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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 35863

**MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
- ACQUISITION EXEMPTION -
CERTAIN ASSETS OF PAN AM SOUTHERN LLC**

MOTION TO DISMISS

EXPEDITED CONSIDERATION REQUESTED

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DEPARTMENT OF TRANSPORTATION**

Dated: October 10, 2014

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LIST OF EXHIBITS

- Tab A** - Verified Statement of Michael Rooks, General Manager, Pan Am Southern LLC
- Tab B** - Amtrak Vermonter Schedule and Route Guide
- Tab C** - Map of existing and proposed Vermonter routes in Massachusetts
- Tab D** - The Knowledge Corridor – Restore Vermonter Project
- Tab E** - Purchase and Sale Contract (May 25, 2012)
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I. OVERVIEW

In this proceeding, The Commonwealth of Massachusetts (the “Commonwealth”), acting by and through its Department of Transportation (“MassDOT”), has invoked the Board’s class exemption procedures at 49 C.F.R. part 1150, subpart D, to acquire certain railroad assets of Pan Am Southern LLC (“PAS”), specifically, the rail assets (i.e., right-of-way, track, and related railroad physical plant) comprising a portion of the Connecticut River Main Line – also known as the “Knowledge Corridor” – in Massachusetts, extending from Station 2+25 in Springfield, MA, to Station 2613+66.85 at East Northfield, MA (collectively, the “Railroad Assets”).¹ PAS will retain for itself an exclusive, irrevocable, perpetual, assignable, divisible, licensable and transferable freight common carrier easement over the Railroad Assets. MassDOT will acquire neither the right nor the ability to provide railroad common carrier service, and it will be contractually precluded from unduly interfering with the provision of freight common carrier service over the Railroad

¹ MassDOT proposes as part of this transaction to acquire PAS’s right, title and interest (if any) in providing passenger rail service between Springfield and the Massachusetts-Connecticut border.

Assets post transaction.² MassDOT's acquisition of the Railroad Assets is an element of the Commonwealth's plan to improve the Knowledge Corridor's physical plant to – (1) facilitate higher-speed intercity rail passenger service over the route, including Vermonter passenger service provided by the National Passenger Rail Corporation (“Amtrak”); and (2) facilitate the possible future establishment of commuter or non-Amtrak intercity rail passenger operations over the route in accordance with the terms of the carefully-crafted 2014 Operating Agreement.

In accordance with Maine Department of Transportation – Acquisition and Operation Exemption – Maine Central Railroad, 8 I.C.C.2d 835 (1991) (“State of Maine”) and its progeny, MassDOT hereby requests that its concurrently-filed verified notice of exemption (the “Notice”) in this proceeding be dismissed, because the transaction encompassed by the Notice, as structured, does not require Board authorization under 49 U.S.C. § 10901 or MassDOT's invocation of the otherwise applicable class exemption procedure. Moreover, in light of pressing passenger train service (Amtrak) and financial considerations discussed below, the parties to this transaction respectfully request that the Board expeditiously review and act upon the present Motion, so that the underlying transaction may be consummated by or before December 29, 2014.

² In that regard, MassDOT, the Massachusetts Bay Transportation Authority (“MBTA”), and PAS have negotiated amongst themselves an Operating Agreement (the “2014 Operating Agreement”) assuring to PAS's satisfaction that PAS can fulfill all current and reasonably foreseeable rail freight service requirements without undue interference from MassDOT or MBTA. See Verified Statement of Michael Rooks, General Manager, Pan Am Southern LLC, attached hereto as Exhibit A.

II. BACKGROUND

MassDOT is a non-carrier instrumentality of the Commonwealth of Massachusetts. It is the Commonwealth's principal authority for developing and implementing state transportation planning, policy, and programs.³

PAS is a freight common carrier that possesses rights to operate approximately 437 miles of track (collectively, the "PAS Lines") in New England. The PAS Lines consist of 238.3 miles of PAS-owned rail lines, and 198.4 miles of track over which PAS possesses trackage rights. The PAS Lines include an east-west aligned route, called the Patriot Corridor, which is comprised of 139.7 miles of PAS-owned track extending from Mechanicville, NY, to CPF-312, near Ayer, MA, and 15.8 miles of trackage rights over MBTA-owned track between Fitchburg and Willows, MA. An intersecting, north-south oriented component of the PAS Lines extends from White River Junction, VT, to New Haven, CT, consisting of: (1) 72.8 miles of trackage rights over the New England Central Railroad between White River Junction, VT, and East Northfield, MA; (2) 49.7 miles of PAS-owned track between East Northfield and Springfield, MA; and (3) 62.0 miles of trackage rights over an Amtrak-owned line between Springfield, MA, and New Haven, CT. The PAS Lines also include several branch lines.⁴

³ See Norfolk Southern Railway Company, Pan Am Railways, Inc., et al. – Joint Control and Operating/Pooling Agreements – Pan Am Southern LLC, STB Finance Docket No. 35147, Comments of the Commonwealth of Massachusetts' Executive Office of Transportation and Public Works [MassDOT's predecessor agency] (filed Aug. 11, 2008) at 3.

⁴ The branch lines are: (1) the Rotterdam Branch, which is approximately 30.5 miles between Rotterdam Junction and Mechanicville, NY (including 18.3 miles of trackage over Canadian Pacific Railway Company between Mohawk Yard in Schenectady, NY, and Mechanicville, NY); (2) the Adams Industrial Branch, which is approximately 4.6 miles between N. Adams and Adams, MA; (3) the Heywood Industrial Branch, which is approximately 1.2 miles between Gardner and Heywood, MA; (4) approximately 2.3 miles between Ayer and Harvard Station, MA; (5) the Groton Industrial, which consists of trackage rights over MBTA extending approximately 5 miles between

The PAS Lines are currently operated under contract by, Springfield Terminal Railway Company (“ST”), which has been the common carrier freight service provider on the PAS Lines since well before consummation of the series of Board-approved transactions encompassed by the Board’s 2009 PAS-Joint Control decision.⁵

As additional background, Amtrak currently provides once-daily passenger service – dubbed the Vermonter service – in each direction between Washington, DC, and St. Albans, VT. Northbound Vermonters operate over Amtrak’s Northeast Corridor (“NEC”) from Washington to New Haven, CT, where the trains exit the NEC for Hartford, CT, and points north of Hartford.⁶ At Springfield, northbound Vermonters turn eastward toward Palmer, MA, and then head northward again at Palmer toward Amherst and Northfield, MA, at which point northbound Vermonters head into Vermont and New Hampshire, ultimately terminating at St. Albans.⁷ Southbound Vermonters follow the exact same route in the opposite direction.

As can be seen on the attached map (Exhibit C), the Vermonter route between Springfield and Northfield, MA, via Palmer and Amherst, is circuitous compared to a more direct route between

Ayer, MA, and Groton, MA; (6) approximately 2.3 miles of trackage rights over MBTA between Willows, just east of Ayer and Littleton, MA; (7) approximately 42.9 miles between Berlin, CT, and Derby, CT (including 18.6 miles of trackage rights over Metro North Commuter Railroad between Waterbury and Derby, CT); (8) the Southington Industrial Branch, which is approximately 4.5 miles between Plainville and Southington, CT; and (9) approximately 3.7 miles of trackage rights over CSX Transportation, Inc. (CSXT) between North Haven and Cedar Hill, CT. Norfolk Southern Railway Company, Pan Am Railways, Inc., et al. – Joint Control and Operating/Pooling Agreements – Pan Am Southern LLC, __STB __, STB Finance Docket No. 35147, slip op. at 2 (STB served March 10, 2009) (“PAS-Joint Control”).

⁵ See PAS-Joint Control, slip op. at 5-6 n. 10.

⁶ Amtrak owns the portion of the Connecticut River Main Line from New Haven, CT, to a connection with the PAS-owned section of that line (the subject of this proceeding) at Springfield. PAS possesses operating rights over the Amtrak-owned line south of Springfield.

⁷ See Amtrak Vermonter Schedule and Route Guide, attached hereto as Exhibit B.

Springfield and Northfield via Northampton on the PAS-owned Connecticut River Main Line. In fact, Amtrak used the route via Northampton in the past until declining track conditions and diminished operating speeds dictated the use of the more circuitous Palmer routing.

MassDOT recognizes the benefits of improved rail passenger service linking the densely-populated communities along the banks of the Connecticut River in western Massachusetts and commercial and population centers along the Amtrak-served NEC, including New York City. To achieve these benefits, MassDOT and the affected western Massachusetts communities have adopted, and indeed are now carrying out, a plan to promote passenger train service in the region. Foremost among MassDOT's efforts is the restoration of the Springfield-Northampton-Greenfield-East Northfield route, which has earned its moniker as the "Knowledge Corridor" because of the several colleges and universities along the way. MassDOT has secured funds to restore the Knowledge Corridor in the furtherance of that agency's rail transportation policy and planning objectives. Specifically, in 2011, MassDOT secured a \$72,225,000 competitive grant awarded by the Federal Railroad Administration as part of the American Recovery and Reinvestment Act ("ARRA") High-Speed and Intercity Passenger Rail Program. Among other things, this federal grant is dedicated to crosstie replacement, rail replacement, grade crossing rehabilitation, passing siding reactivation, installation of double track, switch upgrades, signal and communications systems improvements, track re-surfacing and alignment, and bridge and station platform improvements – all of which will permit the relocation of the Vermonter to the Knowledge Corridor⁸ and enable reduced passenger train travel times and increased passenger train frequency.

⁸ See "The Knowledge Corridor – Restore Vermonter Project," at <http://www.massdot.state.ma.us/knowledgecorridor> (also attached hereto as Exhibit D).

In view of its success in obtaining track improvement funds, MassDOT has determined that its near-term and long-term strategies for the Knowledge Corridor – which contemplate a modest increase in passenger train service in the near term and the possibility of expanded passenger service in the long term – are best served through public ownership of the underlying railroad property from Springfield to East Northfield. Such asset ownership affords the Commonwealth greater latitude in planning and implementing the kinds of infrastructure and service improvements that would best promote regional economic development. The Knowledge Corridor route has modest freight traffic, but it has great promise as a passenger rail corridor. MassDOT's ownership of the Railroad Assets will result in improved track conditions permitting faster train speeds.

MassDOT's Railroad Assets transaction and related physical plant improvements will foster passenger train frequency increases from the once- daily round trip Vermonter service to an expected three daily round trips. MassDOT's service and train frequency improvements will attract rail passengers who otherwise would make use of the local highways. The transaction therefore will reduce roadway congestion and automobile emissions and will promote regional economic development. The transaction is keyed upon the restoration of Knowledge Corridor passenger service, but MassDOT understands that PAS, through its designated rail service provider (ST), must remain able to offer reliable common carrier freight rail service to meet the current and foreseeable needs of shippers. For this reason, MassDOT and PAS have built safeguards into the transaction to ensure that freight rail service is not jeopardized – central among them being PAS's retention of a perpetual and exclusive freight easement over the Railroad Assets and the protective provisions of the 2014 Operating Agreement.

A. The Railroad Assets

The underlying May 25, 2012 Purchase and Sale Contract (“P&S Contract”),⁹ subsequently extended (due to postponement of the closing) and modified by way of a Reinstatement and First Amendment to Purchase and Sale Contract,¹⁰ describes the subject Railroad Assets as consisting of PAS’s right, title and interest in the right-of-way, trackage and other physical assets associated with the rail route extending between Springfield and the Massachusetts-Vermont border at East Northfield. MassDOT also will acquire any right, title, or interest that PAS may have to operate passenger trains over the Amtrak-owned line extending southward from Springfield to the Massachusetts-Connecticut border. In turn, PAS will retain an exclusive, irrevocable, perpetual, assignable, divisible, licensable and transferable freight rail operations easement (the “Freight Easement”) allowing PAS to serve current and future freight customers as well as interchange with all current and future freight carriers whose lines connect with the subject portion of the Connecticut River Main Line.

MassDOT and MBTA (collectively, the “Commonwealth Parties”)¹¹ and PAS have entered into the 2014 Operating Agreement, governing capital improvements, maintenance, and day-to-day Railroad Assets operations.¹² The 2014 Operating Agreement assures that MassDOT’s ownership and the Commonwealth Parties’ oversight of the Railroad Assets do not interfere with or unduly burden PAS’s provision of freight service.

⁹ Attached hereto as Exhibit E.

¹⁰ Attached hereto as Exhibit F.

¹¹ In the 2014 Operating Agreement, MassDOT and MBTA are referred to individually and collectively as the “Commonwealth Parties.” In keeping with the 2014 Operating Agreement nomenclature, the subject Motion also will employ the term “Commonwealth Parties” in discussing the various rights and obligations of MassDOT and/or MBTA as set forth in that agreement.

¹² The 2014 Operating Agreement is attached hereto as Exhibit G.

The 2014 Operating Agreement grants discretion to the Commonwealth Parties to permit passenger train operations over the Railroad Assets, subject to PAS's rights to schedule and run four daily through freight trains and once-daily local round trip local freight service. PAS will retain the exclusive right to run additional freight trains over the Railroad Assets at its discretion as traffic demands may dictate, subject to a "balance of interests" provision protecting passenger service reliability once such additional freight service is introduced.¹³ In addition, in the event that increased track capacity is needed in the future to accommodate freight traffic growth, PAS is entitled to propose and construct the capital improvements necessary to respond to such traffic increases, but it must do so in a manner that does not unreasonably interfere with the provision of passenger service.¹⁴ Further, in the event that increased track capacity is needed in the future to accommodate passenger traffic growth, the Commonwealth Parties are entitled to propose and construct the capital improvements necessary to accommodate such traffic increases, but they must do so in a manner that does not unreasonably interfere with the provision of the freight service.¹⁵

PAS will continue to dispatch trains operating over the Railroad Assets as is the case today unless or until PAS fails to perform said dispatching services in keeping with the dictates of the 2014 Operating Agreement, in which case, following a detailed notice-of-deficiency process, the Commonwealth Parties may assume dispatching responsibilities if a dispatching deficiency is not remedied within a specified time after PAS has been advised of such deficiency.¹⁶ But in all cases, dispatching shall adhere to sound dispatching protocols, taking into account (and balancing) PAS's

¹³ 2014 Operating Agreement, § 2.2(a).

¹⁴ *Id.*, § 6.2.

¹⁵ *Id.*

¹⁶ *Id.* § 7.3.

interest in providing, and obligation to provide, freight service on the one hand and, on the other, the Commonwealth's interest in promoting passenger train service, including Amtrak service.

Subject to a notice-of-deficiency-and-remediation process that is comparable to that set prescribed for dispatching (discussed above), the Commonwealth Parties will also designate PAS to remain responsible for undertaking track maintenance on the Railroad Assets subject to cost allocation among the parties.

B. Closing/Consummation

MassDOT and PAS anticipate closing upon the subject Railroad Assets transaction by or before December 29, 2014, but in no event any later than December 31, 2014.

C. The PAS Easement

Section 3.1.1 of the P&S Contract governing the sale of the Railroad Assets states, in part, as follows (emphasis as in original):

The Deed shall not convey and shall set forth and reserve to [PAS] an exclusive, retained and perpetual easement in gross (the "**Retained Freight Easement**") to provide rail freight service itself or through its contractor [ST] (or any subsequent contractor of [PAS] replacing [ST]), and which shall provide that [PAS] has the exclusive right to provide freight rail service (which right shall be perpetual, unless abandoned by [PAS]) and such other rights as may be mutually agreed upon . . . [MassDOT] and [PAS] acknowledge that [PAS]'s exclusive right to provide freight service . . . The Retained Freight Easement shall . . . be assignable and transferable in whole, but not in part, provided, however, that (a) [PAS] shall have no right to split or share the Retained Freight Easement or any portion of the Property with any assignee or transferee, and (b) any assignment or transfer by [PAS] of the Retained Freight Easement to a third party shall be subject to the approval of [MassDOT], which approval shall not be withheld if such third party meets certain standards described in the Deed.

Similarly, the 2014 Operating Agreement defines the PAS-reserved rights as “the perpetual easement to provide Freight Rail Service^{17]} and such other rights over the Property reserved and retained by PAS as are described in any deed or deeds transferring the Property from PAS to MassDOT pursuant to the P&S Contract, and any additional easements to provide freight rail service and such other rights over the Property as may be added to this Agreement from time to time by mutual agreement of the Parties.”¹⁸

The terms of PAS’s retained permanent, exclusive freight easement are set forth in the final (but unexecuted) quitclaim deed (the “Deed”) attached hereto as Exhibit I. The Deed includes expansive definitions of the terms “Trackage,” “Railroad Purposes,” and “Rail Freight Service,” thus guaranteeing PAS the “right to use all Trackage on the Property for the exclusive provision of Rail Freight Service.”¹⁹ In turn, “Rail Freight Service” is defined broadly as “[t]he transportation by rail of property and movable articles of every kind, character and description over the Property, including but not limited to rail freight transportation service to current and future industries, customers and facilities located along the Property, and supporting activities . . .”²⁰

The exclusive freight easement that PAS will retain continues in perpetuity until “abandoned or terminated, as provided in the Operating Agreements herein referenced . . .”²¹ As discussed

¹⁷ “‘Freight Rail Service’ means the full range of services and activities performed in connection with the provision of current and future freight common carrier and contract carrier obligations on the Rail Operating Property and other activities permitted or required under this Agreement. Freight Rail Service includes PAS’s right to transport railroad material, equipment, ballast, rails and the like in support of Freight Rail Service.” *Id.*, § 1.

¹⁸ *Id.* (definition of “Freight Easement”).

¹⁹ Deed, § 7(c).

²⁰ *Id.*, § 7(d).

²¹ *Id.*, § 7(a).

below, the 2014 Operating Agreement grants PAS considerable discretion over any future abandonment or discontinuance of rail freight service on the Railroad Assets, and it sets forth specific terms and conditions pursuant to which PAS's exclusive and permanent freight easement may be terminated pursuant to advance authority from the Board.²²

As has been explained, a fundamental objective of the Railroads Assets transaction is the re-routing and promotion of regional Amtrak passenger train service. Consistent with the latter objective – and in addition to the exclusive, permanent freight easement that PAS will retain – MassDOT's acquisition of the Railroad Assets is made subject to the rights of Amtrak to operate over the Railroad Assets pursuant to the June 27, 2011, Maintenance and Service Outcomes Agreement among PAS, MassDOT and Amtrak (the "SOA") and an operating agreement (sometimes referred to as the "Host Agreement,"²³ as is done in the 2014 Operating Agreement) among PAS, ST and Amtrak dated May 1, 2012.²⁴ PAS and ST will assign their rights and obligations under the SOA and the Host Agreement to MassDOT as part of the subject Railroad Assets Transaction.²⁵

These contractual arrangements are designed to assure that Amtrak trains may operate reliably under agreed-upon schedules and running times. Specifically, the SOA sets forth certain specified performance standards intended to permit Amtrak trains operating over the Springfield-East Northfield portion of the Knowledge Corridor to be able to complete their trips within certain

²² 2014 Operating Agreement, §2.3.

²³ The subject Host Agreement, is attached hereto as Exhibit J.

²⁴ See 2014 Operating Agreement, § 1 (definition of "Host Agreement").

²⁵ P&S Contract, § 7.3.6; 2014 Operating Agreement, § 1 (definition of "Host Agreement").

prescribed maximum running times.²⁶ Additionally, in the interest of preserving Amtrak service reliability, the Host Agreement dictates that Amtrak trains operating over the Knowledge Corridor be dispatched in such a manner as to – (1) “facilitate the delivery of those trains to all station stops in accordance with the applicable schedules;” and (2) “avoid delays to trains and, consistent with safety, to make up delays incurred on [subject route], or on the rail lines of other railroads.”²⁷

D. Operations on the Railroad Assets

The 2014 Operating Agreement contemplates that PAS will continue to provide freight service over, maintain and dispatch the subject rail corridor. However, that agreement also sets forth procedures for the potential transfer of dispatching and maintenance to the Commonwealth Parties, and the Deed affords PAS the opportunity to transfer its common carrier freight service obligations to an affiliated or unaffiliated third party under certain circumstances. But in no such case will the Commonwealth Parties assume responsibility for, or control, the provision of freight common carrier service.

