, it will remove any uncertainty regarding: i) whether the Board has jurisdiction over GDOT's acquisition of the Willacoochee Line; and ii) the status of the Willacoochee Line, GFRR and GDOT going forward.

B. GDOT's Acquisition of the Nashville Line Will Not Be Subject To Board Jurisdiction; GDOT Will Not Become a Rail Carrier Subject to Board Jurisdiction

GDOT's acquisition of the Nashville Line will not be subject to Board jurisdiction and will not make GDOT a rail carrier subject to Board jurisdiction. In State of Maine, Department of Transportation – Acquisition and Operation Exemption – Maine Central Railroad Company, 8 I.C.C.2d 835 (1991) (“State of Maine”), the State of Maine, acting by and through its Department of Transportation (“MDOT”), sought an exemption to acquire certain railroad right-of-way and trackage from Maine Central Railroad Company (“MEC”), subject to MEC’s retained easement for common carrier railroad operations. MEC’s retained easement included access rights for maintenance and renewal of the line and was permanent. As a result, MDOT’s acquisition of the line’s underlying physical assets did not impair freight railroad operations. The Interstate Commerce Commission (“ICC”) found that no common carrier rights or obligations were transferred to MDOT, because nothing in the transaction disabled MEC’s affiliate and lessee, Springfield Terminal Railroad (“STR”), from meeting its common carrier obligation, and STR could not cease to offer service on the line without ICC approval. For these reasons, the ICC saw “no reason to impose upon the purchaser of the underlying rail assets an additional common carrier obligation.” State of Maine, 8 I.C.C.2d at 837. See also State of Georgia, Department of Transportation – Acquisition Exemption – Georgia Southwestern Railroad, Inc., Finance Docket No. 33876 (STB served July 7, 2000); Massachusetts Port Authority – Acquisition Exemption – Certain Assets of Boston and Maine Corporation, Finance Docket No. 34276 (STB served Mar. 25, 2003).

Like the transaction in State of Maine, the instant transaction between GDOT and GFRR will include several distinguishing and important features. Although GDOT will acquire certain real property, GDOT will not, in this transaction, acquire the property and contractual rights necessary to conduct or control rail carrier freight operations on the Nashville Line. Instead, GFRR will retain such exclusive rights on the Nashville Line by virtue of the Nashville Freight Easement. Although GDOT will acquire track that constitutes part of a "line of railroad" as that term is statutorily defined, GDOT will not acquire the right or ability to provide or control rail freight transportation. GFRR will retain all common carrier rights and obligations on the Nashville Line.

Pursuant to the Railroad Quitclaim Deed, no rail carrier rights or obligations will be transferred to GDOT. As explained in Section II.B.1., supra, GDOT will acquire the Nashville Line, but by virtue of the Nashville Freight Easement, GFRR will retain the exclusive right to conduct rail freight service on the Nashville Line.

GDOT's ownership of the Nashville Line will not make GDOT a rail carrier, because GDOT will not have the right to interfere with freight rail service and will not hold itself out as willing or able to provide rail freight service on the Nashville Line. Therefore, GDOT's acquisition of the Nashville Line will not constitute an acquisition of a railroad line subject to the Board's jurisdiction.

C. GDOT's Acquisition of the Willacoochee Line Will Not Be Subject To Board Jurisdiction; GDOT Will Not Become a Rail Carrier Subject to Board Jurisdiction

Similarly, GDOT's acquisition of the Willacoochee Line will not be subject to Board jurisdiction and will not make GDOT a rail carrier subject to Board jurisdiction.

Like the transaction in State of Maine, the transaction between GDOT and the City will

include several distinguishing and important features. Although GDOT will acquire certain real property, GDOT will not, in this transaction, acquire the property and contractual rights necessary to conduct or control rail carrier freight operations on the Willacoochee Line. Instead, the City will retain and simultaneously convey to GFRR such exclusive rights on the Willacoochee Line by virtue of the Willacoochee Freight Easement. Even if CGR never consummated abandonment of the Willacoochee Line, and thus technically GDOT would acquire track that constitutes part of a “line of railroad” as that term is statutorily defined, GDOT will not acquire the right or ability to provide or control rail freight transportation. GFRR will obtain all common carrier rights and obligations on the Willacoochee Line.

Pursuant to the Railroad Deed, no rail carrier rights or obligations will be transferred to GDOT. As described in Section II.B.2., infra, GDOT will acquire the Willacoochee Line, but GFRR will retain a freight easement on the Willacoochee Line and the exclusive right to conduct rail freight service on the Willacoochee Line.

GDOT’s ownership of the Willacoochee Line will not make GDOT a rail carrier, because GDOT will not have the right to interfere with freight rail service and will not hold itself out as willing or able to provide rail freight service on the Willacoochee Line. Therefore, GDOT’s acquisition of the Willacoochee Line will not constitute an acquisition of a railroad line subject to the Board’s jurisdiction.⁵

⁵ In the alternative, if the Board deemed the Willacoochee Line to be an industrial spur, GDOT’s acquisition of such line would not constitute an acquisition of a line of railroad subject to the Board’s jurisdiction. The acquisition of an industrial spur does not require Board approval. See 49 U.S.C. 10906.

D. The Lease Agreement Will Not Unreasonably Interfere With GFRR's Ability To Conduct Freight Rail Service On The Nashville Line and the Willacoochee Line

Nothing in the Lease Agreement will give GDOT the ability to control GFRR operations under the Nashville Freight Easement or the Willacoochee Freight Easement. As described in Section II.B.3., supra, the Lease Agreement provides that GFRR will control all duties and obligations relating to the use, repair and maintenance of the Nashville Line and the Willacoochee Line. Additionally, GDOT must obtain written consent from GFRR before it enters into or terminates any agreements, easements and licenses with third parties.

GFRR's acquisition of leasehold in the Nashville Line and the Willacoochee Line will not require Board approval because GFRR only will acquire GDOT's interests in such lines. GDOT's interest in the Nashville Line and the Willacoochee Line will not include the right or obligation to conduct common carrier service. By virtue of the freight operations easements over the Nashville Line and the Willacoochee Line, GFRR will have all common carrier rights and obligations on such lines. Therefore, when GDOT leases its interests in the Nashville Line and Willacoochee Line to GFRR, there will be no transfer of a common carrier obligation from GDOT to GFRR.

IV. REQUEST FOR EXPEDITED CONSIDERATION

GDOT has reached agreement with GFRR and the City on the purchase price and other terms regarding GDOT's acquisition of the Nashville Line and the Willacoochee Line. Closing the transactions described herein will give GFRR the money it needs to perform certain agreed-to capital improvements on the Nashville Line and the Willacoochee Line. These improvements will enhance GFRR freight rail service on these lines. GDOT, GFRR and the City would like to close the transactions described

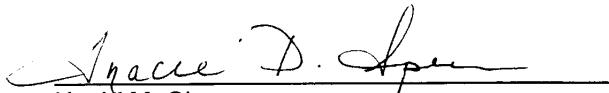
herein by April 15, 2005. However, the parties cannot close the transaction until the Board issues the declaratory order requested herein. Therefore, GDOT respectfully requests that the Board act expeditiously in this matter and issue a declaratory order within thirty (30) days of the filing of this Petition.