PAS is the only rail operator using the Railroad Assets today, and it currently operates an average of six train movements a week (two weekly round trip through freight trains and once-weekly, round trip local train service) over the line in question. The parties do not expect that the subject transaction or the related infrastructure improvements will have an immediate or material impact on freight traffic volumes. Nevertheless, the 2014 Operating Agreement provides for a considerable capacity cushion for PAS, guaranteeing PAS scheduling priority, at PAS’s discretion, to increase freight train frequency from existing levels to as many as four through trains and one

²⁶ See, SOA, Exhibit 1 – Service Outcomes.

²⁷ Host Agreement, § 3.3(b).

round-trip local daily – a sevenfold increase over current freight train frequencies. As such, the subject transaction should not upset the freight rail service *status quo*.

In light of federally-funded track improvements anticipated to be completed on the Knowledge Corridor, Amtrak's one-round-trip-per day Vermonter service will relocate to this route. The Commonwealth Parties contemplate increasing passenger train frequency on the Knowledge Corridor in the future (through either additional Amtrak trains or new Commonwealth-sponsored service), subject to certain safeguards protecting freight service capacity commitments in favor of PAS.²⁸ In addition, the 2014 Operating Agreement allows the parties to the agreement to propose, and to undertake separately or collectively, physical plant improvements which may benefit both freight and passenger rail service or that may (depending on the source of funds) be dedicated exclusively for increasing passenger or freight capacity.²⁹

The 2014 Operating Agreement assures that both passenger and freight trains are to be handled efficiently, and that PAS – (1) possesses sufficient rights, of a permanent and exclusive nature, to provide common carrier freight service; and (2) is able to fulfill its obligations to Amtrak under the SOA. As they may bear on the subject motion to dismiss, specific operational aspects of the 2014 Operating Agreement are reviewed in the Discussion section following.

III. DISCUSSION

A. The State of Maine Doctrine

The acquisition of an active rail line by a noncarrier, including a state, requires Board approval under 49 U.S.C. § 10901. See Common Carrier Status of States and State Agencies, 363

²⁸ 2014 Operating Agreement, §§ 2.2(b) and (c).

²⁹ *Id.*, § 6.2.

I.C.C. 132, 133 (1980), aff'd sub nom. Simmons v. ICC, 697 F.2d 326 (D.C. Cir. 1982). However, a long line of firmly-established cases beginning with the seminal State of Maine decision distinguish between – (1) the acquisition of a line of railroad, including the acquisition of the common carrier obligation related thereto, which requires advance Board approval under 49 U.S.C. § 10901 or the acquirer's invocation of the applicable class exemption; and (2) the purchase of railroad right-of-way and track assets subject to the selling railroad's retention of a permanent, exclusive freight service easement preserving the seller's common carrier right and obligation which requires advance Board examination, but for which the Board ultimately may determine that authorization or the invocation of a class exemption is unnecessary. State of Maine, 8 I.C.C.2d at 836-837; and see, e.g., Massachusetts Department of Transportation – Acquisition Exemption – Certain Assets of CSX Transportation, Inc., FD 35312 (STB served May 3, 2010) (“MassDOT-I”) at 4-8, aff'd sub nom. Bhd. of R. Signalmen v. STB, 638 F.3d 807 (D.C. Cir. 2011); Rail Term Corp. – Petition for Declaratory Order, FD 35582 (STB served November 19, 2013) at 11-13 (reaffirming State of Maine principles in context of publicly-owned, shared use rail corridors).

For a transaction to fall within this second category, however, the terms of the sale must protect the selling carrier or its third-party designee from undue interference in its provision of common carrier freight rail service. State of Michigan Department of Transportation – Acquisition Exemption – Certain Assets of Norfolk Southern Railway Company, FD 35606 (STB served May 8, 2012) (“State of Michigan”) (citing MassDOT-I).

The longstanding State of Maine doctrine removing certain rail asset transactions from the scope of section 10901 (following pre-transaction Board analysis) may best be encapsulated by the following Board statement: “[T]he sale of the physical assets of a rail line by a carrier to a state or

other public agency does not constitute the sale of a railroad line within the meaning of 49 U.S.C. § 10901, if certain conditions are met.” Florida Department of Transportation – Acquisition Exemption – Certain Assets of CSX Transportation, Inc., FD 35110, slip op. at 5 (served Dec. 15, 2010) (“FDOT”) (citing State of Maine). As will be demonstrated herein, the proposed transfer of railroad physical assets from PAS to MassDOT meets those “certain conditions,” because the asset sale is subject to the requisite seller retention of a permanent and exclusive freight rail operating easement buttressed by the 2014 Operating Agreement, which contains various commitments to protect the provision freight rail common carrier service following consummation of the subject transaction. Accordingly, MassDOT’s proposed acquisition of the Railroad Assets satisfies the State of Maine criteria for a finding that the transaction does not require MassDOT’s compliance with the requirements of section 10901 or its invocation of the class exemption from section 10901 set forth at 49 C.F.R. part 1150, subpart D.

B. Analysis

Central to the Board’s analysis in a proposed State of Maine-style transaction is the selling railroad’s retention of a permanent easement and (in the case of existing or anticipated joint freight and passenger operations) the negotiation of an operating arrangement enabling it to continue to assert and to fulfill its freight common carrier rights and obligations without undue interference. See The Port of Seattle – Acquisition Exemption – Certain Assets of BNSF Railway Company, FD 35128 (STB served Oct. 27, 2008), slip op. at 3 (“Port of Seattle”). The Board “looks to whether [the asset-selling railroad] would obtain a permanent, exclusive freight easement and would have sufficient interest in and control over the [rail line in question] to permit it to carry out its common carrier freight rail obligation.” State of Michigan at 3. For the Board to find that the proposed

transaction does not require approval under section 10901 or the invocation of the related class exemption, the agency must be assured that the railroad proposing to transfer physical assets has preserved, through its retained easement and related agreements with the asset purchaser, sufficient rights to conduct common carrier freight operations without unreasonable interference. See, e.g., Metro Regional Transit Authority – Acquisition Exemption – CSX Transportation, Inc., FD 33838 (STB served Oct. 10, 2003), slip op. at 4 (“Akron Metro”); New Jersey Transit – Acq. Exempt. – Certain Assets of Conrail, 4 S.T.B. 512, 514 (2000) (“NJT/Bordentown”).

Under the P&S Contract and the Deed, MassDOT will acquire the Railroad Assets subject to PAS’s retention of an exclusive, irrevocable, perpetual, assignable, licensable, and transferable freight easement ensuring that PAS, via ST, can provide common carrier freight rail operations post transaction. MassDOT will not hold itself out as a common carrier performing freight rail service. As explained previously, the 2014 Operating Agreement also ensures that PAS will not be interfered with unreasonably in the continuation of common carrier freight rail service.

The 2014 Operating Agreement accounts for PAS’s current operations, makes generous provision for freight traffic growth and the possible need for freight train service capacity increases beyond the capacity cushion already extended to PAS, and provides for capacity and operating changes designed to establish and then expand passenger train service on the Railroad Assets. As is the case here, freight-passenger “shared use” arrangements can be structured to enable the asset-acquiring public entity to avail itself of the State of Maine construct, as MassDOT has done before,³⁰ to secure a Board finding (frequently essential to consummation) that the proposed transaction– (1) does not require agency approval, and (2) would not result in the acquiring public

³⁰ MassDOT-I, FD 35312.

entity becoming a rail common carrier. The Board has on numerous occasions found that the State of Maine construct can and does apply to properly-structured transactions involving shared freight and passenger use.³¹

MassDOT's proposed acquisition of the Railroad Assets strikes an appropriate balance between the sometimes competing interests of freight and passenger service, and, in so doing, is structured to satisfy the State of Maine criteria. In fact, the transaction is an example of a successful public-private partnership designed to accomplish three important objectives – (1) to preserve and aid freight common carrier service on a relatively low-density line; (2) to re-establish passenger rail service over the subject rail corridor; and (3) to promote and expand rail passenger service through improved route infrastructure and passenger service reliability.

³¹ The Board's evaluation processes in shared use State of Maine-style transactions have been spelled out as follows:

To balance the development of [passenger rail transportation] with the retention of freight rail service, the freight carrier need not necessarily retain full control. Instead, the Board examines in each case whether the agreements between the parties continue to give the freight carrier the ability to conduct its existing and reasonably foreseeable freight operations so that it can satisfy its common carrier obligation.

While the freight carrier must continue to have a permanent easement or its equivalent to provide freight service, the public agency acquiring the right-of-way and track may negotiate terms and conditions with the freight carrier necessary to provide reliable [passenger rail service] or protect the agency's investment so long as such terms and conditions do not unreasonably interfere with freight rail service. Thus, the easement or the operating agreement may restrict freight operations to specific parts of the day, provided that the window for exclusive freight operations is adequate to satisfy the service needs of freight shippers. Likewise, the public agency may assume responsibility for maintaining the line and dispatching freight operations if the operating procedures are reasonable and do not discriminate against freight service, and if the freight carrier has the right to inspect and to request prompt repair of any track defects.

Maryland Transit Administration – Petition for Declaratory Order, FD 34975 (STB served Sept. 19, 2008), slip op. at 4-5 (“MTA-II”) (footnotes citing to various other State of Maine-style decisions supporting the subject propositions omitted).

MassDOT's acquisition of the Railroad Assets will not affect PAS freight operations materially. The parties anticipate no significant post-transaction changes in freight service demand on the Railroad Assets, and they expect that PAS will be able to provide at least the same level of freight service. Under the 2014 Operating Agreement, the Commonwealth Parties will designate PAS to perform dispatching and maintenance, although the Commonwealth Parties may assume dispatching and maintenance responsibilities only under circumstances where either – (1) PAS has been proven unable or unwilling to adhere to its 2014 Operating Agreement obligations; or (2) PAS has voluntarily transferred those responsibilities under other terms of that agreement.³² Thus, PAS has considerable real time control over its freight operations on the Railroad Assets – additional assurance that freight operations will not encounter undue interference. MassDOT regards the Railroad Assets as valuable for the longer-term expansion of regional rail passenger service, but the subject rail line's light-density freight service characteristics make it unlikely that passenger rail service expansion (whether intercity or commuter in nature), if implemented with proper regard for the PAS-retained easement and PAS's freight common carrier obligation, will present material obstacles to freight rail service.

As indicated above, MassDOT and PAS have executed the 2014 Operating Agreement setting forth the Commonwealth Parties' and PAS's respective commitments and obligations with respect to the Railroad Assets. That agreement recognizes and preserves PAS's exclusive rights and obligations to provide adequate service to freight shippers located on the Railroad Assets in keeping with the kinds of arrangements that the Board has examined and approved of in other State of Maine-style proceedings. MassDOT is confident that PAS's freight service obligations can and will

³² 2014 Operating Agreement, § 7.3.

easily be accommodated now and in the foreseeable future under the shared-use arrangements contained in the 2014 Operating Agreement, particularly in light of the capacity cushion over existing average daily freight train density extended to PAS in that agreement. Indeed, as the attached verified statement of Michael Rooks conveys, PAS is confident that the subject transaction has been so structured so as to safely ensure that PAS will be able to continue to fulfill its common carrier obligations post transaction.³³

MassDOT takes very seriously its commitment to PAS and its assurances to the Board that MassDOT will not materially interfere with the provision of rail freight service on the Railroad Assets. MassDOT anticipates that the Board may hold it to the assurances it has extended in this Motion, and those contained in the transaction agreement.³⁴ MassDOT understands that its operating agreement with PAS, however it may be adjusted or revised in the future, must not undercut MassDOT's commitments and assurances in such a way that could later raise questions about MassDOT's legal status before this agency.

In short, the transaction presented herein and the underlying agreements governing post-transaction operations will assure that PAS can provide adequate common carrier rail freight service on the Railroad Assets into the future. MassDOT will not, and does not wish to, acquire a rail common carrier obligation, and, accordingly, the notice of exemption should be dismissed.

Finally, the Commonwealth Parties envision establishing of commuter rail service over all or certain portions of the Railroad Assets at some as-yet-undetermined future date as is indicated in

³³ Verified Statement of Michael Rooks, attached hereto as Exhibit A.

³⁴ See Port of Seattle, slip op. at 5 (the Board “will hold the parties to their assurances to refrain from interfering materially with the third-party operator’s right and obligation to provide rail freight service”).

the 2014 Operating Agreement. However, “the Board does not have jurisdiction . . . over mass transportation provided by a [State or State subdivision].”³⁵

1. General Provisions

In keeping with the usual State of Maine transaction structure, PAS will retain a permanent and exclusive easement to conduct rail freight operations on the Railroad Assets. Under the terms of the 2014 Operating Agreement, the subject freight easement would terminate with respect to a given portion of the Railroad Assets only if – (1) PAS at its discretion were to obtain regulatory authority to abandon or discontinue service over any portion of the Railroad Assets; (2) the Commonwealth Parties were to invoke the provisions of the 2014 Operating Agreement to request PAS to seek abandonment or discontinuance authority for any segment of the Railroad Assets over which PAS has not provided freight rail service for a continuous 8-year period of time; or (3) after a continuous three-year period of freight rail inactivity, MassDOT were to pursue and obtain regulatory authority pursuant to an adverse abandonment or discontinuance proceeding to terminate PAS operations over the inactive segment(s) of the Railroad Assets.³⁶

³⁵ 49 U.S.C. § 10501(c)(2). See Massachusetts Bay Commuter Railroad Company, LLC – Petition for Declaratory Order, FD 34332 (STB served Jun. 5, 2003); Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, and Acquisitions of Control; and Procedures for Surface Transportation Board Consideration of Safety Integration Plans in Cases Involving Railroad Consolidations, Mergers, and Acquisitions of Control, EP 574, FRA Docket No. 1999-4985, Notice No. 4 (STB served March 8, 2002), slip op. at 58 n. 14 (“[u]nder 49 U.S.C. 10501(c), the Board does not have jurisdiction over [commuter service] provided by a local governmental entity. Thus, a transaction involving a railroad subject to the STB’s jurisdiction and a commuter railroad ‘is . . . a one railroad transaction over which [the Board does] not have jurisdiction. . . .’”) (quoting Norfolk & Western Railway Company – Petition for Declaratory Order – Lease of Line in Cook & Will Counties, IL, To Commuter Rail Division of the Regional Transp. Auth. of Northeast Illinois, STB FD 32279 (STB served Feb. 3, 1999)).

³⁶ 2014 Operating Agreement, §§ 2.3(a)-(c).

This is not a case where the freight easement is subject to periodic renewal at the state's discretion, or where the state agency has the contractual right to compel the carrier's abandonment of freight service where such freight service is needed. Cf. Wisconsin Department of Transportation – Petition for Declaratory Order, FD 34764 (STB served December 2, 2005) at 2; Southern Pac. Transp. Co. – Aban. – L.A. County, CA, 8 I.C.C.2d 495 (1992), recons. denied, 9 I.C.C. 2d 385 (1993); see Sacramento-Placerville Transportation Corridor Joint Powers Authority – Acquisition Exemption – Certain Assets of Southern Pacific Transportation Company, FD 33046 (STB served Oct. 28, 1996) (“Sacramento-Placerville”) at 2 (no STB jurisdiction where public agency “has no power to require [carrier] to discontinue or curtail its freight service on the line.”). Rather, PAS's rights can only be terminated permanently under invocation of the Board's abandonment procedures, and only under very limited circumstances and upon appropriate showing to the Board.

The Commonwealth Parties may assign their respective interests or obligations under the 2014 Operating Agreement to another party upon 60 days written notice, provided that any assignment by MassDOT “does not in any way impair or adversely affect the rights of PAS hereunder or as required by law.”³⁷ On the other hand, transfer of PAS's retained freight easement is conditioned upon compliance with transfer conditions set forth in the Deed. Specifically, PAS is limited in its ability to assign or otherwise transfer its retained freight easement to any third party, other than a subsidiary or PAS corporate affiliate, that does not meet prior experience and capability standards.³⁸ Such measured restrictions on post-transaction transfers of the retained freight

³⁷ Id., § 18.3.

³⁸ Exhibit I, Quitclaim Deed Exhibit E, and 2014 Operating Agreement, § 18.1.

easement have been found to be permissible under the State of Maine construct,³⁹ particularly where, as here, the provisions governing potential future transfers of the freight easement do not unreasonably interfere with PAS's ability to fulfill its common carrier obligations.

It should be clear from the arrangements discussed above that MassDOT lacks the right, interest, or wherewithal to be or function as a common carrier, that it cannot admit any other party onto the property for such purposes, and that it will not hold itself out to the public as a railroad ready to provide freight rail service to shippers upon reasonable demand. Because MassDOT will not hold itself out as a common carrier on the Railroad Assets, and will not acquire any common carrier rights, MassDOT's purchase of the Railroad Assets does not involve a transfer of a common carrier obligation and is not subject to the Board's authorization. Central Puget Sound Regional Transit Authority – Acquisition Exemption – BNSF Railway Company, FD 34747 (STB served November 18, 2005) at 2; Metro-North Commuter Railroad Company – Acquisition and Operation Exemption – Line of Norfolk Southern Railway Company and Pennsylvania Lines LLC, FD 34293 (STB served May 13, 2003) (“Metro-North”) at 2, 3.

2. Maintenance

The Commonwealth Parties and PAS shall bear certain allocated responsibilities for track maintenance costs, but, for the foreseeable future, PAS will be designated to maintain the Railroad Assets in accordance with mutually-agreed upon standards that support freight and passenger rail service, including Amtrak-provided passenger service. PAS has committed to maintain the tracks to a standard that will permit Amtrak passenger trains to meet certain prescribed scheduled service

³⁹ “It is not uncommon for a public entity . . . that seeks to acquire the physical assets of a rail line to use or preserve for rail freight and commuter service [] to play a role in the subsequent assignment of the freight easement. . . .” Port of Seattle at 4.

standards “for so long as the SOA or any similar agreement with respect to the Knowledge Corridor is in force and effect.” But, “in the event the SOA is no longer in effect, the Rail Operating Property shall be maintained as directed by the Commonwealth Parties, but at least to a FRA Class I condition.”⁴⁰ There are circumstances under which maintenance responsibilities may shift to the Commonwealth Parties, but no less minimum maintenance standards would then apply.

Such a maintenance regime is consistent with the Board’s State of Maine precedent. For example, the Board generally views transactions under which track maintenance is expected to remain in the hands of the operating freight carrier (such as is the case here) as less problematic (potentially) than the alternative scenario where the acquiring noncarrier will assume such duties. Compare San Benito R.R. – Acquis. Exemption – Certain Assets of Union Pac. R.R., FD 35225, slip op. at 5 (STB served Jun. 23, 2011) (at a minimum, “there must be a legitimate business justification for placing the maintenance and dispatching of the line in the hands of the acquiring noncarrier”) (citing FDOT) with State of Maine – Petition for Declaratory Order, FD 35440, slip op. at 5 (STB served Dec. 29, 2010) (“State of Maine-II”) (in assessing a similarly-structured asset sale under the State of Maine construct – and ultimately finding that the proposed transaction would not require Board approval – the Board made no issue of, and indeed did not even mention in the merits analysis of its decision, the incumbent freight carrier’s retention of maintenance responsibilities), and State of Maine, 8 I.C.C.2d at 836-37 (state agency’s acquisition of the physical assets of a rail line owned by a common carrier railroad did not require Board approval where the existing carrier retained, among other things, the right to maintain the line) Accordingly, the Board should find here, in keeping with past cases such as State of Maine and State of Maine-II, that the maintenance

⁴⁰ 2014 Operating Agreement, § 3.1(c) and Exhibit B thereto (SOA).

arrangements in place here are structured to permit the requested finding that the Railroad Assets transaction does not require the agency's authorization.

But even if maintenance duties were to transfer to MassDOT under the strict provisions of the 2014 Operating Agreement⁴¹ – an arrangement that appears to be far more common in contemporary State of Maine-style transactions – that agreement contains robust protections for post-transfer freight common carrier service consistent with those approved of in other State of Maine-style transactions where the Board found that the acquiring state entity would not assume a common carrier status despite its assumption of maintenance duties. MassDOT-I at 10; Maryland Transit Administration – Petition for Declaratory Order, FD 34975 (STB served Oct. 9, 2007) (“MTA-I”) at 6; Akron Metro at 3; Sacramento-Placerville at 2; see also Los Angeles County Transportation Commission – Petition for Exemption – Acquisition from Union Pacific Railroad Company, FD 34374 (STB served July 23, 1996) (“LACTC”) at 3 (needs of passenger service give agency added incentive to fulfill track maintenance obligation).

3. Dispatching

In MassDOT-I, the Board observed (as it had in earlier cases) that “dispatching control has less importance in its own right than it has as a means of enforcing the service priorities in the operating agreement. If the operating agreement considered as a whole is not likely to impair freight service, the passenger operator’s control over dispatching will not by itself create such an obstacle, because the latter merely implements the former.” MassDOT-I at 10 (citations to cases with similar or virtually identical pronouncements omitted). The 2014 Operating Agreement

⁴¹ MassDOT believes that the circumstances under which maintenance responsibilities could shift from PAS to MassDOT enunciate an adequate “business justification” to allow such a shift to pass muster under the State of Maine rubric.

provides for PAS to continue to dispatch the Railroad Assets post-transaction, subject only to provisions that allow the Commonwealth Parties to assume control of dispatching – (1) after a thorough process that would be triggered in the event that PAS were to fail to adhere to prescribed dispatching performance standards; or (2) where PAS has voluntarily transferred those responsibilities under other terms of the 2104 Operating Agreement. If the Commonwealth Parties were to assume responsibility for dispatching, the 2014 Operating Agreement nevertheless dictates that non-PAS dispatchers, like their PAS predecessors, must “make all reasonable efforts to expedite the movement of freight trains, including expediting repairs to lines removing obstructions, and scheduling regular maintenance and repair programs at hours which will not unreasonably interfere with such movement” on the one hand, while, on the other hand, they are also required to “give priority to Passenger Service trains over all other train scheduling, dispatching and control, including without limitation PAS Freight Rail Service trains, provided that each such Passenger Service train is within ten (10) minutes earlier or later than its schedule time.”⁴²

This arrangement is in keeping with the considerations of the State of Maine construct, and similar dispatching arrangements have been approved of in previous Board proceedings. See, e.g., FDOT, slip op. at 9 (finding the eventual transfer of dispatching duties from freight carrier to public agency is permissible where specific protocols for the movement of passenger trains and freight trains were mutually agreed to by the parties); MTA-I, slip op. at 6 (STB served Oct. 5, 2007) (state agency control of dispatching is permissible where conducted in accordance with agreed-upon protocols aimed at protecting freight rail service). Because PAS will be designated to handle dispatching, and in view of the protections in place under the 2014 Operating Agreement in the

⁴² 2014 Operating Agreement, §7.1.

event of a transfer of dispatching duties, the parties' dispatching arrangements here are, at a minimum, in keeping with those the Board examined in proceedings such as MassDOT-I, LACTC, FDOT, and MTA-I.

As a final consideration, the Commonwealth, through MBTA, already dispatches trains on multiple rail routes where both freight and passenger trains make use of Commonwealth-owned railroad facilities. One such example is the MassDOT-owned and MBTA-managed 23-mile rail route from Framingham to Worcester, MA – the subject of State of Maine analysis in MassDOT-I. In that Board proceeding, MassDOT acquired railroad assets between Framingham and Worcester from CSX Transportation (“CSXT”), and installed MBTA to assume dispatching, among other things. The line segment hosted, and continues to host, CSXT main line freight trains, Amtrak intercity passenger service, and MBTA commuter rail service. The Board determined in the MassDOT proceeding that the operating agreement that would govern MBTA dispatching adequately balanced and protected the interests of all users of the rail line. Due in part to this determination, the Board also found that 49 U.S.C. § 10901 did apply to MassDOT's acquisition of the Framingham-Worcester railroad assets. Based on MBTA's post-transaction handling of dispatching on the Framingham-Worcester line and its extensive history of dispatching other Commonwealth-owned rail routes hosting freight and passenger trains, MassDOT submits that the Commonwealth's record speaks for itself – the Commonwealth Parties have proven fully capable of dispatching trains to accommodate the needs of freight shippers and passengers. Accordingly, there is no basis here to presume that the Commonwealth would deviate from such a well-recognized,

admirable “track record,” and compromise freight rail service in a way that raises questions about whether MassDOT’s noncarrier status is justified.⁴³

4. Operating Windows

The 2014 Operating Agreement does not prescribe operating windows within which freight trains and passenger trains are accorded higher or lower priority as against the other, as is sometimes the case in transactions involving joint use operations that the Board has found still fall within the State of Maine ambit. See, e.g., MassDOT-I at 12; MTA-II at 5; New Mexico Department of Transportation – Acquisition Exemption – Certain Assets of BNSF Railway Company, FD 34793 (STB served Feb. 6, 2006) (“New Mexico DOT”) at 2 (preferential operating windows not prohibited where carrier retains ability to provide freight service and “Amtrak service [is] provided in accordance with statutory and contractual standards”); Akron Metro at 4; NJT/Bordentown, 4 S.T.B. at 515. Rather, the 2014 Operating Agreement contains post-transaction track “capacity” commitments designed to accommodate and protect freight service, Amtrak service, and potential commuter or intercity passenger service that could in the future be initiated by the Commonwealth Parties.⁴⁴ These track capacity commitments reflect the parties’ reasonable expectations as to the capacity needs of freight and passenger service that is expected to operate over the Railroad Assets into the foreseeable future.

⁴³ The Board has in the past considered probative the acquiring state agency’s experience with hosting freight and passenger service on state agency-owned tracks. See, e.g., New Jersey Transit Corporation – Acquisition Exemption – Norfolk Southern Railway Company, FD 35638, slip op. at 4, n. 10 (STB served Mar. 27, 2013) (observing the “parties [intent] that NJ Transit shall not be able to conduct [maintenance and dispatching] in a manner that unreasonably interferes with [the freight railroad’s] ability to provide common carrier rail service,” and noting that New Jersey Transit has nearly 30 years of experience coordinating passenger operations with those of freight railroads).

⁴⁴ *Id.*, §§ 2.2(a)-(c), describing, respectively, the parameters of “Freight Service Capacity,” “Amtrak Passenger Service Capacity,” “Commuter Rail Passenger Service,” and “Commonwealth Passenger Service.”

In addition, while the 2014 Operating Agreement contains provisions for expanding passenger and freight service, the parties have agreed not to commit added capacity to one category of service at the expense of the existing capacity needs of another.⁴⁵ The closest approximation to an operating “window” is the 2014 Operating Agreement’s provisions ascribing priority to passenger trains operating within 10 minutes of an established train schedule.⁴⁶ Aside from that, the 2014 Operating Agreement stipulates that dispatching will be undertaken so as to – (1) “make all reasonable efforts to expedite the movement of freight trains, including expediting repairs to lines removing obstructions, and scheduling regular maintenance and repair programs at hours which will not unreasonably interfere with such movement;” and (2) “prioritize trains and resolve scheduling conflicts using best dispatching practices and in accordance with sound dispatching principles.”⁴⁷

The above-described arrangements are more fluid, and thus more flexible, than prescribed freight and passenger service operating windows. Yet, PAS freight service is contractually accorded protections in its use of the Railroad Assets, subject only to the schedules set for the 3 round trip intercity passenger trains that Amtrak may in the future operate over the route under its allocated Amtrak Passenger Service Capacity.⁴⁸ MassDOT respectfully submits that the arrangements contained in the 2014 Operating Agreement to accommodate the sometimes competing needs of freight and passenger rail service make more than adequate provision for

⁴⁵ See, e.g., *id.*, § 2.2(b) (“Amtrak shall have the right to run additional intercity passenger train trips in excess of the Amtrak Passenger Service Capacity (such additional service, the ‘Additional Amtrak Passenger Service’) provided such Additional Amtrak Passenger Service trains will not interfere with or limit PAS’s ability to operate Freight Rail Service up to the Freight Service Capacity”).

⁴⁶ *Id.*, § 7.1.

⁴⁷ *Id.*

⁴⁸ *Id.*, §§ 2.2(a)-(b) and 7.1.

existing and reasonably foreseeable freight traffic capacity demands, and, accordingly, strike the kind of balance that the Board has sanctioned where the parties in other State of Maine-style transactions have employed prescribed operating windows. See, e.g., MassDOT-I; MTA-II; New Mexico DOT; Akron Metro; NJT/Bordentown. As such, the Board should find, consistent with analogous precedent, that the proposed operating arrangements and balanced allocation of operational priority satisfy the State of Maine criteria.

5. Amtrak Service

As indicated in previous sections, the driving force behind the Railroad Assets transaction is the promotion and expansion of Amtrak service through western Massachusetts via – (1) reduced route circuitry; (2) improved transit times and reliability; and (3) increased service frequency (from one pair of trains daily to three pairs of trains, with the potential for more). It would be utterly counterproductive for the Commonwealth to spurn its own investment by neglecting Amtrak service and failing to extend to Amtrak the sort of preferential treatment to which it is statutorily entitled pursuant to 49 U.S.C. § 24308(c). In fact, the arrangements in place governing Amtrak’s anticipated use of the Railroad Assets make appropriate accommodation for Amtrak’s needs to upholding service schedules, speeds, and reliability.

The Commonwealth is sensitive to Amtrak’s service needs, and, as explained above, the arrangements that the Commonwealth has put into place solidly address Amtrak’s needs while protecting freight service. Thus, the SOA prescribes performance standards that are designed to permit Amtrak trains operating over the Springfield-East Northfield portion of the Knowledge Corridor to be able to complete their trips within certain established maximum running times.⁴⁹

⁴⁹ See, SOA, Exhibit 1 – Service Outcomes.

And the Host Agreement dictates that Amtrak trains operating over the Knowledge Corridor be dispatched in such a manner as to – (1) “facilitate the delivery of those trains to all station stops in accordance with the applicable schedules;” and (2) “avoid delays to trains and, consistent with safety, to make up delays incurred on [subject route], or on the rail lines of other railroads.”⁵⁰

The agreements surrounding MassDOT’s acquisition of the Railroad Assets make appropriate arrangements for the continuation and potential expansion of railroad freight service by PAS, but it should be equally clear that MassDOT’s investment in the subject railroad route are directly tied to the expansion and improvement of Amtrak service. The SOA and Host Agreement are strong evidence of the Commonwealth’s commitment to Amtrak, and, in keeping with MassDOT-I (noting that one of MassDOT’s chief objectives in acquiring the Framingham-Worcester line was to provide for “more efficient” Amtrak operations),⁵¹ the Board here should find that the arrangements for Amtrak service support the requested finding that MassDOT’s Railroad Assets transaction does not require advance authorization.

6. Spur Tracks and Capacity Improvements

The 2014 Operating Agreement does not mandate the removal of any spur track or switches connecting the Railroad Assets main trackage to siding or spur track used to serve freight customers. Rather than thwart future freight traffic growth, the 2014 Operating Agreement contemplates such growth, and makes provision for expanding on-line traffic opportunities. Thus,

⁵⁰ Host Agreement, § 3.3(b).

⁵¹ MassDOT-I, slip op. at 10; see also State of Michigan, slip op. at 5 (in issuing the requested State of Maine determination, the Board noted that the Michigan Department of Transportation’s acquisition of the involved rail assets was driven by the state’s desire to “improve Amtrak’s passenger rail service”); New Mexico DOT, slip op. at 2 (commuter service given priority over freight service during defined operating windows, but only so long as freight and Amtrak service are provided in accordance with statutory and contractual standards).

PAS, at its own cost and expense (and subject to advance consultation and coordination with the Commonwealth Parties), may install switches and sidings to access shippers located (or to be located) along the Railroad Assets, and PAS may also (again subject to a mandatory advance consultation process) undertake physical plant improvements with or without financial assistance from the Commonwealth Parties to expand freight service capacity.⁵² The Commonwealth Parties are, on the other hand, free to undertake construction, maintenance, alterations and improvements to the Railroad Assets of any sort, provided that any such undertakings do not restrict freight service capacity or unreasonably interfere with PAS's provision of freight common carrier service.⁵³

Once again, MassDOT respectfully submits that these arrangements for spur trackage and freight capacity improvements, like others bearing on train service over the Railroad Assets, are in keeping with State of Maine principles and past precedent where the Board has determined that the transaction parties had adequately protected the easement-holder's future ability to provide rail common carrier service over transferred railroad assets to obtain the requested agency determination. See State of Maine-II at 4 (STB served December 29, 2010) (rail assets acquisition transaction found to be consistent with State of Maine in part because the asset-selling carrier maintained the right to construct changes or additions such as turnouts, sidetracks, industrial spur tracks to sold assets to facilitate existing and future freight service).

7. Sale of PAS Passenger Service Rights (if any) South of Springfield, MA

In this transaction, MassDOT will acquire PAS's rights (if any) to provide rail passenger service over a portion of the Connecticut River Main Line between the Massachusetts-Connecticut border and Springfield. As explained above, the subject line segment south of Springfield is owned

⁵² Id., §§ 6.1 and 6.2.

⁵³ Id., § 6.3.

by Amtrak, and PAS operates over it pursuant to trackage rights. It is not clear that PAS possesses any passenger service rights on this line segment, and none of the parties hereto have been able to confirm or disprove the existence of any such PAS-held rights. In all likelihood, PAS possesses no such rights. Nevertheless, MassDOT has requested and PAS has agreed to transfer whatever rights PAS may hold to provide passenger service south of Springfield out of an abundance of caution to “extinguish” any passenger service rights and obligations that PAS might otherwise profess to have on the Amtrak-owned line south of Springfield.

This element of the transaction also does not require advance Board approval at this time.⁵⁴ To begin with, MassDOT’s acquisition arrangement is in essence a precautionary measure intended to avoid complications in connection with longer-term strategic plans for the possible future initiation of passenger rail service by the Commonwealth Parties south of Springfield. Second, although the Commonwealth Parties contemplate initiating commuter rail service or non-Amtrak-provided intercity passenger rail service at some point in the future through and south of Springfield, the Commonwealth Parties could initiate commuter service without the need for any advance Board approval.⁵⁵ Third, it appears under current law that PAS could terminate any passenger rail status it may have on the lines south of Springfield without the need for advance

⁵⁴ See State of Maine-II at 5 (in discussing Maine Department of Transportation’s acquisition of “assignable passenger rail operating rights” from the incumbent railroad, the Board determined that such an acquisition entails as-yet-undefined future passenger rail service plans, and concluded that the transaction does not trigger the need for Board authorization at this time, but also advised that, “as concrete plans for passenger rail service materialize, it will be incumbent upon the appropriate party or parties to determine whether Board authority is required and seek that authority as needed”) (footnote omitted).

⁵⁵ See footnote 35, *supra*.

Board approval.⁵⁶ Finally, if the Commonwealth Parties were to initiate intercity passenger rail service through and beyond state lines, MassDOT acknowledges that commencement of such service would require authorization under the appropriate Board procedures.⁵⁷

8. Labor Considerations

As is reflected in the agreements underlying the subject transaction, the Commonwealth Parties will designate PAS to continue to dispatch and maintain the Railroad Assets and PAS will retain its common carrier status under an easement, subject to provisions under which PAS could – (1) transfer its maintenance and dispatching duties to the Commonwealth, and (2) convey its common carrier easement rights and obligations to a third party pursuant to the terms of the Deed and in accordance with appropriate Board processes. As such, MassDOT understands that, absent the possibility of a future transfer of dispatching and maintenance duties to the Commonwealth Parties (an event that the Commonwealth has no plans to see occur), the railroad employees who today provide dispatching, track and signal maintenance, and freight train and engine service should not be adversely affected by the sale of the Railroad Assets. If anything, the subject transaction could be a catalyst for additional railroad employment opportunities in the region.

⁵⁶ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995) (“ICCTA”) effectively deregulated the provision of passenger service, but kept passenger rail service under the Board’s jurisdictional umbrella. See DesertXpress Enterprises, LLC – Petition for Declaratory Order, FD 34914 (STB served May 7, 2010) (“ICCTA’s legislative history shows that the Conference Committee considered, but then expressly rejected complete elimination of Board jurisdiction over passenger transportation in favor of a more limited ‘curtailment’ of Board regulation of such transportation”). Notably, ICCTA repealed the statutory provisions at former 49 U.S.C. §§ 10908-10909, regulating passenger train discontinuances. Whether or not it is accurate to speak of a freight railroad’s “common carrier” right or obligation to provide passenger service, there no longer appears to be any statutory provision that would require such a carrier to obtain advance Board approval to discontinue passenger train operations.

⁵⁷ State of Maine-II at 5.

EXPEDITED CONSIDERATION

MassDOT and PAS have committed to a timetable for this transaction, pursuant to which MassDOT plans to close on its purchase of the Railroad Assets by no later than the end of 2014. Failure to consummate the sale by that deadline would be detrimental to the Commonwealth's transportation planning and funding initiatives, which are linked to the orderly acquisition of the Railroad Assets, and could potentially prevent the Railroad Assets from being considered during the upcoming budget planning cycle or result in loss of the funding currently planned for the acquisition and improvement of the Railroad Assets. Of particular note, the parties to the transaction and Amtrak contemplate that Amtrak's Vermonter service will relocate to the Knowledge Corridor as of December 29, 2014. To avoid any unnecessary complexities that would arise from management of the Railroad Assets and the hosting of Amtrak trains on the Knowledge Corridor prior to MassDOT's acquisition of the Railroad Assets, MassDOT respectfully requests that the Board render its decision that advance Board authorization is not necessary here in time to consummate the Railroad Assets transaction on or before the Vermonter transition date of December 29, 2014.

MassDOT is engaging in an over \$72 million capital improvement program (courtesy of ARRA funding) for the Railroad Assets. These improvements are essential to the re-routing of Amtrak's Vermonter service, and they need to be completed as soon as circumstances will allow. A delayed closing while awaiting the necessary "State of Maine" determination will complicate and potentially postpone delivery of important infrastructure improvements to the detriment of MassDOT, and, in turn, Amtrak (the principal beneficiary of the capital improvement program).

The requested decisional timeline is consistent with the Board's handling of a number of similar State of Maine-style transactions, such as State of Maine-II (two months), State of Michigan

(decision granting motion to dismiss “effective on its service date” issued 39 days after motion to dismiss was filed), New Mexico DOT (two months), and Metro-North (two months).

CONCLUSION

For the foregoing reasons, MassDOT respectfully requests that the Board dismiss MassDOT’s concurrently-filed notice of exemption in this docket as not involving a transaction requiring Board approval under section 10901 (or under a class exemption from those statutory provisions), and that the Board so act in order to enable closing on this transaction by no later than December 29, 2014.