V. CONCLUSION

Wherefore, we respectfully request that the Board issue a declaratory order that:

i) the Board does not have jurisdiction over GDOT's acquisition of the Nashville Line from GFRR and the Willacoochee Line from the City; ii) GDOT will not become a rail carrier subject to Board jurisdiction as a result of its acquisition of the Nashville Line and the Willacoochee Line; and iii) upon consummation of GDOT's acquisition of the Willacoochee Line and GFRR's acquisition of the Willacoochee Freight Easement, GFRR will be the sole common carrier on the Willacoochee Line.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Kevin M. Sheys", is written over a horizontal line.

Kevin M. Sheys
Tracie D. Spear
Kirkpatrick & Lockhart Nicholson Graham LLP
1800 Massachusetts Avenue
Second Floor
Washington, DC 20036
(202) 778-9000

**ATTORNEYS FOR GEORGIA DEPARTMENT
OF TRANSPORTATION**

Dated: March 11, 2005

AFTER RECORDING,
RETURN TO:
Carl E. Lancaster
P.O. Box 4863
Macon GA 31208-4863

RAILROAD QUITCLAIM DEED

THIS DEED, made this ____ day of March, 2005, between GEORGIA & FLORIDA RAILNET, INC., a corporation, whose mailing address for the purpose of this document is 2350 Airport Freeway, Suite 300, Bedford, Texas 76022, hereinafter called "Grantor", and DEPARTMENT OF TRANSPORTATION, a division of the State of Georgia, hereinafter called "Grantee";

Grantor, for and in consideration of the sum of TEN DOLLARS AND NO/100 U.S. DOLLARS (\$10.00), and other valuable consideration, the receipt of which is hereby acknowledged, does hereby RELEASE, REMISE, QUITCLAIM, and convey to Grantee all of its right, title and interest in and to:

Tract I - Lowndes County, Georgia

All of that parcel or strip of land in Lowndes County, Georgia, formerly known as the rail line of the Central of Georgia Railroad Company, lying on both sides of the centerline of track, said centerline being more particularly described as follows:

Beginning at a point on the centerline of main track running between Valdosta and Nashville, Georgia, in Land Lot 126, of Lowndes County, said point being located opposite a point being Railway Milepost 30.65, being further identified as Railway Station 1615+90, and being on the common line of Railway Parcels 8, and 9, as shown on Central of Georgia Railway Valuation Map 4a/3; thence in a northerly direction along said centerline of track with said strip being

100 feet side (50 feet on each side of said centerline) through a portion of Land Lot 126, Land Lots (continued next line) 127, 128, 129, 148, 147, 130, 131, 146, 154, 144, 143, 180, 181, 182, 187, 186, 185, and a portion of Land Lot 315, for a distance of 65,134 feet to the common line of Lowndes County and Lanier County, said point being the point of terminus and being further identified as Railway Station 2267+24, as shown on said Railway Valuation Map 4a/6.

Said strip of land being further identified as a portion of Parcel 8, and all of Parcels 9, 10, 11, 12, 13, 14, 15, 16, and 17 on Railway Valuation Map 4a/3, all Parcels on Maps 4a/4/S-4 and 5, and Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 on Map 4a/6.

Excepted from Tract 1, is that property in Lowndes County, Georgia, known as part of Grantor's 100 foot wide strip of land, being 50 feet wide on each side of Grantor's Main Track centerline in Land Lots 144, and 145, Lowndes County, Georgia, bounded on the south by the centerline of a road located approximately 1250 feet southwesterly from the north line of said Land Lot 145, as measured along said Main Track centerline and bounded on the north by a line drawn at right angles to said Main Track centerline at a point 750 feet northeasterly from the south line of said Land Lot 144, as measured along said Main Track centerline. Less and Except from said excepted tract a 25 foot wide strip of land lying 12.5 feet on each side of said Main Track centerline.

Reference is made to Central of Georgia Railroad Company Valuation Maps 4a/3, /4a/4, /4aS-4, 4a/5, and 4a/6, which are incorporated herein by reference.

Tract 2 - Lanier County, Georgia

All of that parcel or strip of land in Lanier County, Georgia, formerly known as the rail line of the Central of Georgia Railroad Company, lying on both sides of the centerline of track, said centerline being more particularly described as follows:

Beginning at a point on the centerline of main track running between Valdosta and Nashville, Georgia, in Land Lot 515, of Lanier County, Georgia, said point being located opposite Railway Station 2267+24, as shown on Railway Valuation Map 4a/6, and being on the common line of Railway Parcels 10, and 11, as shown on Central of Georgia Railway Valuation Map 4a/6; thence in a northerly direction along said centerline of track with said strip being 100 feet side (50 feet on each side of said centerline) through a portion of Land Lot 515, Land Lots 498, and 469, for a distance of 13,593 feet to the common line of Lanier County and Berrien County, said point being the point of terminus and being further identified as Railway Station 2403+17, as shown on said Railway Valuation Map 4a/6, and 4a/7.

Said piece, parcel or strip of land being further identified as Parcels 11,12, and 13 on Railway Valuation Map 4a/6, and Parcels 1 and 2 on Railway Valuation Map 4a/7.

Reference is made to Central of Georgia Railroad Company Valuation Maps 4a/6, and 4a/7, which are incorporated herein by reference.
Tract 3 - Berrien County, Georgia

All of that parcel or strip of land in Berrien County, Georgia, known as the rail line of the Central of Georgia Railroad Company, and lying on both sides of the centerline of track, said centerline being more particularly described as follows:

Beginning at a point on the centerline of main track running between Valdosta and Nashville, Georgia, in Land Lot 452, of Berrien County, Georgia, said point being on the common line of Berrien and Lanier Counties, and being further identified as Railway Station 2403+17, as shown on Railway Valuation Map 4a/7, and being on the common line of Railway Parcels 02, and 03, as shown on Central of Georgia Railway Valuation Map 4a/7; thence in a northerly direction along said centerline of track with said strip being 100 feet wide (50 feet on each side of said centerline) through Land Lots 452, 453, 422, 407, 376, 362, 329, 316, 283, 282, 271, 236, 225, and 226, to the north line of Land Lot 226 for a distance of 52,683 feet, said point being further identified as Railway Station 2930+00, as shown on said Railway Valuation Map 4a/9; thence along the centerline of said track with a strip of varying width for a distance of 7,450 feet, to a point, being further identified as Station 3004+50 on Railway Valuation Map 4a/10; thence in an easterly direction along said centerline of track with said strip being 150 feet wide (75 feet on each side of centerline for a distance of 1,700 feet to the point of terminus, said point being Railway Milepost 57.2 and being further identified as Railway Station 3021+50 on Railway Valuation Map 4a/10.

Said piece, parcel or strip of land being further identified as Parcels 03,04,05,06, and 07, on Railway Valuation Map 4a/7, all Parcels on railway Valuation Maps 4a/8, 4a/9,4a/S10a, and 4aS/10b, and Parcels 01 and 02, and a portion of Parcel 03, on railway Valuation Map 4a/10.

Excepted from Tract 3 is that parcel of land described as 3.24 acres, in Land Lot No. 189, 10th Land District, Berrien County, Georgia, shown on a plat for Guthrie Forest Products, Inc., dated September 6, 1995, recorded in Plat Cabinet 1, Slide D-____. Clerk's Office, Berrien Superior Court. ALSO, excepted from Tract 3 is that parcel of and in Land Lot 189, 10th Land District, containing 2.76 acres, and known as Tract 2, according to a plat for Berrien County Board of Education, dated July 24, 1995, recorded in Plat Cabinet 1, Slide D-____, Clerk's Office, Berrien Superior Court.

Reference is made to Central of Georgia Railroad Company Valuation Maps 4/a7, 4/a8, 4/a9, 4a/S-20a, 4a/S-10b, and 4a/10, copies of which are attached hereto as Exhibit B.

It is the intention of this deed to convey all of the real property owned by Grantor in Lowndes, Lanier and Berrien Counties, Georgia, contiguous with or in the immediate vicinity of said strip of land, whether specifically described hereinabove or not.

TOGETHER WITH all buildings, structures and improvements upon Tracts 1, Tract 2, and Tract 3, in said Counties, including any and all ballast, lead tracks, connection tracks, and industry tracks, including property for former tracks either removed or retired in place, rails, ties, switches, crossings, bridges, trestles, culverts, signals, crossing protection devices, radio antennae, communication lines, poles and loading platforms affixed as of the date of this deed to the Premises, and all and singular the rights, alleys, ways, waters, privileges, hereditaments and appurtenances to said Premises belonging or in any way incident or appertaining, including rights to cross any streets adjacent to or connecting parcels herein conveyed (the "Appurtenances").

EXCEPTING AND RESERVING unto Grantor an exclusive, perpetual, assignable railroad freight easement over and across the Premises for the purpose of providing common carrier rail freight service to all freight customers requiring service over the length of the Premises.

GRANTOR'S RIGHTS IN AND TO THE PERSONALTY ARE CONVEYED HEREIN TO GRANTEE ON AN "AS IS, WHERE IS" BASIS WITHOUT ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, CONCERNING THE CONDITION OF THE PERSONALTY. GRANTEE HEREBY SPECIFICALLY WAIVES ANY IMPLIED WARRANTIES (IF ANY) PROVIDED FOR BY LAW, INCLUDING, WITHOUT LIMITATION, ANY AND ALL WARRANTIES AGAINST VICES OR DEFECTS OR WARRANTIES REGARDING FITNESS FOR ANY PARTICULAR USE OR PURPOSE WHATSOEVER.

TO HAVE AND TO HOLD the real estate, appurtenances, and personalty, and all the estate, right, title, lien, interest and claim whatsoever of Grantor therein, so that neither the Grantor nor its successors or assigns nor any other persons claiming under Grantor shall at any time claim or demand any right, title or interest to said real estate, appurtenances, and personalty.

IN WITNESS WHEREOF, Grantor, pursuant to due corporate authority, has caused its name to be signed hereto by its officers hereunto duly authorized and its corporate seal, duly attested, to be hereunto affixed.

GEORGIA & FLORIDA RAILNET, INC.

by:

President

Attest: _____

Secretary

Signed in the presence of:

Unofficial witness

Unofficial witness

STATE OF TEXAS

COUNTY OF

I, _____, a Notary Public of the State of Texas and the
County of _____, do certify that on the date below before me in said
County personally appeared _____, to me known and known
to me to be the person whose name is subscribed to the above instrument, who,
being by me first duly sworn, did depose, acknowledge and say that: He resides
in _____, Texas; he is
_____ of the Corporation described herein and which
executed said instrument; he is fully informed of the contents of the instrument;
he signed his name thereto for said Corporation pursuant to the authority of the
Board of Directors of said Corporation; and the instrument is the free act and
deed of said Corporation; and the conveyance herein is not part of a transaction,
sale, lease, exchange or other transfer or conveyance of all or substantially all of
the property and/or assets of the Grantor.

IN WITNESS WHEREOF, I hereunto set my hand and official seal, this
day of February, 2005.

_____(S E A L)
Notary Public, State of Texas.
My Commission Expires _____

AFTER RECORDING,
RETURN TO:
Carl E. Lancaster
P.O. Box 4863
Macon GA 31208-4863

RAILROAD DEED

THIS DEED, made this ____ day of March, 2005, between CITY OF WILLACOOCHEE, a political subdivision of the State of Georgia, whose mailing address for the purpose of this document is P.O. Box 508, Willacoochee GA 31650, hereinafter called "Grantor", and DEPARTMENT OF TRANSPORTATION, a division of the State of Georgia, hereinafter called "Grantee";

Grantor, for and in consideration of the sum of TEN DOLLARS AND NO/100 U.S. DOLLARS (\$10.00), and other valuable consideration, the receipt of which is hereby acknowledged, does hereby RELEASE, REMISE and convey to Grantee all of its right, title and interest in and to:

Tract I - Berrien County, Georgia

All of that parcel or strip of land in Berrien County, Georgia, formerly known as the rail line of the Central of Georgia Railroad Company, lying on both sides of the centerline of track, said centerline being more particularly described as follows:

Beginning at a point on the centerline of main track running between Nashville and Willacoochee, at the northern terminus of property conveyed to Georgia and Florida Railroad Company by deed dated August 13, 1995, said beginning point being further identified as Railroad Milepost GF 57.2 and being Railroad Station 3021+50; thence with said Railroad centerline in a northerly direction for 64,907

feet, through Land Lots 190,191,192,177,176,175,148,149,128,127,150,105, 80,79,78,61,17,62,63,64, and 29 of the 10th Land District to a point being on the common line of Berrien County and Atkinson County, said county line being further identified as Railroad Station 3670+57, and being the point of terminus.

Said parcel contains 127 acres, more or less, and is a part of Railroad parcel 3, all of parcels 4,5,6,7,8, and 9, on Railroad Valuation Section 4a, Map 10; all parcels on Railroad Valuation Section 4a, Maps 11 and 12; parcels 1,2, and that part of parcel 3, that lies in Berrien County on Valuation Section 4a, Map 13.

Reference is made to Central of Georgia Railroad Company Valuation Maps 4a/10,11,12, and 13, which are incorporated by reference thereto.