Respectfully Submitted,



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Department of Transportation

DATED: October 10, 2014

COMPLIANCE WITH MASSACHUSETTS ENVIRONMENTAL POLICY

The Commonwealth of Massachusetts has established a strong policy of minimizing the environmental impacts associated with documents prepared by or on behalf of the Commonwealth. Specifically, the Commonwealth encourages greater use of recycled and environmentally preferable products to minimize waste and to promote further recycling. To the extent practicable in light of STB filing requirements, this Motion to Dismiss filing adheres to the Commonwealth's policies by using recycled paper with a minimum post-consumer content of 30%, recyclable and/or re-usable binding materials, and other products that contain recycled content.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35863

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF PAN AM SOUTHERN LLC

MOTION TO DISMISS

EXHIBIT A

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

VERIFIED STATEMENT OF MICHAEL ROOKS

My name is Michael Rooks. I am General Manager for Pan Am Southern LLC. I have been in this position for approximately one and a half years, during which time I have had operational responsibility for freight operations, including over the Knowledge Corridor. Prior to assuming the position of General Manager, I held a similar position with Springfield Terminal Railway Company. In my current position, I oversee and manage day-to-day operations of all freight and passenger operations on PAS lines, including an average of 30 daily local and through freight trains over the entire PAS system. Through this oversight, I am responsible for the overall safety and service performance of PAS operations, ensuring that traffic is delivered to and received from the twelve carriers that connect to PAS in the most efficient manner possible. In addition, I oversee operations of two intermodal facilities and two automotive facilities located on PAS, ensuring that their service needs are met.

Pan Am Southern LLC ("PAS") is an existing rail carrier that owns or has operating rights over more than 400 miles of track in New York, Massachusetts, Vermont, and Connecticut. PAS performs railroad operations through its designated operator, the Springfield Terminal Railway Company ("Springfield Terminal"). *See Norfolk Southern Railway Company, Pan Am Railways, Inc. et al.-Joint Control and Operating/Pooling Agreements-Pan Am Southern LLC*, STB Finance Docket No. 35147 (served March 10, 2009). Particularly relevant to this proceeding, PAS owns certain right-of-way and trackage known generally as the Connecticut

River Main Line, also known as the "Knowledge Corridor." A portion of this Knowledge Corridor owned by PAS extends from Station 2+25 in Springfield, Massachusetts, to the Massachusetts border with Vermont at Station 2613+6685 in East Northfield, Massachusetts, a route length of approximately fifty (50) miles.

PAS has agreed to sell the above-described, 50-mile portion of the Knowledge Corridor to the Massachusetts Department of Transportation ("MassDOT"). MassDOT is purchasing this portion of the Knowledge Corridor as part of a plan to relocate existing National Railroad Passenger Corporation ("Amtrak") service to the line (effectively resulting in the restoration of service over a rail route that Amtrak previously had used) as well as to promote the line as a passenger rail corridor with increased passenger train service. Under its sale agreement with MassDOT, PAS will retain an exclusive, irrevocable, perpetual, assignable, divisible, licensable and transferable freight easement over the Knowledge Corridor, thereby enabling PAS to continue to fulfill its common carrier obligation on this segment of the Knowledge Corridor once the track segment is sold.

Although no passenger operations have been conducted over the Knowledge Corridor in recent years, Amtrak's Vermonter service operated over the line up until the 1980s. Future freight and passenger operations will be governed by the terms of a carefully-crafted and perpetual operating agreement (the "2014 Operating Agreement") among PAS, MassDOT, and the Massachusetts Bay Transit Authority ("MBTA"). The 2014 Operating Agreement was developed through extensive consultation between the parties, and is designed to accommodate freight traffic after the introduction (and future expansion) of passenger train service on this portion of the Knowledge Corridor. Among other things, the 2014 Operating Agreement provides that MassDOT and MBTA (collectively, the "Commonwealth Parties") will not assume

a common carrier status on the Knowledge Corridor, will have no right to conduct common carrier freight operations, and thus reinforced the parties' understanding that the Commonwealth Parties will not hold themselves out to freight shippers as rail common carriers.

In my view, the 2014 Operating Agreement assures that PAS can fulfill its current and foreseeable rail freight service obligations to customers without undue interference from the Commonwealth Parties. For example, PAS will have first priority under that agreement to schedule up to two daily round-trip freight trains and one local freight train to serve customers on and over the Knowledge Corridor, and the right to run as many additional freight trains as necessary. PAS will also have the right to fund and construct improvements to increase the capacity of the line for freight purposes. Amtrak, in turn, will have the exclusive right to run up to three round-trip intercity passenger trains per day, on a schedule agreed upon among PAS and the Commonwealth Parties. Should they decide to pursue this in the future, the 2014 Operating Agreement grants to the Commonwealth Parties the right to provide as many commuter passenger train round-trips as they deem reasonable or necessary, subject to protections for future PAS freight service.

For context, in the first eight months of 2014, PAS operated an average of 2 round-trip trains and 1 local train a week over the Knowledge Corridor. The terms of the 2014 Operating Agreement that PAS has negotiated will give it first priority in scheduling for seven times as many frequencies per week, and the ability to add further trains as needed. This operating arrangement will allow PAS and Springfield Terminal to meet their common carrier obligations by providing service to customers consistent with current operating patterns once MassDOT has acquired the subject Knowledge Corridor segment.

PAS has been designated to be the provider of dispatching and maintenance under the terms of the 2014 Operating Agreement. PAS, and any subsequent party performing dispatching services as is contemplated under the 2014 Operating Agreement, will make all reasonable efforts to expedite movement of freight trains, provided that passenger trains within ten minutes of their scheduled time will be given priority in keeping with, among other things, certain Amtrak's first priority in scheduling. In all cases, scheduling conflicts will be resolved through use of best dispatching practices and in accordance with sound dispatching principles. Additionally, PAS will have the right to request or perform additional maintenance at any time beyond the maintenance obligations set by the 2014 Operating Agreement.

Based on MassDOT's assurances and my experience with the freight operations over this portion of the Knowledge Corridor, I am confident that PAS will be able to continue to fully satisfy its common carrier freight obligations and provide similar levels of service to its customers on the Knowledge Corridor under the terms of the retained freight easement and 2014 Operating Agreement without undue interference from the Commonwealth Parties following MassDOT's purchase of the portion of the Knowledge Corridor between Springfield and the Massachusetts-Vermont border. As I have explained in the above portion of my verified statement, the 2014 Operating Agreement is the product of negotiations among PAS and the Commonwealth Parties to make appropriate arrangements for safety, capacity, dispatching, maintenance, liability, and scheduling in a well-reasoned and thoughtful manner, accommodating the respective needs of all stakeholders in and users of the Knowledge Corridor.

Verification

I, Michael Rooks, verify under penalty of perjury that I am General Manager of Pan Am Southern LLC, that I have read the foregoing document and know its contents, and that the same is true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on 10/8/14

Michael Rooks
General Manager
Pan Am Southern, LLC.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35863

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF PAN AM SOUTHERN LLC

MOTION TO DISMISS

EXHIBIT B

Effective JUNE 9, 2014

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NRPC Form P55-100M-6/9/14 Stock #02-3748
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ETHAN ALLEN EXPRESS

290	292	296	◀ Train Number ▶			291	293				
Mo-Fr	Sa	Su	◀ Normal Days of Operation ▶			Sa-Th	Fr				
	7/4	7/19, 7/26, 8/2, 8/9, 8/16, 8/23, 8/30, 9/1	◀ Will Also Operate ▶			7/4	7/3				
7/4, 9/1	7/19, 7/26, 8/2, 8/9, 8/16, 8/23, 8/30	5/25	◀ Will Not Operate ▶			7/3	7/4				
			◀ On Board Service ▶								
Read Down		Mile	Symbol	Read Up							
8 00A	11 00A	5 05P	0 Dp	RUTLAND, VT	8 48P	11 13P					
8 19A	11 19A	5 24P	9	Castleton, VT	L8 24P	L10 49P					
9 16A	12 15P	6 25P	44	Fort Edward-Glens Falls, NY Lake George Village	7 10P	9 35P					
9 37A	12 36P	6 47P	63	Saratoga Springs, NY	6 50P	9 15P					
10 23A	1 15P	7 28P	82	Schenectady, NY	6 24P	8 49P					
10 53A	1 45P	7 53P	100	ALBANY- RENSSELAER, NY	6 00P	8 25P					
11 15A	2 15P	8 15P	100 Ar	Hudson, NY	5 45P	8 15P					
11 40A	2 40P	8 40P	128	Rhinecliff, NY	5 15P	L7 53P					
12 01P	3 00P	9 01P	153	Poughkeepsie, NY	4 55P	L7 33P					
12 15P	3 15P	9 15P	169	Croton-Harmon, NY	4 40P	7 22P					
12 55P	3 55P	9 55P	209	Yonkers, NY	3 58P	6 32P					
1 16P	4 16P	10 16P	227	NEW YORK, NY -Penn Station	3 39P						
1 50P	4 50P	10 50P	241 Ar		3 15P	5 47P					
85		135		67		Connecting Train at Penn Station		82/154/174		186	
3 05P	6 05P	3 00A	241 Dp	New York, NY-Penn Station	1 44P	4 30P					
3 21P	6 21P	3 15A	251 Ar	Newark, NJ	1 26P	L4 09P					
3 53P	7 02P	4 01A	299	Trenton, NJ	12 46P	3 29P					
4 27P	7 30P	4 35A	332	Philadelphia, PA-30th St. Station	12 16P	3 00P					
4 49P	7 53P	5 04A	357	Wilmington, DE	11 51A	2 36P					
5 40P	8 48P	5 58A	426	Baltimore, MD-Penn Station	11 04A	1 45P					
6 25P	9 35P	6 57A	467 Ar	Washington, DC	10 20A	1 02P					

Service on the Ethan Allen Express®

- Coaches: Reservations required.
- Business class: Ticket price includes non-alcoholic beverages and newspaper.
- Lounge: Sandwiches, snacks and beverages.
- Wi-Fi available.
- No checked baggage.**
- TrainCatcher van/car service available from Ft. Edward to Glens Falls and Lake George Village. Reservations required. Call (518) 792-1086 for information and reservations.

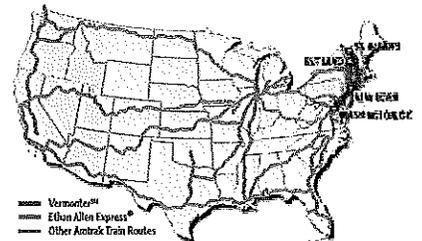
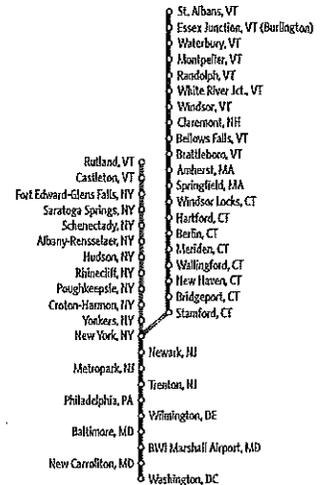
Smoking is prohibited.

The *Ethan Allen Express* is financed primarily through funds made available by the Vermont Agency of Transportation, and the New York State Department of Transportation.

Shading Key

	Daytime train
	Connecting train

ETHAN ALLEN EXPRESS and VERMONT ROUTE MAP and SYMBOLS



- A** Time Symbol for A.M.
- P** Time Symbol for P.M.
- D** Stops only to discharge passengers; train may leave before time shown.
- L** Stops to receive and discharge passengers; train may leave before time shown.
- R** Stops only to receive passengers.
- B** Bus stop
- Airport connection
- Quik-Trak self-serve ticketing kiosk
- O** Unstaffed station
- Staffed ticket office; may or may not be open for all train departures
- ♿** Station wheelchair accessible; no barriers between station and train
- ⊠** Station wheelchair accessible; not all station facilities accessible

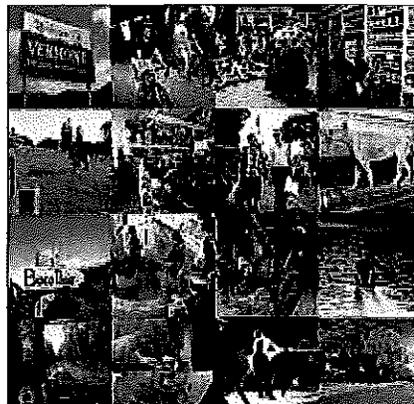
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VERMONT

55	57	◀ Train Number ▶				54	56	
Mo-Fr	SaSu	◀ Normal Days of Operation ▶				SaSu	Mo-Fr	
	7/4,9/1	◀ Will Also Operate ▶				7/4,9/1		
7/4,9/1		◀ Will Not Operate ▶					7/4,9/1	
		◀ On Board Service ▶						
Read Down	Mile	▼	Symbol	▲	Read Up			
8 58A	8 58A	0	Dp	St. Albans, VT (Jay Peak)	○	Ar	8 57P	8 57P
9 27A	9 27A	24	Dp	ESSEX JCT., VT (Burlington)**	○	Ar	8 17P	8 17P
9 52A	9 52A	47	Dp	Waterbury, VT	○	Ar	7 50P	7 50P
10 05A	10 05A	56	Dp	Montpelier, VT	○	Ar	7 38P	7 38P
10 38A	10 38A	86	Dp	Randolph, VT	○	Ar	7 05P	7 05P
11 15A	11 15A	118	Dp	White River Jct., VT (Lebanon-Hanover, NH)	○	Ar	6 29P	6 29P
11 32A	11 32A	131	Dp	Windsor, VT	○	Ar	6 08P	6 08P
11 42A	11 42A	140	Dp	Claremont, NH	○	Ar	5 59P	5 59P
12 03P	12 03P	157	Dp	Bellows Falls, VT	○	Ar	5 40P	5 40P
12 34P	12 34P	181	Dp	Brattleboro, VT	○	Ar	5 10P	5 10P
1 19P	1 19P	216	Dp	Amherst, MA	○	Ar	4 20P	4 20P
2 40P	2 40P	251	Ar	SPRINGFIELD, MA	●	Dp	3 15P	3 15P
2 50P	2 50P	251	Dp	Windsor Locks, CT	○	Ar	2 26P	2 29P
3 12P	3 12P	266	Dp	Hartford, CT	●	Ar	2 11P	2 13P
3 32P	3 26P	277	Dp	Berlin, CT	○	Ar	1 57P	1 59P
3 45P	3 40P	288	Dp	Meriden, CT	○	Ar	1 47P	1 49P
3 56P	3 53P	295	Dp	Wallingford, CT	○	Ar	1 38P	1 40P
4 05P	4 03P	311	Dp	New Haven, CT	●	Ar	1 23P	1 25P
4 25P	4 28P	314	Ar	Bridgeport, CT	○	Ar	1 11P	1 11P
4 39P	4 39P	327	Dp	Stamford, CT	●	Ar	12 46P	12 46P
5 01P	5 01P	327	Dp	NEW YORK, NY	●	Ar	12 18P	12 18P
5 28P	5 28P	350	Dp	-Penn Station	●	Ar	11 30A	11 33A
6 25P	6 25P	385	Ar	Newark, NJ	●	Ar	10 49A	11 21A
6 45P	7 01P	385	Dp	Metropark, NJ	●	Ar	10 25A	11 03A
7 03P	7 18P	396	Dp	Trenton, NJ	●	Ar	10 10A	10 10A
7 38P	7 57P	443	Dp	Philadelphia, PA	●	Ar	9 48A	10 27A
8 07P	8 25P	476	Ar	-30th St. Station	●	Ar	9 20A	9 59A
8 10P	8 28P	476	Dp	Wilmington, DE	●	Ar	9 17A	9 56A
8 32P	8 49P	502	Dp	Baltimore, MD	●	Ar	8 56A	9 36A
9 20P	9 36P	570	Dp	-Penn Station	●	Ar	8 12A	8 52A
	9 48P	581	Dp	BWI Marshall Airport, MD	●	Ar	7 55A	8 35A
D9 43P	D10 03P	602	Dp	New Carrollton, MD	●	Ar	7 30A	8 10A
9 59P	10 25P	611	Ar	WASHINGTON, DC	●	Ar	R7 39A	R8 18A

Service on the VermonterSM

- Coaches: Reservations required.
 - Business class: Ticket price includes non-alcoholic beverages and newspaper.
 - Lounge: Sandwiches, snacks and beverages.
 - Wi-Fi available.
 - Free shuttle service between rail and air terminal.
- ** Burlington is ten miles from Essex Junction, VT.

Smoking is prohibited.

The *Vermont* is financed primarily through funds made available by the Vermont Agency of Transportation, the Connecticut Department of Transportation and the Massachusetts Department of Transportation.

Shading Key
Daytime train



VERMONT ROUTE GUIDE

WASHINGTON, DC • NEW YORK • BRATTLEBORO
WHITE RIVER JUNCTION • MONTPELIER • ST. ALBANS

ETHAN ALLEN EXPRESS ROUTE GUIDE

NEW YORK • ALBANY • CASTLETON • RUTLAND

We hope you enjoy reading this guide and learning about points of interest along our route. It is written starting from the routes' southern terminus in either Washington or New York and proceeds to points north, ending in either Rutland or St. Albans, VT. If you boarded in either of these two cities, just read the guide in reverse, remembering to look in the opposite direction if one is referenced.

AMTRAK STATIONS are shown in all capital letters, as opposed to upper and lower case for towns, sites and geographical areas through which the train travels but does not stop. The Amtrak System Timetable or the Vermont/Ethan Allen panel card should be consulted for actual station times. While all service presented in this guide was accurate at the time of publication, routes and services are subject to change. Please contact Amtrak at 1-800-USA-RAIL, visit Amtrak.com, or call your travel agent for the most current information.

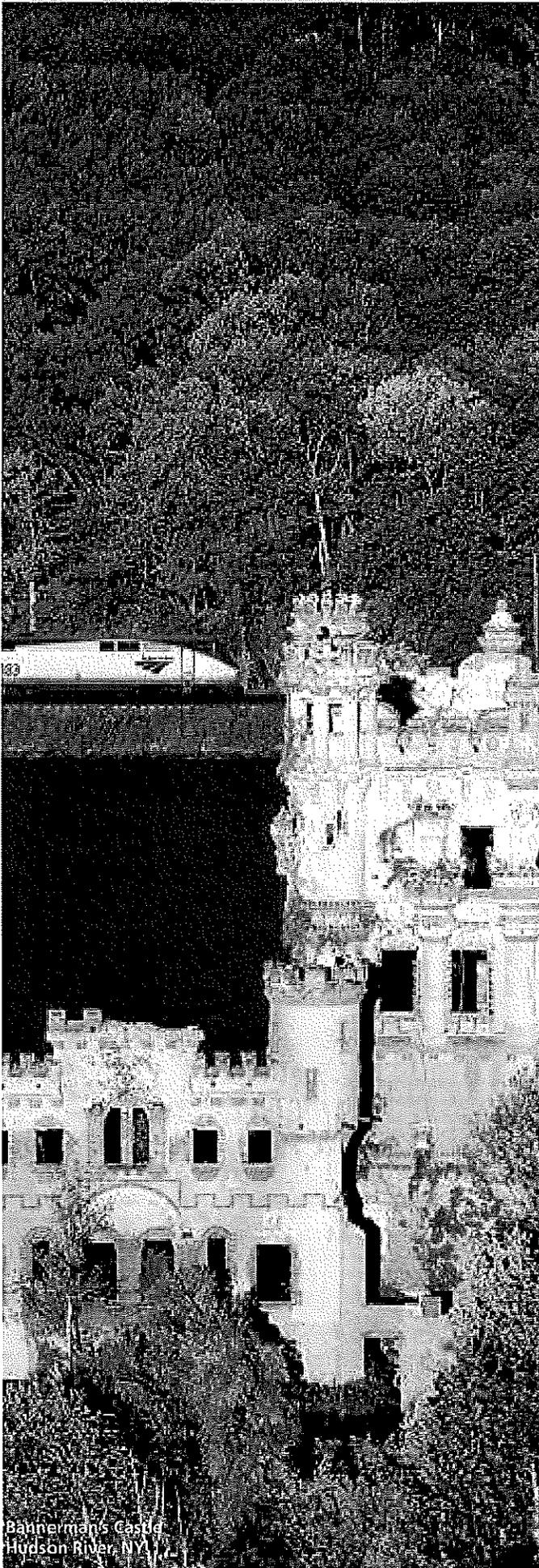
The Vermont has its origins in the original Montrealer service offered by the former Boston and Maine (B&M) Railroad, serving Washington, D.C. and Montreal, with intermediate stops. The B&M ceased passenger service in 1965, and Amtrak began to provide nationwide passenger service in 1971. Soon thereafter, Amtrak's version of the Montrealer began serving the route. Other than a single two-year suspension of service, it lasted until 1995, when it was replaced by the Vermont.