Tract 2 - Atkinson County, Georgia

All of that parcel or strip of land in Atkinson County, Georgia, formerly known as the rail line of the Central of Georgia Railroad Company, lying on both sides of the centerline of track, said centerline being more particularly described as follows:

Beginning at a point on the centerline of main track running between Nashville, and Willacoochee, Georgia, said point being on the common line between Berrien County, and Atkinson County, Georgia, and being located opposite a point being identified as Railway Station 3670+57, thence, with said centerline in a northerly direction for a distance of 21,343 feet, to a point in the southerly right of way line of U.S. Highway 82, being further identified as Railroad Station 3884+00; said strip being a portion of Land Lots 29,28, and 19 of the 10th District and Land Lots 528,488, and any portion of 479, of the 5th Land District that lies south of the southerly right of way line of said Highway 82, said southerly right of way line being the point of terminus.

Said parcel contains 82 acres, more or less, and is a part of Railroad parcel 3, and all of parcels 4, and 5 on Valuation Section 4a, Map 13, entire parcels 1, 2 and any interest in parcel 2a on Railroad Valuation Section 4a, Map 14, entire parcels, 1,2,3,4,3a,5,3b,6, and any portion of parcel 7, lying south of the south right of way line of U.S. Highway 82 on Railroad Valuation Section 4a, Map S14.

Reference is made to Central of Georgia Railroad Company Valuation Maps 4a/13,14, and S14, which are incorporated herein by reference.

It is the intention of this deed to convey all of the real property owned by Grantor and used in connection with the strips of land described herein, in Berrien and Atkinson Counties, Georgia, whether specifically described hereinabove or not.

TOGETHER WITH all buildings, structures and improvements upon Tract 1, and Tract 2, and. including any and all ballast, lead tracks, connection tracks, and industry tracks, including property for former tracks either removed or retired in place, rails, ties, switches, crossings, bridges, trestles, culverts, signals, crossing protection devices, radio antennae, communication lines, poles and loading platforms affixed as of the date of this deed to the Premises, and all and singular the rights, alleys, ways, waters, privileges, hereditaments and appurtenances to said Premises belonging or in any way incident or appertaining, including rights to cross any streets adjacent to or connecting parcels herein conveyed (the Appurtenances@).

GRANTOR'S RIGHTS IN AND TO THE PREMISES AND THE APPURTENANCES ARE CONVEYED HEREIN TO GRANTEE ON AN "AS IS, WHERE IS" BASIS WITHOUT ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, CONCERNING THE CONDITION OF THE PREMISES AND THE APPURTENANCES. GRANTEE HEREBY SPECIFICALLY WAIVES ANY IMPLIED WARRANTIES (IF ANY) PROVIDED FOR BY LAW, INCLUDING, WITHOUT LIMITATION, ANY AND ALL WARRANTIES AGAINST VICES OR DEFECTS OR WARRANTIES REGARDING FITNESS FOR ANY PARTICULAR USE OR PURPOSE WHATSOEVER.

EXCEPTING AND RESERVING unto Grantor an exclusive, perpetual, assignable railroad freight easement over and across the Premises for the purpose of providing common carrier rail freight service to all freight customers requiring service over the length of the Premises.

TO HAVE AND TO HOLD the Premises, and all the estate, right, title, lien, interest and claim whatsoever of Grantor therein, so that neither the Grantor nor its successors or assigns nor any other persons claiming under Grantor shall at any time claim or demand any right, title or interest to said Premises or Appurtenances.

This deed is made pursuant to the authority of a resolution of the City Council of the City of Willacoochee, Georgia, held on February 7, 2005, a copy of which is attached hereto as Exhibit C.

IN WITNESS WHEREOF, Grantor, pursuant to said City Resolution, has caused its name to be signed hereto by its officers hereunto duly authorized and its corporate seal, duly attested, to be hereunto affixed.

CITY OF WILLACOOCHEE, a political
subdivision of the State of Georgia

(AFFIX SEAL OF CITY)

by:

Mayor

Clerk of Council

Signed in the presence of:

Unofficial witness

Notary Public,
(must affix seal and
expiration date)

FREIGHT RAILROAD OPERATING EASEMENT

STATE OF GEORGIA
ATKINSON COUNTY

Return to:

This Indenture dated as of March ___, 2005, between the CITY OF WILLACOOCHEE, a municipal corporation of the State of Georgia (Grantor), and GEORGIA & FLORIDA RAILNET, INC., a Delaware Corporation (Grantee).

WITNESSETH, Grantor in consideration of the sum of Ten and no/100 Dollars and other valuable considerations, does hereby convey and QUIT CLAIM unto Grantee, without any covenants or warranties of title whatsoever, on an "as is where is" basis, and without recourse to Grantor, an exclusive perpetual easement over the line of railroad between Berrien County, Georgia, Milepost GF 57.2 and Atkinson County, Georgia, Railroad Station 3884+00, more particularly described in attached Exhibit A (the "Subject Property") for the purpose of providing common carrier rail freight transportation service thereof and thereover, and, all of Grantor's right, title interest and claim to operate trains, locomotives, rail cars and rail equipment over the Subject Property for the use and benefit of Grantee, and Grantee's successors and assigns, forever.

The right, title and interest in the easement granted to Grantee herein over any portion of the Subject Property shall terminate, cease and determine upon the occurrence of the following: 1. Grantee's abandonment of rail freight transportation service over any or all of the Subject Property subject to a final order of the United States Surface Transportation Board ("STB Abandonment Order"); 2. recording in the Clerk's Office of Atkinson, and Berrien Counties, Georgia of Grantee's notice of termination of the easement; and 3. recording in said Clerk's Offices, Grantee's notice of consummation of the STB Abandonment Order.

IN WITNESS WHEREOF, the Grantor has affixed its name and seal, by its duly authorized officials.

CITY OF WILLACOOCHEE (SEAL)

(AFFIX CITY SEAL)

by: _____

(Indicate Office)

att: _____

(Indicate Office)

Witnesses next page

1. _____
Unofficial witness

2. _____
Notary Public

Exhibit A-1 to Freight Railroad Operating Easement

Tract I - Berrien County, Georgia

All of that parcel or strip of land in Berrien County, Georgia, formerly known as the rail line of the Central of Georgia Railroad Company, lying on both sides of the centerline of track, said centerline being more particularly described as follows: Beginning at a point on the centerline of main track running between Nashville and Willacoochee, at the northern terminus of property conveyed to Georgia and Florida Railroad Company by deed dated August 13, 1995, said beginning point being further identified as Railroad Milepost GF 57.2 and being Railroad Station 3021+50; thence with said Railroad centerline in a northerly direction for 64,907 feet, through Land Lots 190,191,192,177,176,175,148,149,128,127,150,105, 80,79,78,61,17,62,63,64, and 29 of the 10th Land District to a point being on the common line of Berrien County and Atkinson County, said county line being further identified as Railroad Station 3670+57, and being the point of terminus.

Said parcel contains 127 acres, more or less, and is a part of Railroad parcel 3, all of parcels 4,5,6,7,8, and 9, on Railroad Valuation Section 4a, Map 10; all parcels on Railroad Valuation Section 4a, Maps 11 and 12; parcels 1,2, and that part of parcel 3, that liens in Berrien County on Valuation Section 4a, Map 13.

Reference is made to Central of Georgia Railroad Company Valuation Maps 4a/10,11,12, and 13, which are incorporated by reference thereto.

Tract 2 - Atkinson County, Georgia

All of that parcel or strip of land in Atkinson County, Georgia, formerly known as the rail line of the Central of Georgia Railroad Company, lying on both sides of the centerline of track, said centerline being more particularly described as follows:

Beginning at a point on the centerline of main track running between Nashville, and Willacoochee, Georgia, said point being on the common line between Berrien County, and Atkinson County, Georgia, and being located opposite a point being identified as Railway Station 3670+57, thence, with said centerline in a northerly direction for a distance of 21,343 feet, to a point in the southerly right of way line of U.S. Highway 82, being further identified as Railroad Station 3884+00; said strip being a portion of Land Lots 29,28, and 19 of the 10th District and Land Lots 528,488, and any portion of 479, of the 5th Land District that lies south of the southerly right of way line of said Highway 82, said southerly right of way line being the point of terminus.

Said parcel contains 82 acres, more or less, and is a part of Railroad parcel 3, and all of parcels 4, and 5 on Valuation Section 4a, Map 13, entire parcels 1, 2,

Exhibit A-2 to Freight Railroad Operating Easement

and any interest in parcel 2a on Railroad Valuation Section 4a, Map 14, entire parcels, 1,2,3,4,3a,5,3b,6, and any portion of parcel 7, lying south of the south right of way line of U.S. Highway 82 on Railroad Valuation Section 4a, Map S14.

Reference is made to Central of Georgia Railroad Company Valuation Maps 4a/13,14, and S14, which are incorporated herein.

It is the intention of this deed to convey all of the real property formerly owned by owned by Georgia & Florida RailNet, Inc., and used in connection with the strips of land described herein, in Berrien and Atkinson Counties, Georgia, whether specifically described hereinabove or not.

Georgia Department of Transportation

and

Georgia & Florida RailNet, Inc.

Lease Agreement

This Lease Agreement (the "Lease" or "Agreement"), dated this ____ day of _____, 2005, by and between Georgia & Florida RailNet, Inc., hereinafter referred to as "Lessee," and the Georgia Department of Transportation, an agency of the State of Georgia, hereinafter referred to as "Lessor" or "Department."

WHEREAS, Lessor has certain rights, title, and interest in and to certain real property located in Lowndes, Lanier, Berrien, and Atkinson Counties, Georgia, which property is used for railroad freight transportation service to the public;

WHEREAS, under Section 32-9-2 of the Official Code of Georgia Annotated, the Department is authorized to participate in such an undertaking;

WHEREAS, Lessor is agreeable to lease to Lessee the aforesaid interests for Lessee's provision of railroad freight transportation service to the public upon the terms and conditions herein contained;

NOW, THEREFORE, in consideration of the covenants and payments set forth herein, the parties agree as follows:

SECTION 1. Leased Property.

1.01 The Leased Property consists of Lessor's real property described as follows:

All of the right-of-way and real property situated, lying and being between milepost GF 30.6 in Valdosta, Lowndes County (where the railroad intersects East Park Avenue), and milepost GF 73.8 in Willacoochee, Atkinson County (a point near, and south of, Paulk Avenue); approximately 43.2 miles, and more particularly described in ATTACHMENT I hereto, which is incorporated herein by reference, and all improvements or fixtures affixed thereto, including, without limitation, tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, bridge abutments, culverts, buildings, crossing warning devices, communications lines and poles and radio masts, all being located within the State of Georgia (the "Leased Property"), and specifically excluding all items of personal property not affixed to the land, including, without limitation, railroad rolling stock, locomotives, motor vehicles and equipment, machinery, office and computer equipment, radios, furniture, tools, inventories, materials, and supplies.

1.02 Lessee shall take the Leased Property subject to: (a) reservations or exceptions of record of minerals or mineral rights; public utility easements and easements and rights of ways, howsoever created, for crossings, roads, streets, and highways; (b) existing and future building, zoning, subdivisions and other applicable federal, state, county, municipal and local laws, ordinances and regulations; (c) encroachments or other conditions that may be revealed by a survey, title search or inspection of the Leased Property; (d) all existing ways, alleys, party walls, privileges, rights, appurtenances, and servitudes, however created; (e) the Lessor's exclusive right to grant any and all easements, leases, licenses or rights of occupancy in, on, under, through, above, across or along the Leased Property, or any portion of it, for the purposes of construction, erection, installation, operations, use, maintenance, repair, replacement, relocation, reconstruction, reinstallation, and renewal of

transportation specifically including transportation of passengers by rail, and transmission systems for all types of fluids, solid materials, gases, energy, communication or commerce by whatever means, including without limitation, track, highway, roadway, pipeline, telephone, microwave, radio, radar, laser transmission, wire, fiber-optic, utility pole and all conduits or other similar devices, together with all related supporting devices, appliances, fixtures and appurtenances, and all culverts, ramps and cuts, which may be constructed, erected, installed, operated or used in, on, under, through, above, across, or along the Leased Property, or any portion of it; provided, however, that the rights herein excepted and reserved by Lessor shall not (i) be used to grant any other party the right to conduct common or contract carrier freight railroad operations on the Leased Property, or any portion of it, or (ii) unreasonably interfere with or increase the cost of Lessee's operations without Lessee's prior written consent, such consent not be unreasonably withheld by Lessee.

Section 2. Terms and Conditions.

2.01 The term of this Agreement shall commence as of the date first written above (the "Commencement Date") and shall be for an initial term of twenty (20) years subject to renewal at 5, 10, and 15 years (within the initial term of twenty (20) years). Renewal will be automatic unless either party gives the other party hereto notice of intent not to renew no fewer than six (6) months prior to the end of the term or unless the Lease is sooner terminated as hereinafter provided.

2.02 Termination by Election – Lessor and Lessee shall not have the right to terminate the Lease by election, except in accordance with Section 2.01.

2.03 Termination by Breach – In the event Lessee breaches any of the material terms and conditions of this Lease and Lessee ceases to provide rail service on the Leased Property by embargo, abandonment or otherwise, Lessor shall give written

notice of that fact in accordance with Section 20. If within thirty (30) days of receipt of such notice, Lessee has not cured such breach, or if Lessee has not taken all reasonable steps toward effecting such cure, and Lessee has not reinstated rail service, then Lessor shall have the right, but not the obligation, to take possession of the Leased Property and this Agreement will terminate.