The Ethan Allen Express was created to serve the 241-mile route between New York City and Rutland, VT in 1996 after the western portion of the State of Vermont pushed for Federal funds to rebuild the former Clarendon and Pittsford Railroad for higher speeds. The train is very popular with vacationers traveling to the ski resort area in Killington.

A special word about Vermont, which means "green mountains" in French: that description covers only part of the local color of this region that captures the spirit of America in its original glory. Its towns and cities exude the elegant charm and simplicity that define New England, with postcard-perfect church steeples, ancient trees and well-groomed homes. Farm and forest landscapes, classic barns, lush green hills, acres of maple trees, miles of curving riverways – the scenic vistas, snow-capped mountains and glistening valleys that greeted America's first settlers will appear right outside of your picture window. So relax and enjoy!



WELCOME ABOARD



Bannerman's Castle
Hudson River, NY

Welcome aboard the *Vermont* or *Ethan Allen Express*. From the flash of Broadway, the monuments of the nation's capital to the scenic vistas, snow-capped mountains and glistening valleys of New England, the *Vermont* and the *Ethan Allen Express* take you through historic towns, stunning landscapes and gorgeous natural wonders on two fabulous journeys through America's mid-Atlantic and New England regions.

On board both trains, you will experience the comfort and relaxation of train travel while viewing spectacular scenery. We are happy to have you on board today and want to ensure your trip is everything you want it to be. If there is anything that can be done to make your trip more enjoyable, please do not hesitate to call upon any Amtrak employee.

THE TRAIN STAFF

The staff of the *Vermont*/*Ethan Allen Express* is here to make your trip a special and enjoyable experience.

Conductor is responsible for the On-Board Services Staff including ticket collection, passenger safety, and the safe operation of the train.

Lounge Car Attendant is responsible for the operation of the Café Car

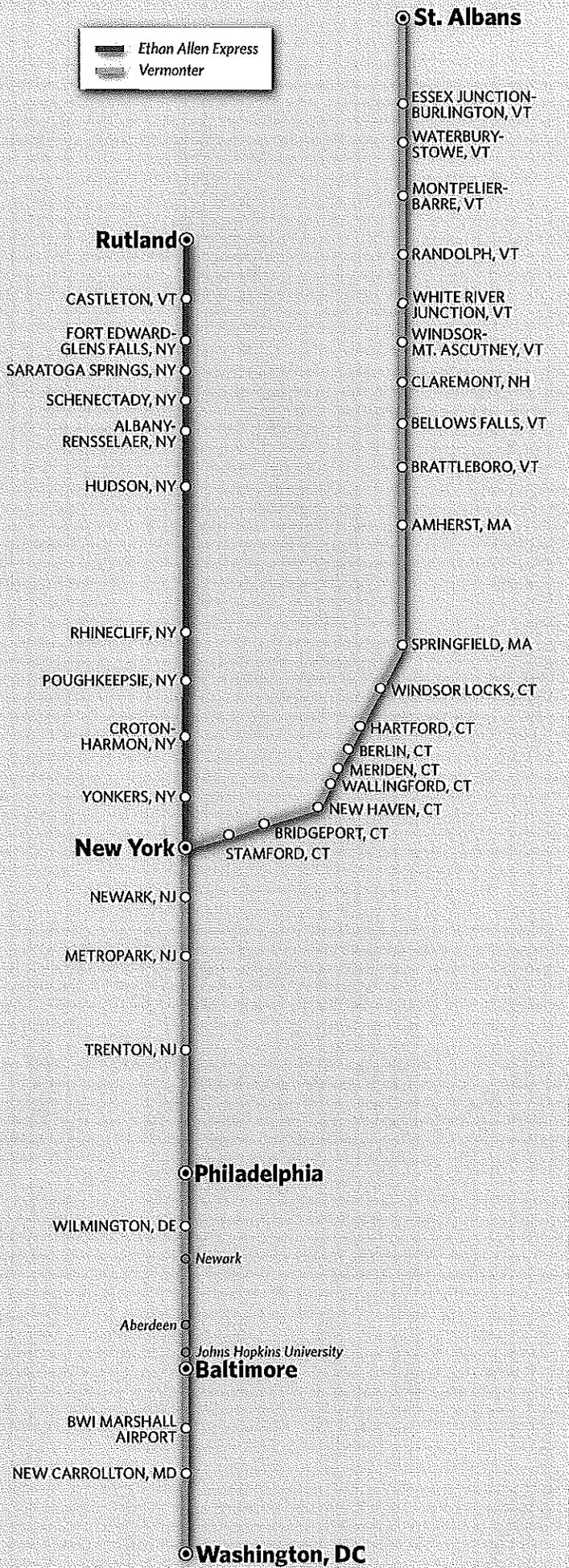
ACCOMMODATIONS

Coach seating provides a wide, reclining seat with folding tray table and overhead lights.

Business Class seating provides a wide, reclining seat with leg rest, extra legroom, folding tray table and overhead lights. A newspaper and complimentary non-alcoholic beverage are provided as well.

Club-Dinette car offers sandwiches, snacks, beverages and sundries.

HOST RAILROADS are the freight and commuter railroads that Amtrak contracts with to operate Amtrak passenger trains. The *Vermont* operates between Washington and New Rochelle on Amtrak, between New Rochelle and New Haven on Metro-North Railroad, between New Haven and Springfield on Amtrak, between Springfield and Amherst on CSX, and between Amherst and St. Albans on New England Central Railroad. The *Ethan Allen Express* operates between New York and Yonkers on Amtrak, between Yonkers and Poughkeepsie on Metro-North Railroad, between Poughkeepsie and Schenectady on CSX, between Schenectady and Whitehall on Canadian Pacific, and between Whitehall and Rutland on Vermont Railway.



VERMONT TO ST. ALBANS

WASHINGTON, DC is the nation's capital, founded in 1790. In addition to all three branches of the federal government, it houses 172 foreign embassies and the headquarters of the World Bank, International Monetary Fund, Organization of American States, Inter-American Development Bank, Pan American Health Organization, numerous trade unions, lobbying groups and professional associations. It is also home to a number of museums and monuments, and parks such as Rock Creek, Chesapeake and Ohio Canal, National Mall, Theodore Roosevelt Island and Anacostia. Washington is one of only 13 cities in the U.S. with teams representing all four major sports; its Washington Redskins have won three professional league championships. Several notable universities, including Georgetown, American, George Washington and Catholic are in Washington. Washington Union Station, which celebrated its centennial in 2008, is a top tourist attraction with shops, restaurants, theaters and connections to local transit.

DC/Maryland Border

NEW CARROLLTON is a suburban stop for Amtrak's Northeast Corridor service, situated alongside the eastern terminus of the Washington Metrorail's Orange Line. Lying just inside the famous Washington Capital Beltway, it is named for a delegate to the Continental Congress and signer of the Declaration of Independence, Charles Carroll.

BWI AIRPORT/Thurgood Marshall Rail Station is on the airport complex and provides passenger connections via shuttle bus – the first intercity rail station in the U.S. built to serve an airport. It consists of a ticket office, waiting room, concessions area and parking garage.

BALTIMORE is a major seaport founded in 1706 and the largest city in Maryland. Its Inner Harbor is a successful example of the city's ambitious renewal effort. It is named after Lord Baltimore, founding proprietor of the Maryland Colony. Francis Scott Key, a Maryland lawyer, wrote the Star Spangled Banner here, a recounting of the British attack on the harbor during the War of 1812. Baltimore exhibits examples of architecture from periods ranging over two centuries. Oriole Park at Camden Yards is considered to be the most beautiful "retro" style baseball park in the major leagues. One of Amtrak's eight busiest stations, its namesake is home to author Tom Clancy and Olympian Michael Phelps.

Aberdeen is home to the U.S. Army's Aberdeen Proving Ground, established by Congress in 1918. Baltimore Orioles legend Cal Ripken, Jr. hails from Aberdeen.

Susquehanna River is the longest river on the east coast and provides half of the freshwater inflow for the Chesapeake. Geologically, it is regarded as extremely ancient. In 1979, it was the scene of the Three Mile Island nuclear power accident near Harrisburg.

Elkton marks the head of navigation on the Elk River, which flows into nearby Chesapeake Bay. The town was once famous as a place for eloping couples to marry.

Maryland/Delaware State Line

Newark (pronounced NU-ARK) was founded in 1694. During the Revolutionary War, legend has it that the Stars and Stripes were first flown at the Battle of Cooch's Bridge outside of Newark. Today, it is home to the University of Delaware, with world class programs in business, chemical engineering, chemistry and biochemistry. Its central area is compact, walkable and lively, due in large part to university students. Edgar Allan Poe is said to have written parts of "The Raven" while staying at the inn on Main Street.

WILMINGTON experienced high growth in jobs and office construction in the 1980s after passage of laws liberalizing bank governance within the state. Many international banks have operations in the city, especially credit card operations. The historic train station was built in 1908 by the former Pennsylvania Railroad. Notables from Wilmington include actress Valerie Bertinelli, musician Cab Calloway and commentator Bill Press.

Delaware Memorial Bridge is visible downriver and connects Delaware with New Jersey. Its eight lanes span the world's longest twin suspension bridge.

Marcus Hook calls itself the "Cornerstone of Pennsylvania." Set alongside the Delaware River, it provided the setting for the 2005 film *One Last Thing* about a teen with a rare, terminal form of cancer who wished only for a date with a supermodel.

Commodore Barry Bridge spans the Delaware River between Bridgeport, N.J. and Chester, PA. At 1,644 ft., it is the fourth longest cantilever bridge in the world.

University of Pennsylvania is now visible behind the school stadium, Franklin Field. A member of the Ivy League, it serves 20,000 students with 4,500 professors and is one of the most selective universities in the U.S. Penn offered the nation's first modern liberal arts curriculum after a board of trustees was assembled by Benjamin Franklin in 1749.

PHILADELPHIA Before we enter 30th Street Station, watch for Center City. City Hall Tower holds a statue of William Penn, founder of Pennsylvania, planner and developer of Philadelphia – the "City of Brotherly Love" -- and a devout pacifist and Quaker. Home of the Liberty Bell, and site of the signing of the Declaration of Independence and the U.S. Constitution, Philadelphia was the social and geographical center of the original 13 American colonies, giving birth to the American Revolution. It also served as the nation's second capital in 1774. Today, its metropolitan area is the fourth largest in the U.S.

Schuylkill River (pronounced SKOO-kull) is very popular with watersports enthusiasts and college rowing teams. Boat House Row is visible on the left after crossing the river, as is the Philadelphia Museum of Art, the steps of which were used by "Rocky" to train for his big fight in the film of the same name.

North Philadelphia is home to Temple University and birthplace of comedian Bill Cosby. Tastykake and Pep Boys are headquartered in its Allegheny West neighborhood.

Pennsylvania/New Jersey State Line

TRENTON is the capital of New Jersey and was the site in 1776 of George Washington's first military victory after crossing the Delaware River. It was briefly capital of the United States in November and December of 1784. Watch for the bridge sign that reads "Trenton Makes, the World Takes" -- a relic of its era as a major manufacturing center from the late 1800s through the 1950s. It is home to New Jersey State Prison with two maximum security units. Innovative comedian Ernie Kovacs, influenced deeply by his Trenton Central High School drama teacher, in turn went on to influence American comedy for decades after his 1962 death in an automobile accident.

New Brunswick on the southern bank of the Raritan River is known as "Healthcare City," reflecting its concentration of medical facilities as well as the corporate offices and production facilities of several large pharmaceutical companies. Settled in 1681, it became an important hub for Colonial travelers and traders. Home of Rutgers University, its list of notable natives includes former Washington Redskins quarterback Joe Theismann and actor Michael Douglas.

Elizabeth is fourth largest city in the state. It was named one of "America's Greenest Cities" by *Popular Science* magazine in 2008. Its first major industry was the Singer Sewing Machine Company in 1872.

METROPARK is a suburban station in Woodbridge Township taking its name from an office park in nearby Iselin. The station was proposed in 1968 by the New Jersey Department of Transportation and dedicated in 1971 to serve the new suburban market as businesses and populations fled urban cores in the region. Its multi-story parking facility is open 24 hours.

NEWARK is the largest city in New Jersey and a major container shipping port. It is most recently known as "Renaissance City" for its efforts to revitalize its downtown. It is the third largest insurance center in the U.S. and home to Newark Museum with the best Tibetan arts collection in the world. Its New Jersey Devils hockey club relocated here in 2007.

New Jersey Meadowlands now visible is a large ecosystem of wetlands known for being the site of large landfills and decades of environmental abuse. The Meadowlands Sports Complex here was built in 1976. Even today, the area contains many species of fish, crustaceans and mollusks, and is considered an important bird habitat.

Hudson River Tunnels A 2.5 mile tunnel under the Hudson River connects Weehawken, N.J. with Pennsylvania Station. The tubes (one in each direction) were completed in 1910 by the Pennsylvania Railroad.

New Jersey/New York State Line

NEW YORK is America's most populous city. So famous are its districts that Wall Street, Broadway and Madison Avenue are universally recognized shorthand for the industries located there. It is a global city, with worldwide influence over commerce, finance, culture and entertainment and the arts. It is also an important center for international affairs, hosting the United Nations headquarters. Unique among U.S. cities for its high use of mass transit, the density and diversity of its population, New York's reputation as a city that never sleeps is due to its 24-hour subways and the constant bustling of traffic and pedestrians. Birthplace of numerous cultural movements, its metropolitan population surpassed 10 million in the early 1930s, making it the first "megacity" in human history. Amtrak offers connections to its entire system through Chicago from New York.

New York/Connecticut State Line

STAMFORD is considered part of the New York metropolitan area, being a commuter haven for Manhattan business workers. The deed to the city was signed in 1640 between the leader of the New Haven Colony and a Native American chief. Commuting into Manhattan began to take hold as early as the late 19th century as many New York City residents decided to build summer homes on the shoreline and later moved to the town permanently. A large urban redevelopment program has been underway since the 1960s, resulting in a number of downtown projects and tall office buildings. UBS, a financial services company, has the largest column-less trading floor in the world in Stamford. The Stamford Museum and Nature Center boasts a collection of the works of Gutzon Borglum, sculptor of Mount Rushmore and one-time Stamford denizen. Other notable residents have included band leader Benny Goodman, actor Christopher Lloyd, actor and comedian Gene Wilder and singer Cyndi Lauper.

BRIDGEPORT is well known as the winter layover site of P.T. Barnum's circus. Barnum was also briefly the mayor of the city. The Barnum Museum houses an extensive collection related to its namesake and the history of Bridgeport. The first Subway sandwich restaurant opened here in 1965, and the company remains headquartered in nearby Milford. One-time Bridgeporters who achieved fame far outside of the

city include actor Robert Mitchum and actor/comedians Kevin Nealon and Richard Belzer.

NEW HAVEN is the home of Yale University which, along with health care, professional services, financial services and retail trade form the base of the economy. New Haven became part of the Connecticut Colony in 1664. After 1793, when Eli Whitney invented the cotton gin here, the city struck fortune with industrial activity, becoming a powerful economic entity. In 1911, Alfred Carlton Gilbert invented the Erector Set in New Haven and marketed them two years later; his A.C. Gilbert Company later produced chemistry sets and the iconic American Flyer train sets, making it one of the largest toy companies in the world. New Haven instituted the first public tree planting program in the country Yale University, at the heart of downtown, is one of the city's best-known features and its largest employer. But the city has many other architectural landmarks dating from every important time period and architectural style in history. Its sweetest success might be the invention of the lollipop by local confectioner George C. Smith in 1892.

WALLINGFORD was established in 1667 by the Connecticut General Assembly. By the 1800s industry expanded with a considerable concentration of small pewter and "Britannia" ware manufacturers. The train station, completed in 1871, is among the few remaining of its kind built during the height of railroad expansion. The city gave birth to Moses Yale Beach who founded the Associated Press news service. Its Choate Rosemary Hall boarding school graduated such luminaries as former President John F. Kennedy, actors Glenn Close, Jamie Lee Curtis and Michael Douglas, and two-time Democratic Presidential candidate, governor of Illinois and Ambassador to the United Nations, Adlai Stevenson.

MERIDEN Incorporated in 1867, Meriden earned the name "Silver City" because of the large number of cutlery and related products manufactured here by companies such as International Silver. Edwin Howard Armstrong, inventor of FM radio, used nearby West Peak for the site of one of the first such broadcasts in 1939. The town is also birthplace of the steamed cheeseburger, a local favorite at "World Famous" Ted's Restaurant.

BERLIN occupies the geographic center of Connecticut and was incorporated in 1785. William and Andrew Patterson emigrated from Ireland and set up a business here in 1740 making tin cups, pie pans, milk pails and various size pots. The town seal is the Yankee Peddler, adopted from the image of early peddlers engaged to travel throughout the Colonies selling these shiny and useful articles. Berlin native Simeon North invented the milling machine, which made interchangeable parts practical – and much prized by the military, which could cannibalize damaged weapons for their parts.

HARTFORD is the capital of Connecticut and the "Insurance Capital of the World," housing many of the world's insurance company headquarters. At almost 400 years, Hartford is among the oldest of U.S. cities. Pastor Thomas Hooker, leader of the trading post's original settlers, delivered a sermon that called for investing the people with authority to govern as opposed to ceding it to a higher power; it gave rise to the Fundamental Orders of Connecticut in 1639, which in turn inspired not only the state's constitution but ultimately the U.S. Constitution. (Connecticut is today nicknamed the "Constitution State".) Forty-eight years prior to the secession of the Southern states from the Union, delegations from throughout New England gathered in Hartford to consider secession from the U.S. based on opposition to the War of 1812. Albert Augustus Pope introduced the Columbia high wheeler bicycle in Hartford in 1878; Pope was the leading producer of bicycles in the U.S. until 1896, produced motorcycles until 1918, and two different lines of automobiles until 1915. The Mark Twain House and Museum was once the home of Samuel Clemens, a.k.a. Mark

Twain. Wadsworth Atheneum Museum of Art is the oldest art museum in the country, featuring a significant collection of Italian Baroque old masters and post-impressionist modern art. The *Hartford Courant* is the oldest continuously published paper in the U.S., founded in 1764. Native Noah Webster published his first dictionary in 1806; version two would take 27 years to complete, selling a mere 2,500 copies.

WINDSOR LOCKS takes its name from a set of canal locks opened in 1829 to form part of a canal circumventing nearby river shallows. Approximately one-third of the town's area is devoted to Bradley International Airport, which also houses the New England Air Museum. Until 2000, the city was home to the oldest corporation listed on the New York Stock Exchange, the Dexter Corporation, established in 1767. Faced with a hostile takeover after 233 years in business, it sold off three divisions separately.