2.04 It is the understanding and agreement of the parties hereto that this is a net lease; and that, as between the parties hereto, irrespective of law or custom, Lessee shall have and hereby assumes all duties and obligations with relation to the use, repair, maintenance, existence, and operation of the Leased Property for Lessee's purposes, including all improvements and fixtures hereafter located thereon, except matters, responsibilities and obligations assumed by Lessor as provided for in this Agreement. Lessee shall forever protect, indemnify and hold harmless Lessor from and against any expense, cost, liability, or obligation whatsoever, which arises from or is connected with the Leased Property during the term of this Lease, including all improvements or fixtures hereafter located thereon, except those duties, matters, responsibilities and obligations expressly assumed by Lessor in this Lease, or caused solely by Lessor's willful or negligent act or omission during the term of this Lease. Lessee shall be responsible for any taxes, which can be attributed to any of the reserved interests of Lessor including, but not limited to, those reserved under Paragraph 1.02(e).

2.05 Lessee agrees to obtain and hold operating authority as required by the Surface Transportation Board or any other governmental or regulatory authority for the Leased Property and will provide rail freight service to all parties seeking to ship or receive freight over the Leased Property during the term of this Lease.

Section 3. Rental.

3.01 Lessee shall pay annually to Lessor a base annual rental equal to twenty thousand and No/100 dollars (\$20,000). Said base annual rental shall be payable by

Lessee to Lessor on or before January 31st of each calendar year with the first payment due January 31, 2006 (for calendar year 2005). In calendar year 2006, the base annual rental will escalate 4 percent (4%) and will escalate this same percentage amount each year thereafter for the duration of the Lease.

3.02 Lessee shall also pay additional rent annually to Lessor equal to twenty-five percent (25%) of the gross revenues in excess of Five Hundred Thousand and No/100 dollars (\$500,000.00), received by Lessee from operation of the Leased Property. The additional annual rental due under this section will be determined by an Annual Revenue Report for the operation of the Leased Property submitted by Lessee to Lessor, certified as to accuracy by the Chief Financial Officer of the Lessee. The certified Annual Revenue Report shall be submitted no later than sixty (60) days after the end of the calendar year. Upon receipt of the annual revenue report, Lessor will notify Lessee in writing of its acceptance of the annual revenue report and payment will be due no later than thirty (30) days after receipt of written acceptance.

3.03 Rents paid by Lessee to Lessor pursuant to Sections 3.01 and 3.02 will be deposited by Lessor into a Rehabilitation and Cycle Maintenance Account (RCM Account) created and administered by Lessor. The RCM Account will be used for capital expenditures specified in the Rehabilitation and Cycle Maintenance Program established in accordance with Section 10.03 hereof.

Section 4. Business Development Plan.

4.01 Lessee will prepare and produce a plan to develop business to utilize railroad service provided over the Leased Property; utilizing the Lessor, Georgia Department of Industry, Trade and Tourism, Regional Development Centers, County and Municipal governments, Economic Development Authorities, local Chambers of

Commerce, and existing and potential businesses in the area served by the Leased Property to develop and implement the Business Development Plan.

Section 5. Utilities.

5.01 Lessee, at no cost or expense to Lessor, shall arrange for, obtain and pay all bills, charges and assessments in connection with any heat, water, electricity, sewer and other utility services required for Lessee's use of the Leased Property.

Section 6. Third Party Agreement, Easements and Licenses.

6.01 Lessee will assume, agree to perform, and be bound by all the terms, conditions and obligations of third party agreements, easements and licenses related to the real property leased to Lessee hereunder, and to receive the benefits thereof, which may be in existence now and in the future as a result of Lessor's exercise of its rights under Sections 1.02 and 6.0-2.. Lessor agrees to make available copies of such third party agreements, easements and licenses to Lessee.

6.02 Lessor will retain the right to enter into and terminate agreements, easements and licenses with third parties; provided, however, that consent to such agreements, easements, and licenses will not unreasonably interfere with or increase the cost of Lessee's operations without Lessee's prior written consent, such consent not be unreasonably withheld by Lessee.

6.03 Lessee will not have the right to enter into or terminate third party agreements, easements and licenses.

Section 7. Road Crossing and Warning Device Maintenance.

7.01 Lessee shall be responsible for any necessary maintenance of public grade crossings, grade separation structures and warning devices to permit the safe and reasonable passage of public traffic in accordance with Section 32-6-197(c), Section 32-6-190, *et. seq.*, of the Official Code of Georgia, Annotated.

Section 8. Interchange Agreement.

8.01 If required, Lessee will execute an interchange agreement with the appropriate connecting railroad(s), which shall govern the interchange of traffic between the parties during the term of the Lease. Lessee will provide Lessor with a copy of the executed Interchange Agreement.

Section 9. Use.

9.01 Lessee will use the Leased Property only for railroad purposes and purposes ancillary thereto, unless Lessee obtains written consent of Lessor to use the Leased Property or any portion of it for any other purposes.

9.02 The management and operation of the Leased Property shall comply with the provisions of the Federal Safety Appliance Act, as amended, and any other federal, state, and local laws, ordinances, regulations, and rules and any other requirements, whether or not governmental, respecting the operation, condition, inspection and safety of trains, locomotives, cars and equipment while such trains, locomotives, cars and equipment are being operated on the Leased Property.

Section 10. Maintenance and Rehabilitation.

10.01 Lessee agrees that it will, at all times during the term of the Lease, keep and maintain all buildings, structures and appurtenances of the Leased Property,

including facilities added to the property in a reasonably safe condition for the use intended.

10.02 The Lessee agrees that the track facilities of the Leased Property will be maintained to FRA Class 2 Track Standards. Routine maintenance of the Leased Property necessary to maintain the appropriate FRA Track Standards will be at the sole cost and expense of the Lessee. Routine maintenance in this part means: weekly track inspections, annual weed/brush control, and any spot tie replacement, adjustment, joint tightening/adjustment, signal maintenance, grade crossing repair, and other routine track maintenance required to maintain the track facilities to FRA Class 2 Track Standards.

10.03 Lessor and Lessee will mutually establish a Rehabilitation Program or Cycle Maintenance Program for the Leased Property to be financed from funds accumulated in the RCM Account described in Section 3.01. Lessee shall comply with the Rehabilitation Program or Cycle Maintenance Program; provided, however, that Lessee's obligation under this provision of the Lease will be limited to those funds that are available in the RCM Account under Section 3.03 hereof, or other funds that may be available.

10.04 Lessee will provide written Quarterly Reports to Lessor detailing all maintenance work activities occurring during the period of the Quarter.

Section 11. Inspection.

11.01 The Lessee shall allow inspection of the Leased Property by representatives of the Lessor upon request at reasonable times. Upon and during inspection, Lessor (and/or their representatives) will be required to abide by Lessee's safety and operating rules and regulations. Prior to the inspection, Lessee will be required to thoroughly review with Lessor (and/or their representatives) Lessee's safety and operating rules and regulations.

Section 12. Traffic Reports.

12.01 Lessee shall provide Lessor with a Quarterly Statement of Traffic Originating and Terminating on the rail line. The Statements shall contain, at a minimum, the following information: month, number of car loads originated, number of car loads terminated, standard commodity code for each carload, description of commodity, origins and destinations

Section 13. No Warranties of Covenants.