Connecticut/Massachusetts State Line

SPRINGFIELD sits on the bank of the Connecticut River several miles north of the border with Massachusetts. The city is notable as the birthplace of Theodor Seuss Geisel, a.k.a. Dr. Seuss. It is also where James Naismith invented the game of basketball in 1891. During the 1770s, George Washington selected Springfield as the site of the National Armory. The term Springfield Rifle came to refer to any of the many sorts of arms produced by the Springfield Armory. The Duryea brothers built and demonstrated the first gasoline powered automobile offered for sale in nearby Chicopee in 1893. Indian motorcycles were also manufactured here between 1901 and 1953. Notable companies founded here also include Breck Shampoo in 1936; Milton Bradley games in 1860; and Smith & Wesson handguns in 1852.

AMHERST is pronounced without the *h*. Taking its name from Jeffrey Amherst, a hero of the French and Indian War, it saw the first permanent English settlers in 1727, as part of nearby Hadley. It is home to Amherst College; some 42 percent of its residents hold a graduate or professional degree. Notable natives include poet Emily Dickinson. Poet Robert Frost taught English at Amherst. This forested area is a great place to observe nature in action. In spring, maple sugar season opens; in the fall, colorful foliage is in evidence; and in winter, ski resorts beckon.

Massachusetts/Vermont State Line

BRATTLEBORO, situated along the state line along the Connecticut River and at the mouth of the West River in the Southeast corner of Vermont, is also the oldest town in the state. It is noted for its vibrant arts community and the renowned Brattleboro Retreat, a psychiatric hospital and convalescent center. The town began with a decision in 1723 to build a blockhouse and stockade on the site for the defense of Massachusetts used during the French and Indian Wars some 30 years later. Ida May Fuller, living with her niece in Brattleboro, collected the very first Social Security benefit on January 31, 1940 -- check #00-000-001.

BELLOWS FALLS is a tourist destination known for its Victorian architecture. Listed among its many sites on the National Register of Historic Places is the Miss Bellows Falls Diner and the Rockingham Meeting House, Vermont's oldest public building. A number of ski areas are also accessible nearby. The Connecticut River flows through town and divides Vermont from New Hampshire. Bellows Falls feels alive with history and culture, its commercial downtown district retaining the vintage feel of a time when the region's natural resources were first harnessed. On the Vermont side of the river, the village is set out on glacial terraces, and its shopping district, The Square, is reminiscent of Europe. The Waypoint Visitor Center, adjacent to the Bellows Falls Canal, is also near the train station. Perhaps the town's most notable native is Colleen Barrett, former President and Corporate Secretary of Southwest Airlines.

Vermont/New Hampshire State Line

CLAREMONT is the train's only stop in New Hampshire and was settled in 1762. Water power derived from the Sugar River brought prosperity during the Industrial Revolution, evident in Claremont's fine Victorian architecture. Its commercial area, known as Washington Street, is anchored by an Italian Renaissance-styled city hall and a rotary-style town square. Its historic bandstand is the performance space for the Claremont American Band, which has its roots in the 19th century. Nearby Moody Park once hosted a horse farm with several hundred imported horses on more than 500 acres. The movie *Live Free or Die* was filmed here in 2006.

New Hampshire/Vermont State Line

WINDSOR was chartered in 1761 and by 1820 was Vermont's largest city with gun, machine, tinware, furniture and harness factories. It is originally known as the birthplace of Vermont, the place where the state constitution was signed and the first capital and meeting place of the Vermont General Assembly. (Montpelier became the capital in 1805.) Windsor was also the first town in the state to break ground for the railroad with the construction of a depot. The Cornish-Windsor Covered Bridge is the second longest covered bridge in the U.S., built in 1866. Notable residents include the late actor and producer Bob Keeshan – better known to legions of baby boomers as *Captain Kangaroo*.

Mount Ascutney at an elevation of 3,143 ft. is now visible. Its steep trails traverse a Vermont state forest and its granite outcrops serve as a launching point for hang gliders. It is believed to have been formed from an upwelling of underground magma hundreds of millions of years ago. The late actor Charles Bronson owned a farm on 260 acres nearby and was buried at the foot of the mountain after his passing in 2003.

WHITE RIVER JUNCTION is an unincorporated village within which is contained an historic district listed on the National Register of Historic Places. It reflects urban architecture between the late 1800s and early 1900s with examples of Greek Revival, Richardsonian Romanesque, Italianate and Romanesque. By 1863, its eight-track crossing served 50 passenger trains daily. Known best for its quirky and artistic downtown area, it is also the childhood home of Weather Channel on-air personality and meteorologist Jim Cantore.

RANDOLPH is a town of 4,800 set in what can only be described as the essence of Vermont: verdant mountains, hillside pastures, winding dirt roads, rambling streams and covered bridges. Created by charter in 1781, the town was the setting for a 1921 silent movie, *The Offenders*.

MONTPELIER A population of only 8,000 makes it the smallest state capital in the U.S. The city was chartered in 1781 and named for the French city of Montpellier, there being a general enthusiasm at the time for all things French as a result of that country's aid during the Revolution. Among Montpelier's attractions are the Vermont History Museum and the Green Mountain Film Festival, the latter having been established in 1997. The last remaining clothespin manufacturer in the country closed its doors in Montpelier in 2006. Notable natives of Montpelier include Admiral George Dewey, best known for his victory at the Battle of Manila Bay during the Spanish-American War, as well as for being the only person ever to have attained his rank in the Navy.

WATERBURY dates to 1763 when a land charter was granted by King George III. The earliest settlers came from Waterbury, Ct., and named their new town accordingly. Today, the town houses several state government administrative offices, the Vermont State Hospital and Ben & Jerry's Ice Cream, whose factory tours are a popular attraction. Their initial parlor was opened in nearby Burlington in 1979 in a renovated gas station. Nearby Stowe offers major tourist draws, including the

Trapp Family Lodge as well as the Stowe Mountain Ski Resort. Hiking and cross-country skiing trails, dining and spa facilities are also popular.

ESSEX JUNCTION is a focal point in the **BURLINGTON** area, a town of 8,500 and home to the IBM Burlington Design Center, Vermont's largest private employer. Burlington itself is the smallest U.S. city to be also its state's largest, having a population of 39,000. Church Street Marketplace downtown is the site of festivals throughout the year. The city is also home to the University of Vermont, and served as filming location for *Me, Myself & Irene* and *What Lies Beneath*. Notable residents include Howard Dean, former six-term governor of the state and 2004 presidential candidate credited with innovative use of the internet.

ST. ALBANS is a border crossing with Canada and a research target for genealogists due to the large number of U.S.-bound European immigrants who crossed into the country by train between the late 1800s and the mid 20th century. The Vermont Maple Festival each spring has drawn crowds for 40 years with its activities relating to the state's famous maple syrup. Anglers will enjoy fishing on Lake Champlain for Trout, Smelt, Perch, Walleye, Northern Pike and other species.

ETHAN ALLEN EXPRESS NEW YORK TO RUTLAND

NEW YORK is America's most populous city. So famous are its districts that Wall Street, Broadway and Madison Avenue are universally recognized shorthand for the industries located there. It is a global city, with worldwide influence over commerce, finance, culture and entertainment and the arts. It is also an important center for international affairs, hosting the United Nations headquarters. Unique among U.S. cities for its high use of mass transit, the density and diversity of its population, its reputation as a city that never sleeps is due to its 24-hour subways and the constant bustling of traffic and pedestrians. Birthplace of numerous cultural movements, its metropolitan population surpassed 10 million in the early 1930s, making it the first "megacity" in human history. Amtrak offers connections to its entire system through Chicago from New York.

Harlem River The Harlem flows eight miles between the East and Hudson Rivers, separating the boroughs of Manhattan and the Bronx. The Harlem has served as a traditional rowing course for New York, used by university crews from Columbia, Fordham, New York and Manhattan College. Columbia's rowers have assisted New York Police Department investigations by sighting bodies in the water, as has been depicted in the TV series *Law & Order*. We cross the river at a point called Spuyten Duyvil -- Dutch for "spitting devil" -- a term that describes the tricky currents here where the Harlem River joins the Hudson River.

YONKERS is spread over hills rising from near sea level on the eastern bank of the Hudson River. Primarily a commuter city for workers into Manhattan, it possesses an excellent transportation infrastructure. Its attractions include Yonkers Raceway, the Philipse Manor Hall museum and archive, and many large shopping areas along Central Park Avenue. Its name derives from the Dutch word for "young gentleman," *Jonker*; this is how the recipient of the original land grant, Colen Donck, was known locally in 1645. In 1853, the Otis Elevator Company built the first such factory here. Today, a Kawasaki railcar assembly plant occupies its former facility, and supplies several U.S. state and municipal systems with transit vehicles, including New York City. The first U.S. golf course was founded here in 1888. Steven Tyler of the rock band *Aerosmith* is a notable resident.

Hastings-on-Hudson was once a center of stone quarrying. Huge quantities of dolomite marble were used to produce the paving blocks used extensively in New York City's Central Park and in other cities. The town is now an upscale community, the current and former home of numerous high achievers in diverse fields of endeavor.

Irvington takes its name from the author Washington Irving, creator of *Rip Van Winkle*, *Ichabod Crane* and *The Legend of Sleepy Hollow*. Nearby "Sunnyside" was his home and can be seen from the train near the station. The town's cool summer breezes and attractive riverside setting have attracted wealthy residents of New York City since the 1850s. It is today a community of the well-heeled which includes *Today Show* co-host Meredith Vieira, actress Debra Winger, and Reverend Sun Myung Moon, head of the Unification Church. Its controversial mayoral election of 2005 resulted in the declaration of a winner by drawing lots after a tie vote could not be broken.

CROTON-HARMON, or Croton-on-Hudson, is the northern limit of the Hudson line railroad's electrification and a transfer point between local and express service. Historically, it thrived as a maintenance point for the former New York Central Railroad and its labor-intensive operations. Trains continuing north or west, including the flagship *20th Century Limited*, exchanged their electric locomotives here for steam or diesel locomotives to continue their journeys. Nearby is General Electric's John F. Welch Leadership Center, which trains GE executives. Today, there is an ongoing effort to develop the riverfront area for recreational use. Many Croton residents commute into New York City's Grand Central Terminal some 33 miles south via Metro-North Railroad.

Peekskill was an early American industrial center and the first headquarters of the Continental Army during the Revolutionary War. In 1992, the town was the site of a meteorite landing, recorded on film by 16 witnesses, which punched through the trunk of a 1980 Chevrolet Malibu. That car was later displayed on a world tour. The 1980s fictional TV sitcom *The Facts of Life* was set in Peekskill.

West Point Academy, marked by stone battlements on the western (opposite) shore of the river, is a U.S. Army post and service academy. Its first commander, Benedict Arnold, famously committed treason when he attempted to sell the fort to the British. West Point trains more Army officers than any other single institution. Occupying over 16,000 acres, it is one of the largest school campuses in the world. In addition to the typical academic and sports buildings, it includes a ski slope and artillery range among its facilities. First occupied in 1778, it is the oldest continuously manned military post in the country. Bobby Knight, the winningest men's basketball coach in NCAA history, began his head coaching career at Army in the 1960s. Notable alumni include Presidents Grant and Eisenhower, Confederate President Jefferson Davis, and Generals Robert E. Lee, John J. Pershing, Omar Bradley and Douglas MacArthur.

Pollepel Island is the site of Bannerman's Castle, an abandoned military supply warehouse. Francis Bannerman purchased the island in 1900 to use as a storage site for his growing business. Construction of the castle began in 1901, with most of the building devoted to stores of army surplus. Today, the castle is property of the New York State Office of Parks, Recreation and Historic Preservation. The island itself, mostly rock, contains 6.5 acres; its name is derived from the Dutch word for "wooden spoon."

Beacon received its name from the signal fires that were set atop nearby Beacon Mountain to warn of approaching British troops during the Revolutionary War. During the 1800s, the town was known as the "Hat Making Capital of the U.S." with some 50 factories devoted to hat manufacture. Its artistic and commercial rebirth came with the opening of one of the world's largest contemporary art museums, a waterfront hotel and conference center. Across the river is its larger sister city, Newburgh.

POUGHKEEPSIE was home to the Smith Brothers' famous cough drops until 1972. The area's natural beauty and proximity to New York City prompted wealthy families like the Astors and Vanderbilts to build palatial weekend homes nearby. The city was an early center for whale

rendering, and industry flourished through shipping, hatteries and breweries – some owned by Matthew Vassar, founder of Vassar College here. Samuel Morse, inventor of the telegraph and Morse code, made this his home for 25 years.

RHINECLIFF The hamlet of Rhinecliff in the town of Rhinebeck encompasses the largest district of National Historic Landmark designation in the country. Kingston, across the Hudson River, contains a downtown area known as "the Rondout," considered one of the nation's best places for artists. It was also the first capital of New York between 1777 and 1797. Kingston once shaped and shipped most of the "bluestone" used to build the sidewalks of New York City. The Amtrak station here was built by the former New York Central Railroad in the early 20th century and hosts several Amtrak trains serving nearby Poughkeepsie as well as Montreal, Toronto, Niagara Falls and New York City. Kingston may be accessed by taxicab from the station.

Catskill across the Hudson River was once a stopover for vacationers on their way to the Catskill Mountain resorts. The area was purchased from natives in 1678 and the town was established in 1788. The former undisputed world heavyweight boxing champion "Iron" Mike Tyson once trained at the Catskill gym owned by the legendary trainer Cus D'Amato, who took the young fighter out of reform school and welcomed him into his family. Across the river on the right is the Saugerties Lighthouse, decommissioned in 1954 when automation made light keepers obsolete. It is today a unique bed and breakfast.

HUDSON is named for the adjacent river and its discoverer and explorer, Henry Hudson. Its 7,000 residents include some 500 inmates at the Hudson Correctional Facility. Famous natives of Hudson include General William Jenkins Worth, whose leading role in the U.S. victory over Mexico in the Mexican-American War made permanent the liberation of Texas. The city of Ft. Worth is named for him. Today, Hudson's main thoroughfare, Warren Street, hosts a lively antiques market of almost seventy shops. Several television shows have been filmed here, including *The Wonder Years*.

Castleton-on-Hudson is a largely residential suburb of Hudson. Its name was derived from Henry Hudson's experience during exploration of his namesake river, whereupon he encountered a Native American food storehouse so large it was considered a castle.

ALBANY-RENSELAER Albany is the capital of the State of New York. Its capitol building is one of only ten state capitol buildings in the U.S. without a dome. The English acquired the original site from the Dutch in 1664 and named it in honor of James II, Duke of Albany. It is the fourth oldest city and the second oldest state capital in the U.S. In 1754, Benjamin Franklin presented his "Albany Plan of Union" to the Albany Congress, the first formal proposal to unite the colonies. Although never adopted, it proved to be an important precursor to the U.S. Constitution.

In the midtown section, the Empire State Plaza contains the tallest building in the state outside of New York City, the Erastus Corning Tower. The Plaza is based on the National Congress complex in Brazil's capital city, Brasilia. The local economy is based on state government and nanotechnology. Unlike most of the nation, Albany's "last call for alcohol" in the bars is 4:00 a.m. Albany public schools spend \$9,227 per student, well above the U.S. average of \$6,068. Famous natives of Albany include Andy Rooney, the humorist and commentator famous for his part on the CBS news program *60 Minutes*.

The Amtrak station is located in **Rensselaer**, 1.5 miles from Albany across the Hudson River. The structure dates from 2002, featuring a coffee shop, newsstand and post office. One of the busiest stations in the Amtrak system, it serves northeastern routes outside of the Northeast Corridor "spine." They include this train, the *Adirondack*, serving

Montreal and New York City; *Empire Service* between either Albany-Rensselaer or Buffalo and New York City; the *Ethan Allen Express* serving Rutland, VT and New York City; and the *Maple Leaf* serving Toronto and New York City. Here, also, the Boston and New York City branches of the *Lake Shore Limited* to and from Chicago meet.

SCHENECTADY is the ninth largest city in New York State. It became the headquarters of the General Electric Company in 1892 after Thomas Edison had moved his Edison Machine Works here. The company generated the first television broadcasts in the U.S. in Schenectady in 1928. Union College is the oldest planned campus in the country. Former President Jimmy Carter began graduate studies in nuclear physics at Union College in 1953. Schenectady is the former home of the American Locomotive Company, ALCO, which once supplied many major U.S. railroads with motive power.

SARATOGA SPRINGS was best known in history for the famous Battle of Saratoga, which took place in the town of Stillwater, some 24 miles to the southeast. The surrender of British General John Burgoyne to American General Horatio Gates in 1777 is cited as the turning point of the Revolutionary War. Saratoga Springs was once famous for Rock Spring, the mineral waters of which were thought to have medicinal value; the spa treatments continue at Roosevelt Baths. Since 1863, the town has played host to thoroughbred horse racing at Saratoga Race Course, the oldest continuously-operating track in the U.S. There are several museums and 20 golf courses in the area, along with vibrant night life. Singer Don McLean is said to have composed *American Pie* in a downtown bar. The Saratoga Performing Arts Center is a stop for touring national recording artists and the summer home of the Philadelphia Orchestra and New York City Ballet. Actor David Hyde Pierce and former NFL coach Bill Parcells are notable Saratogians.

FORT EDWARD/GLENS FALLS The Town of Fort Edward is part of the Glens Falls Metropolitan Statistical Area and was originally called Fort Lyman, constructed in 1755 during the French and Indian War. The name was changed the next year to honor King George II's grandson, Prince Edward. Glens Falls refers to a large waterfall in the Hudson River on the southern border of the city; the falls was the site

of several battles during the French and Indian and Revolutionary Wars. The region is a major producer of medical devices. The city also boasts the 300-seat Charles R. Wood Theater, home to the Adirondack Theater Festival; the Glens Falls Symphony Orchestra; three museums; and an exclusive grilled delight dating to 1919 known as the "dirt dog" due to its proprietary meat sauce concoction. Annual festivals are held to celebrate ballooning, foods of the North Country, the arts and microbreweries, in addition to the professional rodeo known as the Adirondack Stampede. Television cooking personality and author Rachael Ray hails from Glens Falls, as does J. Allard, creator of Microsoft Xbox.

New York/Vermont State Line

CASTLETON Vermont's oldest college, Castleton State, is here, as is a mile-long tree-shaded Main Street with an array of Federal and Greek Revival style buildings, and all its houses listed on the National Register of Historic Places. Chartered in 1761, Castleton was the meeting place between Ethan Allen and his Green Mountain Boys and Benedict Arnold to plan their attack of Fort Ticonderoga in 1775. Their success was pivotal in holding the installation for two years until the battles at Bennington and Saratoga turned the tide in the Revolutionary War. Edwin Laurentine Drake grew up on a family farm here and went on to pioneer a new way to drill for oil in 1858, using piping to prevent borehole collapse and water seepage, methods still used today. Oil from his first strike in Titusville, Pennsylvania was collected in a bathtub.

RUTLAND is Vermont's second largest city. After large deposits of solid marble were discovered in the 1830s, the city became one of the leading producers by the 1850s. The town hosts Vermont's third largest shopping center, many summer events and festivals, the Rutland Halloween Parade and the Vermont State Fair. The downtown area is listed as an historic district on the National Register of Historic Places. Born in Rutland in 1804, John Deere would invent the first commercially successful steel plow and found the company bearing his name that became the world's leading manufacturer of agricultural equipment.