13.01 Lessee accepts the Leased Property "AS IS, WHERE IS" with all faults and defects in its condition as of the date of this Lease. Lessee acknowledges that Lessor has made and will make no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Leased Property, the condition of it, or its merchantability or suitability for any use or purpose whatsoever including the state of the title to the real estate that is subject to the Lease Agreement, other than as may be explicitly set forth herein. If a pre-existing hazardous waste or material is discovered, the Lessor will use its right of recourse, as prescribed by Federal Law, against the former owners to remedy the condition and resolve claims.

Section 14. Assignment.

14.01 This Agreement may be assigned by Lessee only with the written consent of Lessor, signed by an authorized official. To obtain Lessor's consent to such an assignment, Lessee will provide written notice to Lessor of its desire to assign this Agreement, including a letter signed by an authorized officer of the intended assignee stating that the assignee agrees to such assignment and agrees to be

bound by all the terms of such assignment and the approvals and evidences required by this Agreement. This Agreement will be binding upon and inure to the benefit of successors and assigns of Lessor and successors and permitted assigns of Lessee.

Section 15. Liability.

15.01 Lessee hereby acknowledges that all activities arising out of or in any way connected with the use of the Leased Property are solely for its benefit and Lessee hereby releases Lessor, its successors and assigns, officers, agents, and employees from all liability, whether arising from suits, actions, causes of action, claims or demands of any character whatsoever.

15.02 Lessee shall indemnify, protect and hold harmless Lessor, its successors and assigns, its officers, agents and employees, from and against all liability, cost, claims, suits, causes, causes of action, judgments or any expense whatsoever for any personal injury or property damage, however and to whomever caused, arising out of or in connection with the use of the Leased Property by anyone other than Lessor during the term of the Lease; provided, however, in case of conflict with the liability provisions of the interchange agreement, the provisions of the interchange agreement shall control; provided, however, that Lessee's indemnity obligations under this Section 15.02 and Sections 16 and 26 hereof will be limited as follows: (i) with respect to personal injury liability, to the limitations applicable to Lessor pursuant to the provisions of the Georgia Tort Claims Act, O.C.G.A. 50-21-20, et seq., and (ii) with respect to property liability, to the sum of Five Million dollars (\$5,000,000.00) per occurrence and to such other limitations as are set forth in Sections 16 and 26 hereof.

Section 16. Insurance.

16.01 Lessee, at no cost or expense to Lessor, to comply with its indemnity obligations under Section 15.02, shall procure or cause to be procured and maintain or cause to be maintained, during the term of this Lease, railroad operating and liability insurance covering liability assumed by Lessee under this Lease with a limit of not less than Five Million Dollars (\$5,000,000.00) for a single limit for personal injury per occurrence and for a limit of not less than Five Million Dollars (\$5,000,000.00) per occurrence for a single limit for property damage; such limits to be reviewed by Lessor every five (5) years during the term of this Lease or any extensions of it. At five (5) year intervals, Lessor and Lessee shall meet and confer in good faith to determine whether modifications should be made to the insurance requirement. Lessee shall furnish to Lessor certificates of insurance evidencing the above coverage in the form of a policy (or policies) at the time of execution of this Lease. Such insurance shall contain a contractual liability endorsement, which will cover the obligations assumed under this Lease and an endorsement naming Lessor as "additional insured". In addition, such insurance shall contain notification provisions under which the insurance company agrees to give thirty (30) days' written notice to the Lessor of any change in or cancellation of the policy. These endorsements and notice provisions shall be stated on the certificate of insurance provided to Lessor.

Section 17. STB Approvals.

17.01 Prior to initiation of rail freight service as specified in Section 2.05, Lessee hereby warrants and represents to Lessor that Lessee has applied or will apply to the Surface Transportation Board (STB) and to all other appropriate governmental or regulatory authorities for all necessary orders approving or authorizing Lessee to enter into this Lease and to conduct railroad operations on the Leased Property according to the terms and provisions hereof, or exempting Lessee from the requirement of obtaining such approval and authorization. The parties understand and agree that the entry of an order of the STB approving and authorizing or

exempting this transaction and the railroad operations of Lessee according to the terms and conditions hereof is a condition precedent to the obligations of either party hereunder.

17.02 Lessee will not seek authority to abandon or discontinue rail service from the Surface Transportation Board or other governmental or regulatory authority without the prior written approval of the Lessor.

Section 18. Termination

18.01 Except for track related improvements to the track and track structure, Lessee, upon termination of this Lease, shall have six (6) months to remove all improvements, and/or equipment placed by it on the Leased Property as required by, and at the sole discretion of, the Department. If Lessee fails to so remove such buildings, materials, improvements, and/or equipment within the time allotted, Lessor may remove such remaining improvements and/or equipment at Lessee's sole cost and expense and Lessor shall retain any salvage proceeds received by it.

18.02 Termination of the Lease shall not release any party hereto from any obligation under this Lease arising prior to said termination.

Section 19. Taxes and Assessment

19.01 It is understood and agreed that the Leased Property will be used by the Lessee in its rail operations and will be a part of Lessee's operation property. Lessee shall pay all taxes and assessments, general, special or otherwise, which may be levied, assessed or imposed upon the Leased Property and attributed to the Lease term. Lessee shall report and file all returns as required by state or federal law for its use of the Leased Property. Lessee shall pay such taxes and assessments directly to the taxing authorities on or before the date due and, upon Lessor's request, shall produce tax receipts to Lessor within twenty (20) days after payment thereof;

provided, however, that nothing herein shall require Lessee to make any such payments so long as Lessee, in good faith and by appropriate proceeding, contests its obligation to do so and a reserve, as required by generally accepted accounting principles, is made therefore. If any such taxes or assessments are charged, billed or in any fashion imposed on Lessor, Lessee shall pay Lessor for such taxes or assessments within twenty (20) days after Lessor renders the bill to Lessee. Lessor shall apply all such amounts received from Lessee to the taxes or assessments due.

Section 20. Notices.

20.01 All notices given under this Lease shall be in writing and sent by express, registered, or certified mail, postage prepaid, to the parties at the respective addresses set forth below, or such other addresses as may be specified by written notice and delivered in accordance herewith, and all such notices shall be deemed so delivered when deposited in the United States Mail.

If to the Lessor:

Georgia Department of Transportation
Office of Intermodal Programs
276 Memorial Drive, West Annex
Atlanta, Georgia 30303

If to the Lessee:

Georgia & Florida RailNet, Inc.
2350 Airport Freeway #300
Bedford, Texas 76022

Section 21. Events Constituting Default

21.01 Any of the following events shall constitute a default hereunder:

- (a) The non-payment by Lessee of rental by January 31 of each calendar year as specified in Section 3.
- (b) The non-performance by Lessee of any other material term, covenant or condition of this Lease which is not cured within thirty (30) days after written notice of it from Lessor.
- (c) Any affirmative act of insolvency by Lessee, or the filing by Lessee of any petition under any bankruptcy, reorganization, insolvency, or moratorium law, or any law for the relief of, or relating to, debtors.
- (d) The filing of any involuntary petition under any bankruptcy statute against Lessee, or the appointment of any receiver or trustee to take possession of the property of the Lessee in which petition or appointment is not successfully contested by Lessee and dismissed within 30 days of the filing.
- (e) The suspension or revocation of Lessee's federal, state or local regulatory authority to operate rail freight service on the line in which suspension or revocation is not promptly contested by Lessee, and successfully removed within 30 days of the filing of the suspension or revocation.
- (f) Lessee's committing waste or allowing the attachment of any lien on the Leased Property which is not cured within ninety (90) days; provided, however, if Lessee in good faith contests a lien, it shall have such additional time to cure as is reasonable under the circumstances.
- (g) Any notice, petition or application by Lessee to the Surface Transportation Board (STB) or other governmental or regulatory authority without prior written approval of Lessor; provided, however, that such approval shall be deemed to be given if neither written approval nor disapproval has been received by Lessor within thirty

(30) days after notice is provided to Lessor under the provisions of Section 20 hereof.

Section 22. Lessor's Rights on Default

22.01 On the occurrence of any of the events of default listed in Section 21, Lessor may terminate the Lease by written notice to Lessee and, in addition, take any other action or exercise any remedy available to Lessor at law or equity.

Section 23. Obligations of Lessee Upon Termination.

23.01 In case of termination by Lessor pursuant to Section 21, such termination shall be according to the provisions of Sections 2.03 and 18 hereof.

Section 24. Acceptance of Partial Payment.

24.01 In the event Lessee is in default hereunder due to non-performance, acceptance by Lessor of partial payment of performance shall not waive the default. Lessor's right to terminate shall not be prevented except by full performance by Lessee prior to its receiving written notice of termination. This Lease shall not be reinstated after termination except by written agreement with Lessor.

Section 25. Amendment.

25.01 No term or provision of this Lease may be changed, waived, or discharged or terminated except by an instrument in writing signed by both parties hereto.

Section 26. Hazardous Materials.

26.01 At no time during the term of this Lease shall Lessee without the prior written consent of Lessor maintain, treat, dispose of, store or have on the Leased Property, or permit any other party to have, maintain, treat, dispose of, or store on the Leased Property, any material which is classified by federal, state or local authorities as a hazardous material or hazardous waste or which requires a permit for the storage, treatment, disposal, handling or maintenance of it from any government authority. As used herein, "storage" includes the keeping of material within any building on the premises, in the open on the premises, or in a truck or other vehicle (other than a rail car for inbound or outbound movement) on the premises.

26.02 Lessee further agrees to indemnify and hold Lessor harmless from all costs, expenses, liabilities, demands, claims, causes of action at law or in equity whatsoever arising from any treatment, disposal, storage, maintenance or handling of any hazardous material or hazardous waste on the premises, including, but not limited to, the cost of clean-up, environmental damage assessments, defense and reasonable attorney's fees. The parties acknowledge that the inclusion of this indemnification and hold harmless provisions shall in no manner whatsoever evidence a waiver, consent or permission by Lessor for Lessee to violate the provisions of Section 26.01.

Section 27. Rate Surcharges.

27.01 Lessee shall not publish, apply, or request a rate surcharge pursuant to 49 U.S.C. 1705a and 49 CFR Part 1140 for any commodity originating or terminating on the Leased Property without the prior written approval of Lessor.

Section 28. Antidiscrimination.

28.01 Lessee shall comply with the regulations for compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq) and 23 CFR 710.405(b). Failure to fully comply may result in termination of this Lease.

Section 29. Entire Agreement.

29.01 This Lease constitutes the entire agreement between the Lessee and Lessor and no other representation, warranties or agreements, either oral or written will be binding upon the Lessee and Lessor.

Section 30. Governing Law.

30.01 This Lease shall be deemed to have been executed in Fulton County, Georgia, and all questions, interpretations and construction shall be governed by the Laws of the State of Georgia.

Section 31. Compliance With Applicable Laws.

31.01 Lessee shall comply with all statutes, laws, and ordinances of all federal, state and local governments or other governmental authorities, regulatory authorities and commissions, foreseen and unforeseen, ordinary as well as extraordinary, for the entire period of the Lease.

Section 32. Warranty of Signature.

31.02 Lessor warrants to Lessee that the person executing this Lease Agreement for Lessor is fully authorized to sign this Lease for Lessor and to bind Lessor to the terms of this Agreement. Lessee warrants to Lessor that the person executing this Lease Agreement for Lessee is fully authorized to sign this Lease for Lessee and to bind Lessee to the terms of this Agreement.

Section 33. Force Majeure

33.01 No party hereto shall be held responsible or liable, either directly or indirectly, or be deemed to be in default or breach of this Agreement for any loss, damage, injury, delay, failure or inability to meet all or any portion of its commitments hereunder caused by or arising from any cause which is unavoidable or beyond its reasonable control, including, without limitation, war hostilities, invasion, insurrection, riot, the order of any competent civil or military government, explosion, fire, American Association of Railroads (AAR) service orders, actions of other carriers which materially affect Lessee's operations, acts of God, including storms or other adverse weather conditions, and perils of water such as floods and ice, and physical damage such as washouts, or other causes of a similar nature which prevent the parties or one of them from carrying out the terms of this Agreement; provided that the party experiencing such force majeure promptly gives written notice to the other party, of the type and expected duration of the force majeure, and the disabling effect of the same shall be eliminated as soon as, and to the extent reasonably, possible. In the event that one party's performance is suspended by force majeure, the other party's obligations to perform hereunder shall be suspended or commensurably reduced for the duration of the difficulty and such additional reasonable period as may be required because of the existence of the problem.

[The rest of this page has been intentionally left blank]

IN WITNESS WHEREOF, said parties hereto have caused this Lease to be duly executed under seal by their duly authorized representatives.

DEPARTMENT OF TRANSPORTATION
RECOMMENDED:

Administrator, Intermodal Programs

State Right-of-Way Administrator

By:

Commissioner

ATTEST:

Treasurer

Reviewed as to Legal Form:

Legal (Date)

GEORGIA & FLORIDA RAILNET,
INC.
RECOMMENDED:

Georgia & Florida RailNet, Inc.

[Corporate Resolution]

I attest that the Officer of this Corporation executing this Document does, in fact occupy the official position indicated and is duly authorized to execute such Document on behalf of this Corporation

ATTEST:

Corporate Secretary

Notary Public

Federal Employer Identification Number:

ATTACHMENT I

Description of Leased Property

- (1) The Leased Property consists of all of the right-of-way and real property situated, lying and being between milepost GF 30.6 in Valdosta, Lowndes County (where the railroad intersects East Park Avenue), and milepost GF 73.8 in Willacoochee, Atkinson County (a point near, and south of, Paulk Avenue); approximately 43.2 miles.