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35863

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF PAN AM SOUTHERN LLC

MOTION TO DISMISS

EXHIBIT C

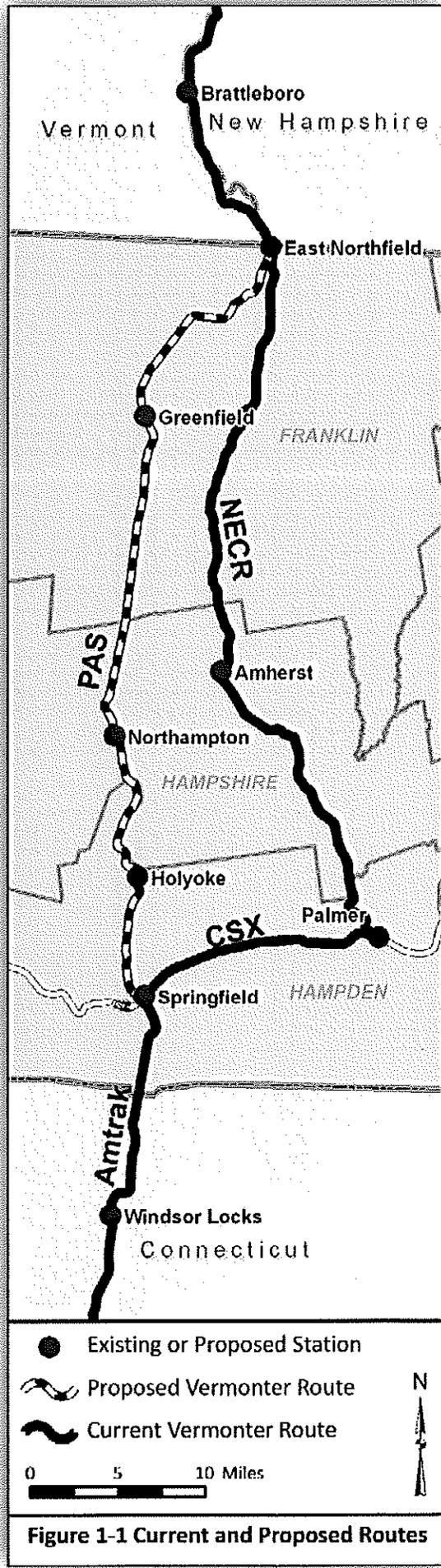


Figure 1-1 Current and Proposed Routes

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MOTION TO DISMISS

EXHIBIT D



ABOUT THIS PROJECT

Knowledge Corridor - Restore Vermonter Project

On January 28th, U.S. Department of Transportation awarded of \$70 million for final design and construction of the "Knowledge Corridor" along the Connecticut River rail line in western Massachusetts. The competitive grant award is part of the American Recovery and Reinvestment Act (ARRA) High-Speed and Intercity Passenger Rail program.

The Award is the result of a MassDOT competitive grant application under the High Speed and Intercity Passenger Rail Program to the Federal Railroad Administration to fund this project. The Knowledge Corridor - Restore Vermonter Project is one of the initiatives included in the Vision for the New England High - Speed and Intercity Rail Network which was announced in July by the New England Governors.

The Knowledge Corridor - Restore Vermonter Project will restore Amtrak's intercity passenger train service to its original route by relocating the Vermonter from the New England Central Railroad back to its former route on the Pan Am Southern Railroad. The Pan Am Southern route provides a shorter and more direct route for the Vermonter between Springfield and East Northfield, and improves access to densely populated areas along the Connecticut River. The Pan Am Southern route would include station stops at the former Amtrak station at Northampton and the new intermodal station at Greenfield. The routing of Amtrak service in Vermont and south of Springfield would remain unchanged.

The benefits of the Project include:

- » Reduction in overall travel time for the Vermonter service of approximately 25 minutes.
- » Improved on-time performance for the Vermonter Service
- » Estimated 24% increase in ridership.

The Project provide improvements to the existing Pan Am Southern rail line, including crosstie replacement, rail replacement, rehabilitation of grade crossings, reactivation of passing sidings and portions of double track, upgrading of switches, improvements to signal and communications systems, surfacing and alignment of track, and improvements to bridges and station platforms. These improvements will facilitate the relocation of the Vermonter by improving safety, increasing operating speeds for existing freight train traffic and the Vermonter, and enhancing capacity on the rail line to accommodate future increased levels of train traffic. The improvements and rehabilitation work will be done within the existing railroad right of way.

The importance and value of this Project was identified through a study sponsored by

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Please direct any questions or comments to
Planning@dot.state.ma.us

Rail Links

- » **[Recovery and Reinvestment High - Speed Intercity Rail Network](#)**
- » **[Vision for the New England High - Speed and Intercity Rail Network](#)**

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the Pioneer Valley Planning Commission (PVPC), in conjunction with the MassDOT. The preliminary findings of that study has determined that the expansion of intercity passenger rail service in the I-91 Knowledge Corridor, between White River Junction, VT and New Haven, CT, has the potential to be a major component in producing economic revitalization, spurring job creation, improving air quality, increasing overall mobility and reducing vehicular traffic congestion.

MassDOT has prepared an Environmental Assessment (EA) for the Knowledge Corridor - Restore Vermonter Project, which has been submitted to Federal Railroad Administration. Public comments on the EA and responses to them are included Appendix G in the documents section.

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35863

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF PAN AM SOUTHERN LLC

MOTION TO DISMISS

EXHIBIT E

EXECUTION VERSION

PURCHASE AND SALE CONTRACT

between

THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION, as Buyer

and

PAN AM SOUTHERN LLC, as Seller

THE RIGHT OF WAY KNOWN GENERALLY AS THE CONNECTICUT RIVER MAIN
LINE, ALSO KNOWN AS THE "KNOWLEDGE CORRIDOR," FROM LONGMEADOW,
MASSACHUSETTS TO NORTHFIELD, MASSACHUSETTS

as of May 25, 2012

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PURCHASE AND SALE CONTRACT

THIS AGREEMENT (the "Contract") is made as of this 25th day of May, 2012, by and between PAN AM SOUTHERN LLC, a Delaware limited liability company, having an address of 1700 Iron Horse Park, Billerica, Massachusetts (hereinafter referred to as "Seller"), and THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION, having an address of 10 Park Plaza, Boston, Massachusetts (hereinafter referred to as "Buyer"). The Massachusetts Bay Transportation Authority, a body politic and corporate created by and acting pursuant to Chapter 161A of the General Laws of the Commonwealth of Massachusetts, as amended (the "MBTA"), Boston and Maine Corporation, a Delaware corporation ("B&M"), and Springfield Terminal Railway Company, a Vermont corporation ("STRC") join in the Contract with respect to the rights and obligations described in certain provisions, as set forth herein.

RECITALS

A. Seller is the owner of or has certain interests in the following real and personal property, which, taken together, is herein collectively called the "Property":

1. The right of way known generally as the Connecticut River Main Line, also known as the "Knowledge Corridor," from the Massachusetts border with Connecticut in Longmeadow, Massachusetts to Northfield, Massachusetts (the "Right of Way") consisting of Seller's right, title, and interest in the Right of Way between Station 2+25 in Springfield, Massachusetts and Station 2613+6685 in Northfield, Massachusetts and all adjoining property (the "Land") and any right, title, or interest of Seller with respect to the operation of passenger trains held by Seller in the Right of Way between Station 2+25 in Springfield, Massachusetts and the Massachusetts border with Connecticut ("PAS Passenger Operating Rights") as described on EXHIBIT A attached hereto and incorporated herein by reference, but excepting the Retained Freight Easement (defined below). The Land and the PAS Passenger Operating Rights generally described on EXHIBIT A attached hereto and incorporated herein by reference are shown more specifically in a set of plans to be developed as EXHIBIT A-1 pursuant to Section 7.1.3 herein (the "Railroad Line Plans").

2. The tracks, rails, ties, switches, ballast, crossings, bridges, trestles, culverts, buildings, structures, facilities, crossing protection devices, communication lines, poles, radio masts and signals which are affixed or located on or in the Land or, with respect to the Right of Way between Station 2+25 in Springfield, Massachusetts and the Massachusetts border with Connecticut, used principally in connection with the PAS Passenger Operating Rights as of the date hereof (the "Included Fixtures").

3. All items of personal property, supplies and other materials primarily used in, or primarily relating to, the operation of the Property, including those needed to properly operate and maintain the signal systems and grade crossing systems (the "Tangible Personal Property").

4. All permits, licenses, certificates of occupancy, approvals, consents, variances and other authorizations that are used or necessary in connection with, the ownership or operation or

other use of any of the Land or of the PAS Passenger Operating Rights (but excluding those reasonably necessary for the operation by Seller of the rail freight operations over the Retained Freight Easement (as defined below) (all such permits and the like, the "Permits").

5. All real property interests of Seller in the Property including, without limitation, benefits which are appurtenant to the Land, together with all improvements, structures and fixtures thereon, and all easements, leases, privileges, rights-of-way, the interest of Seller in all land underlying any adjacent public streets or roads which streets and roads exist by reason of an easement over the Land, appurtenances, occupancy agreements, and other rights belonging to Seller pertaining to, or accruing to the benefit of, the Property, subject, however, to the Retained Freight Easement.

6. All of Seller's right, title and interest in any contracts, agreements, guaranties, warranties, leases, licenses, occupancy agreements and easements now or hereafter relating to the ownership, use or operation of the Property, including but not limited to those listed on Exhibit E hereto, but excluding any contracts pursuant to which Seller provides shipping services for customers and other freight carriers and also excluding those certain side track agreements listed on Exhibit E-1 hereto (the "Intangibles").

B. Buyer and Seller acknowledge and agree that as of the date hereof, B&M and STRC (collectively, "PAR") and Seller owe to the MBTA the amount of One Million Six Hundred Sixteen Thousand Four Hundred Seventy-Nine and 02/100 Dollars (\$1,616,479.02) (comprised of approximately \$500,000.00 owed by Seller and approximately \$1,100,000.00 owed by PAR) for trackage rights fees accrued separately by Seller and PAR between January 2009 and January 10, 2010 (the "Trackage Rights Debt").

C. Pursuant to that certain deed of Robert W. Meserve and Benjamin H. Lacy, Trustees of the property of the Boston & Maine Corporation, dated December 24, 1976 and recorded December 27, 1976 to the MBTA (the "1976 Deed"), the Boston & Maine Corporation, an affiliate of Seller ("B&M"), reserved the right to use certain property of the MBTA comprised of a large building and certain adjacent land sometimes known as the Billerica Locomotive Shop, located at the facility sometimes known as Iron Horse Park, Billerica, Massachusetts (the "Billerica Locomotive Shop"). The building and the approximate area of land constituting the Billerica Locomotive Shop are more fully shown on the plan attached hereto as Exhibit H.

D. Seller is prepared to sell, transfer and convey the Property, subject to the Retained Freight Easement, to Buyer, or, at Buyer's election, to the MBTA, and Buyer is prepared to purchase and acquire the Property, subject to the Retained Freight Easement (as hereinafter defined), from Seller, all for (1) payment by Buyer to Seller of the Purchase Price (as hereinafter defined); (2) a release from the MBTA of Seller's and PAR's obligations with respect to the Trackage Rights Debt (the "Trackage Rights Debt Release"); and (3) a release (the "Locomotive Shop Claims Release") from the MBTA of any claim that the MBTA may have with respect to B&M's obligations under the 1976 Deed to maintain the Billerica Locomotive Shop (the "Billerica Locomotive Shop Claims"); on the other terms and conditions hereinafter set forth.

E. Buyer and Seller desire that Seller retain and reserve, and not transfer to Buyer, the Retained Freight Easement, it being the intention of the Buyer and Seller that Seller remain, and Buyer not become, a common carrier subject to any federal law relating to the provision of railroad transportation on such properties.

AGREEMENT

In consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

ARTICLE 1. Agreement to Sell.

Subject to the terms and conditions hereinafter set forth and specifically excluding the Retained Freight Easement, Seller agrees to sell and Buyer agrees to buy, the Property.

ARTICLE 2. Purchase Price and Payment.

The total purchase price (the "**Purchase Price**") for the Property is **Seventeen Million and 00/100 Dollars (\$17,000,000.00)**. Subject to the terms and conditions of this Contract, the Purchase Price shall be paid as follows:

2.1 Simultaneous with the execution of this Contract, Buyer shall receive a credit towards the Purchase Price in an amount equal to the Trackage Rights Debt (the "**Deposit**") and the Trackage Rights Debt shall be deemed paid in full. Notwithstanding the foregoing, in the event that this Contract is terminated for any reason other than a default by Buyer, the Deposit shall be deemed returned to Buyer and the Trackage Rights Debt shall be reinstated as of the date of such deemed return without any further required action by Buyer or Seller.

2.2 The balance of the Purchase Price, subject to adjustments and prorrations provided for herein, shall be paid by Buyer at the Closing (as hereinafter defined) by wire transfer of immediately available federal funds to such account(s) as Seller may designate in writing.

2.3 Subject to Seller's rights pursuant to Section 7.1.1 herein, Seller shall be responsible for Labor Protection costs, if any, occasioned by the transactions contemplated in this Contract. As used herein, "**Labor Protection**" shall mean the costs, if any, incurred by Seller as a result of the sale of the Property, which costs may be incurred pursuant to the provisions of a collective bargaining agreement bargained by Seller as a result of the sale of the Property or pursuant to a rule, decision, or final order of any governmental agency having jurisdiction over the event. Except as provided in the immediately preceding sentence, the Parties agree that each shall be solely responsible for its risks and costs associated with any challenge to the transactions brought pursuant to law, a collective bargaining agreement, or otherwise.

ARTICLE 3. Conveyance of Title.

3.1 The Deed.

3.1.1 The Land shall be conveyed by quitclaim deed (the "**Deed**," which may consist of one or more individual deeds as Buyer and Seller reasonably determine) in a form mutually agreed to by Buyer and Seller, which Deed shall include the Retained Freight Easement. Subject to the process described in this section and Section 3.6, 3.7 and 3.9, title to the Property shall be free from all liens, encumbrances, and encroachments from or on the Land except the Permitted Exceptions (as hereinafter defined). The following matters shall be deemed to be "**Permitted Exceptions**":

1. the Retained Freight Easement;
2. the lien of all ad valorem real estate taxes and assessments not yet due and payable as of the date of Closing, subject to adjustment as herein provided;
3. local, state and federal laws, ordinances or governmental regulations, including but not limited to, building and zoning laws, ordinances and regulations, now or hereafter in effect relating to the Land;
4. all encumbrances, liens, survey matters, and other matters affecting or encumbering the Property which are deemed Permitted Exceptions as described in Sections 3.6 and 3.9 below.

The Deed shall describe the Land, not by means of a metes and bounds description, but by means of map references to plans and surveys which were previously recorded in the Registries of Deeds or filed in any Registry Districts of the Land Court in which the Deed is to be recorded or filed, and Seller's valuation plans as modified by the agreement of the parties as described in, and shown on EXHIBITS A and A-1, respectively, which plans and surveys are, or, at the expense of Buyer, shall be revised so as to be, consistent with customary conveyancing practice and Massachusetts law, reasonably adequate to accurately describe the Land. The Deed shall not convey and shall set forth and reserve to Seller an exclusive, retained and perpetual easement in gross (the "**Retained Freight Easement**") to provide rail freight service itself or through its contractor STRC (or any subsequent contractor of Seller replacing STRC), and which shall provide that Seller has the exclusive right to provide freight rail service (which right shall be perpetual, unless abandoned by Seller) and such other rights as may be mutually agreed upon over the Land. Buyer and Seller acknowledge that Seller's exclusive right to provide freight service on the Land does not preclude Buyer or Buyer's contractors from using all of the Land for the transport of railroad material, equipment, ballast, rails, and the like owned by Buyer or its contractor, but not common or contract carriage of freight. The Retained Freight Easement shall, by its terms, be assignable and transferable in

whole, but not in part, provided, however, that (a) Seller shall have no right to split or share the Retained Freight Easement or any portion of the Property with any assignee or transferee, and (b) any assignment or transfer by Seller of the Retained Freight Easement to a third party shall be subject to the approval of Buyer, which approval shall not be withheld if such third party meets certain standards described in the Deed.

3.1.2 Buyer shall cause the Deed to be recorded in the public records of the counties in which the Land lies within thirty (30) days subsequent to the Closing Date. In the event that the description of the Land contained in the Deed and/or the Retained Freight Easement is deemed inadequate for recordation or filing purposes by any Registry of Deeds or any Registry District of the Land Court, as applicable, Buyer, with the reasonable cooperation of Seller but at Buyer's cost and expense, and as promptly as is reasonably practicable, shall make such changes and revisions as may be required by said Registry of Deeds or Registry District of the Land Court such that the Deed will be accepted by said Registry of Deeds or Registry District of the Land Court for recording or filing. In the event that, after Closing, a metes and bounds description for the Property is desired by Buyer and furnished to Seller by Buyer, at Buyer's sole cost and expense, then Seller shall execute and deliver such further deeds or easements or confirmatory or corrective deeds and/or confirmatory or corrective easements, containing a description of the Land based on such metes and bounds description as may be acceptable to Buyer, Seller and to the Registries of Deeds or Registry Districts of the Land Court so involved. In the event that the preparation of such further or confirmatory deeds and/or easements requires any survey of the Land, or any portion thereof, or any search or examination of title with respect to the Property, or any portion thereof, Buyer shall pay any and all costs and expenses arising out of or connected with such survey, search or examination. The obligations of Buyer and Seller set forth in this Section 3.1.2 shall survive the Closing.

3.2 The PAS Passenger Operating Rights, if any, shall be conveyed by one or more instruments in a form to be agreed to by Buyer and Seller (the "**PAS Passenger Operating Rights Transfer Document**").

3.3 Subject to Article 6 hereof, the Included Fixtures and the Included Tangible Personal Property (as hereinafter defined) shall be conveyed free of all encumbrances (other than the Permitted Exceptions determined by the process described in Sections 3.1, 3.6, 3.7 and 3.9) by one or more bills of sale (the "**Bill of Sale**") in a form to be agreed to by Buyer and Seller. As used in this Contract, the term "**Included Tangible Personal Property**" shall mean all of the Tangible Personal Property except the following items of personal property that are or may be located on or in the Land on the Closing Date: railroad rolling stock, locomotives, automobiles, trucks, automotive equipment, machinery, office and computer equipment, radios and radio control equipment, furniture, tools, inventories, materials and supplies (collectively, "**Seller's**

Business Property”). Any personal property located on the Land on the Closing Date other than Seller’s Business Property shall be deemed to be Included Tangible Personal Property.

3.4 At the Closing, Seller shall assign to Buyer all of Seller’s rights and interests in and to the Permits and the Intangibles and Buyer shall assume all of Seller’s obligations and liabilities first arising on and after the Closing Date under or connected with the Intangibles by an assignment and assumption agreement (the “**Assignment and Assumption Agreement**”) in a form to be agreed to by Buyer and Seller. The conveyance or retention of any of the Permits or Intangibles shall carry with it the right to renew, modify, alter, amend and terminate the same; provided, however, that Buyer’s rights under the Permits and Intangibles shall be subject to the Retained Freight Easement; and provided further that Seller shall not renew, modify, alter, or amend the Permits or Intangibles in such a way as to interfere with Buyer’s reasonable utilization of the Property for its intended use for passenger rail service.

3.5 In the event that any subdivision approval is necessary for the completion of the sale, transfer and conveyance contemplated by this Agreement, said approval shall be obtained by Seller and Buyer jointly, but at Buyer’s cost and expense, including, without limitation, any and all fees, costs and expenses arising out of or connected with the obtaining of subdivision plans, the filing of the same with governmental body(ies), recordation thereof and legal fees, but excluding Seller’s attorney’s fees which shall be the sole responsibility of Seller.

3.6 Except as to any matters objected to by Buyer in a written notice to Seller on or before the seventh (7th) business day prior to the Due Diligence Expiration Date set forth in ARTICLE 5 hereof (a “**Buyer’s Title Notice**”), Buyer shall be deemed to have accepted any matter affecting the Property and the state of title (and to have waived any objections thereto), and any such matter which is not objected to by Buyer on or before the seventh (7th) business day prior to the Due Diligence Expiration Date shall be a Permitted Exception, regardless of whether or not such matter is brought to the attention of the Buyer by the Seller. Seller shall have two (2) business days following its receipt of a Buyer’s Title Notice to notify Buyer by written notice as to whether or not Seller has elected to cure the matter or matters objected to by Buyer in such Buyer’s Title Notice (a “**Seller’s Title Notice**”). Failure of Seller to give the Seller’s Title Notice shall be deemed an election by Seller not to cure such objection(s). If Seller elects or is deemed to have elected not to cure any matter objected to in such Buyer’s Title Notice, Buyer shall elect within three (3) business days following the date of such election or deemed election either (i) to waive its objection or objections to the matter or matters not being cured by Seller, without reduction of the Purchase Price in which case such matter shall become a Permitted Exception; or (ii) to terminate this Contract by written notice to Seller, in which case the Deposit shall be deemed returned to Buyer and the Trackage Rights Debt shall be reinstated as of the date of such deemed return without any further required action by Buyer or Seller and neither party shall have any further liability or obligation to the other hereunder except for the obligations under Section 5.4 and Article 14 hereof, which shall remain in effect.

3.7 If Seller has elected to cure any matter, such matter shall be cured by Seller prior to Closing, and Buyer shall be given a reasonable opportunity prior to Closing to verify that such matter has in Buyer’s sole discretion been cured to Buyer’s satisfaction. Notwithstanding the foregoing or anything contained herein to the contrary, Seller shall cause to be released or bonded over any and all mortgages or encumbrances securing the payment of money which

Seller has caused or permitted to be recorded against the Property (each, a "**Voluntary Monetary Encumbrance**").

3.8 Seller shall be entitled to use such portion of the Purchase Price as is necessary to pay off all such Voluntary Monetary Encumbrances and any title objection that Seller agrees to cure. Buyer hereby acknowledges that any instruments evidencing the release or discharge of any Voluntary Monetary Encumbrances may be recorded at or after the Closing in accordance with standard conveyancing practice.

3.9 From and after the date that is seven (7) business days prior to the Due Diligence Expiration Date, Seller will not voluntarily grant any mortgages, liens or other encumbrances affecting the Real Property; provided, however, that in the ordinary course of business Seller may enter into contracts pursuant to which Seller provides shipping services for customers and other freight carriers and/or side track agreements similar to those listed on Exhibit E-1 hereto. If a new encumbrance or survey matter affecting the Property arises prior to Closing which (i) encumbers or affects title to the Property, and (ii) as of the date set forth in the preceding sentence was not of record or did not encumber or affect title to the Property (each, a "**New Encumbrance**"), Buyer may, prior to Closing, notify Seller in writing of any such New Encumbrance. If Buyer does not object to any New Encumbrance as herein provided, such New Encumbrance shall be deemed a Permitted Exception. In the event that Buyer gives written notice of objection to any New Encumbrance, Seller shall have the same options to cure and Buyer shall have the same options to waive its objections or to terminate this Contract, as set forth above in Sections 3.6 and 3.7, in which event the Closing Date shall be extended for a period not to exceed forty-five (45) days in order to accommodate the process. If any New Encumbrance is a Voluntary Monetary Encumbrance, Seller must satisfy the same on or before the Closing in the manner outlined in Section 3.7.

ARTICLE 4. Closing.

4.1 Unless extended pursuant to the terms of this Contract, the closing of the transactions contemplated hereunder (the "**Closing**") shall take place at 10 a.m. on the date that is sixty (60) days after the Due Diligence Expiration Date (as hereinafter defined) (as such date may be extended pursuant to the terms hereof, the "**Closing Date**"); at the offices of Goulston & Storrs, P.C., 400 Atlantic Avenue, Boston, Massachusetts, or at such other location in Boston, Massachusetts as Buyer shall designate by five (5) business days prior written notice. Notwithstanding the foregoing, at the election by Buyer by written notice to Seller at least thirty (30) days prior to Closing, the Closing may take place through an escrow established with an escrow agent selected by Buyer and reasonably acceptable to Seller.

4.2 At the Closing, Seller shall deliver the following documents:

- 4.2.1 The Deed, duly executed by Seller and acknowledged as required;
- 4.2.2 The PAS Passenger Operating Rights Transfer Document, if applicable, duly executed by Seller and acknowledged as required;
- 4.2.3 The Assignment and Assumption Agreement duly executed by Seller;

- 4.2.4 The Bill(s) of Sale, duly executed by Seller;
- 4.2.5 Originals of all Permits and Intangibles requested by Buyer not less than thirty (30) days prior to the Closing Date, to the extent the same are in Seller's possession or control, any renewals thereof, all amendments thereto, guarantees thereof and all material files, records and correspondence relating thereto;
- 4.2.6 The Operating Agreement (as hereinafter defined) duly executed by Seller;
- 4.2.7 The Construction Agreement Amendment (as hereinafter defined) or a New Construction Agreement (as hereinafter defined), as applicable, duly executed by Seller;
- 4.2.8 The SOA Assignment (as hereinafter defined), duly executed by Seller;
- 4.2.9 A true and correct copy of the Amtrak Host Agreement (as hereinafter defined) duly executed by Seller and the National Railroad Passenger Corporation ("**Amtrak**");
- 4.2.10 A certification of non foreign status in the form attached hereto as EXHIBIT B, duly executed by Seller;
- 4.2.11 Evidence satisfactory to Buyer that all necessary approvals and/or consents by Seller and any constituent person of Seller otherwise required under Seller's organizational documents, have been delivered and such other evidence reasonably satisfactory to Buyer of Seller's good standing and authority and the authority of the signatory on behalf of Seller to convey the Property pursuant to this Contract;
- 4.2.12 A certificate duly executed by Seller restating as of the Closing Date all of Seller's representations and warranties set forth in Article 10 and Article 14;
- 4.2.13 An original of a closing statement setting forth the Purchase Price and the closing adjustments and prorations in form and substance satisfactory to Buyer and Seller (the "**Closing Statement**"), duly executed by Seller;
- 4.2.14 An original 1099 B Certification, duly executed by Seller;
- 4.2.15 A Designation of Person Responsible for Tax Reporting under Internal Revenue Code Section 6045 in the form of EXHIBIT C attached hereto designating Seller as the party responsible for making the returns required under Internal Revenue Code Section 6045;
- 4.2.16 A disclosure statement submitted in compliance with the requirements of Mass. Gen. Laws, Chapter 7, Section 40J in the form attached hereto as EXHIBIT D;

- 4.2.17 Keys to all locks at the Property;
 - 4.2.18 A release or termination, in recordable form reasonably acceptable to Buyer (which may be a release deed or such other document or documents), conveying or releasing to Buyer (or, at the election of Buyer, to the MBTA) all of Seller's, PAR's, B&M's and/or their affiliates' right, title and interest in the Billerica Locomotive Shop (the "**Locomotive Shop Release**"), duly executed by Seller, PAR, B&M and/or their affiliates (as applicable); and
 - 4.2.19 All other documents reasonably required to effectuate this Contract and the transactions contemplated hereby.
- 4.3 At the Closing, Buyer shall deliver, or cause to be delivered, the following:
- 4.3.1 The Purchase Price as adjusted in accordance with the terms hereof;
 - 4.3.2 The PAS Passenger Operating Rights Transfer Document, if applicable, duly executed by Buyer and acknowledged as required;
 - 4.3.3 The Assignment and Assumption Agreement duly executed by Buyer,
 - 4.3.4 The Operating Agreement duly executed by Buyer;
 - 4.3.5 The Construction Agreement Amendment or a New Construction Agreement, as applicable, duly executed by Buyer or the MBTA;
 - 4.3.6 The SOA Assignment (as hereinafter defined), duly executed by Buyer;
 - 4.3.7 The Locomotive Shop Claims Release, duly executed by the MBTA;
 - 4.3.8 A duplicate original of the Closing Statement, duly executed by Buyer;
 - 4.3.9 A certificate duly executed by Buyer restating as of the Closing Date all of Buyer's representations and warranties contained herein;
 - 4.3.10 The Trackage Rights Debt Release, duly executed by the MBTA; and
 - 4.3.11 All other documents reasonably required to effectuate this Contract and the transactions contemplated hereby.

ARTICLE 5. Due Diligence Investigations by Buyer.

5.1 Within fourteen (14) days of execution of this Contract, Seller shall provide the following documents and information to Buyer:

- 5.1.1 copies of applicable Valuation Maps, track charts, surveys, plans and specifications for the Property in Seller's possession or control;

- 5.1.2 all title information in Seller's possession or control pertaining to each parcel in the Property;
- 5.1.3 copies of all Permits and Intangibles, any renewals thereof, all amendments thereto, guarantees thereof and all material files, records and correspondence relating thereto in Seller's possession or control;
- 5.1.4 without representation, and solely for informational purposes, copies of all reports and information materially related to the physical and environmental condition of all or any portion of the Property in Seller's possession or control, including but not limited to track maintenance reports, bridge reports, culvert reports, and similar records; and
- 5.1.5 copies of real estate tax bills and personal property bills relating to the Property for the current tax period in Seller's possession or control.

5.2 Seller acknowledges that Buyer intends to conduct an investigation of the Property, which may include examination of all structural and mechanical aspects thereof, review of any and all documentation with respect to the Property, and examination of the title to the Land and the compliance of the Property with applicable zoning and laws, regulations, by-laws, ordinances, and the like. During the Due Diligence Period Buyer may conduct an environmental assessment to determine the presence or absence of Hazardous Materials (hereinafter defined), and determining the compliance of the Property with all applicable laws, rules, codes and regulations; provided, however, that Buyer's on-site environmental investigations shall be limited to a Phase I environmental review unless otherwise agreed in writing by the Parties. Buyer shall comply with Seller's safety rules and requirements at all times when on the Property. Upon request by Seller, Buyer shall provide to Seller copies of any reports developed during the Due Diligence Period.

5.3 Notwithstanding anything to the contrary contained in this Contract, Seller acknowledges that Buyer shall have the right in its sole and absolute discretion, for any reason whatsoever or for no reason, to terminate this Contract by giving notice of such election to Seller on any day prior to and including the date which is ninety (90) days after the date hereof (as the same may be extended pursuant to this Section 5.3, the "**Due Diligence Expiration Date**"; the period from the date of this Contract to the Due Diligence Expiration Date, the "**Due Diligence Period**"). Notwithstanding the foregoing, Buyer may, by written notice to Seller, toll the Due Diligence Expiration Date for and to the extent that Buyer's due diligence investigations are made impracticable due to winter weather conditions; provided, however, that such tolling shall not exceed the lesser of (a) the actual number of days that Buyer's due diligence investigations are made impracticable due to winter weather conditions or (b) ninety (90) days. In the event that Buyer provides such written notice to Seller tolling the Due Diligence Expiration Date, Buyer shall, upon reasonably determining the date that weather conditions allow the resumption of due diligence investigations, send a subsequent written notice to Seller specifying the date of the resumption of the Due Diligence Period. In the event that Buyer completes its due diligence investigations prior to the date set forth above, Buyer may by written notice to Seller establish an earlier date as the end of the Due Diligence Period. In the event that Buyer terminates this contract pursuant to this Section 5.3 on or before the Due Diligence Expiration Date, the Deposit

shall be deemed returned to Buyer and the Trackage Rights Debt shall be reinstated as of the date of such deemed return without any further required action by Buyer, Seller, or the MBTA, and neither party shall have any further liability or obligation to the other hereunder except the obligations under Section 5.4, Section 5.5 and Article 14. In the absence of such written notice, Buyer's option to terminate this Contract in accordance with this Section 5.3 shall no longer be applicable, and this Contract shall continue in full force and effect.

5.4 Buyer shall have the right to interview governmental officials and tenants (if any) with respect to the Property. Seller shall make the Property available at reasonable times to Buyer and its agents, consultants and engineers for such inspections and tests as Buyer deems appropriate, including for Buyer's engineering inspection(s), hazardous materials inspections (to the extent permitted pursuant to Section 5.2 above), site evaluations, and such other inspections and tests as Buyer deems appropriate. In connection with its right to enter upon the Property set forth in this Section 5.4, Buyer hereby agrees (i) not to interfere unreasonably with Seller's operation of the Property, (ii) to restore the Property to its prior condition after the performance of any such inspections, (iii) to follow Seller's standard safety rules and requirements at all times; and (iv) to provide reasonable advance notice of its desire to be on the Property.

5.5 Whether or not the Closing occurs, Buyer hereby releases all rights or claims of Buyer against Seller for loss, cost or damage to the Property to the extent arising out of actions taken by Buyer or its agents, engineers or consultants at the Property between the date of execution of this Contract and the Closing, including the release by Buyer of Hazardous Materials on the Property, but expressly excluding claims, loss, cost or damage arising out of the discovery of pre-existing conditions (the "Claims"). Buyer shall cause each of its contractors entering upon the Property for the purpose of conducting due diligence investigations under this ARTICLE 5 to provide, on behalf of such contractor, the release described in the preceding sentence prior to such contractor's entry upon the Property. Notwithstanding the foregoing, Buyer does not release, and shall not be obligated to cause its contractors to release, Claims against Seller that arise because of Seller's gross negligence or willful misconduct (it being agreed that it shall not be "grossly negligent" for Seller to allow access to the Premises in its "as is" condition). In the event that the Closing occurs, and not otherwise, Buyer releases all rights or claims of Buyer against Seller relating to pre-existing conditions or for any costs of remediation of such conditions incurred by Buyer. The obligations of Buyer set forth in this Section 5.5 shall survive the Closing.

Prior to entry on the Land pursuant to this Article 5, Buyer (or its environmental consultant) shall provide Seller with a certificate or certificates of insurance covering all days that Buyer and Buyer's consultants and contractors will be on the Land before the Closing Date, evidencing the insurance of the activities permitted hereunder, with companies that are reasonably acceptable to Seller as stated below, in which Buyer and others hereinafter specified are additional insureds as their interests may appear and which provides coverage as stated below.

- (a) Commercial General Liability Insurance
Insuring Buyer, Seller, the Land and all activities allowed hereunder as well as Buyer's indemnification obligations contained in this ARTICLE 5 with minimum liability coverage for personal injury, bodily injury and

property damage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in aggregate. Umbrella liability coverage with limits of not less than Five Million Dollars (\$5,000,000.00) covering all work performed must also be provided. Such insurance shall be written on an occurrence basis as opposed to a claims made basis. These policies shall name Seller as an additional insured.

(b) Automobile Liability Insurance

Automobile liability insurance shall be provided by Buyer or its consultant with limits of not less than One Million Dollars (\$1,000,000.00) covering all owned, non-owned, hired, rented or leased vehicles of Buyer and/or its consultants and contractors that are used in the activities permitted hereunder.

(c) Worker's Compensation Insurance

Worker's Compensation Insurance insuring all persons employed by Buyer or its consultant in connection with any work done on or about the Land with respect to which claims for death or bodily injury could be asserted against Buyer or its consultant with limits of liability of not less than those required by Chapter 152 of the General Laws of Massachusetts, as amended. The policy shall contain a waiver of subrogation clause in favor of Seller. Each of Buyer's contractors and consultants shall have similar policies covering their employees.

Except to the extent required by the laws of the Commonwealth of Massachusetts, Buyer or the MBTA may meet the foregoing insurance requirements by means of self-insurance which shall respond as though self-insurance coverage were provided by a 3rd party insurer.

ARTICLE 6. AS IS, WHERE IS.

Except for the representations and warranties contained in Article 10 and Article 14 herein, the Property is being acquired by Buyer in an "AS IS", "WHERE IS" condition, "WITH ALL DEFECTS" and "WITH ALL FAULTS". Buyer acknowledges that it will be acquiring the Property on the basis of its own investigations. Except as expressly set forth in Article 10 and Article 14 of this Contract, no representations or warranties, whether express, implied or statutory, have been made or are made and no responsibility has been or is assumed by Seller or by any officer, person, firm, agent or representative acting or purporting to act on behalf of the Seller as to condition or repair of the Property or the value, expense of operation, or income potential thereof, the reliability of any information furnished to Buyer or as to any other fact or condition which has or might affect the Property or the condition, repair, value, expense of operation or income potential of the Property or any portion thereof.

The parties agree that all understandings and agreements heretofore made between them or their respective agents or representatives are merged in this Contract and the Exhibits hereto annexed, which alone fully and completely express their agreement, and that this Contract has been entered into after full investigation, or with the parties satisfied with the opportunity

afforded for investigation, neither party relying upon any statement or representation by the other unless such statement or representation is expressly set forth in this Contract or the Exhibits annexed hereto. Buyer acknowledges that Seller has given Buyer the opportunity to inspect fully the Property and investigate all matters relevant thereto, and, to rely solely upon the results of Buyer's own inspections or other information obtained or otherwise available to Buyer, provided that the foregoing shall not diminish Buyer's rights with respect to any representations or warranties expressly made by Seller in this Contract. The provisions hereof shall survive Closing.

ARTICLE 7. Conditions to Closing; Extensions to Satisfy.

7.1 Mutual Contingencies. Without limiting any of the other conditions to Buyer's or Seller's obligations to close set forth in this Contract, the obligations of Buyer and Seller under this Contract are subject to the satisfaction at or prior to the time of Closing of each of the following conditions:

7.1.1 Notwithstanding anything to the contrary herein, neither Seller nor Buyer shall be obligated to close unless and until Buyer has obtained a determination from the Surface Transportation Board ("STB") that, pursuant to the so-called "State of Maine" precedent, no STB approvals or exemptions from the need to receive such approvals are necessary for the consummation of the transaction covered by this Contract and the transactions contemplated hereby and hereunder. Buyer agrees that Buyer will promptly, on Buyer's and Seller's behalf, at Buyer's sole cost and expense, prepare and (after providing and receiving comments and consent from Seller for the same) file with the STB, all applications, petitions, requests, notices or other necessary filings, in order to seek such STB determination for the transaction covered by this Contract and the Operating Agreement. In addition, it is a condition to Seller's and Buyer's obligation to close that any STB order or other action not contain or be subject to any condition that Seller or Buyer determine to be unacceptable, including but not limited to the imposition of labor protective conditions, which shall be deemed unacceptable without the need to provide notice thereof. Any other conditions imposed by the STB shall be presumed to be acceptable unless Seller or Buyer (as the case may be) gives the other notice within fifteen (15) business days of the service date of the STB order or other written action that the condition is unacceptable, and the reason therefor. If the STB order or other action imposes labor protective conditions or either party does give such notice of unacceptability, then (i) the provisions of this Agreement concerning the time for Closing shall not be effective, (ii) the Deposit shall be deemed returned to Buyer and the Trackage Rights Debt shall be reinstated as of the date of such deemed return, and (iii) this Contract shall be terminated and the Parties shall have no further liability to each other, except for any liability or indemnity pursuant to any provision hereof that, by its terms, survives any termination of this Contract.

- 7.1.2 Buyer shall provide notification to the Federal Railroad Administration pursuant to 49 C.F.R. § 213.5(c), if applicable, at least thirty (30) days prior to the Closing Date;
- 7.1.3 Buyer and Seller shall mutually agree on the Railroad Line Plans to be attached hereto as EXHIBIT A-1, and the documents to be delivered at Closing, including, without limitation, the form of Deed and the form of Bill of Sale, such agreement not to be unreasonably withheld, conditioned or delayed;
- 7.1.4 Buyer (or, at the Buyer's election, the MBTA) and Seller shall execute an operating agreement with respect Seller's freight railroad operations on the Property on and after the Closing Date in a form reasonably acceptable to both Buyer and Seller (the "**Operating Agreement**"). Buyer and Seller agree that the Operating Agreement shall be consistent with the Retained Freight Easement, shall set forth the respective rights and obligations of Seller and Buyer with respect to the construction, maintenance, management and dispatching services on the Land, and the respective responsibilities for the costs of such services, which respective rights and responsibilities will depend on whether the Land is used for freight and/or intercity passenger and/or commuter rail service from time to time. The Operating Agreement shall further provide that:
1. Prior to the commencement of commuter rail service on the Property, Buyer shall be responsible for all costs associated with elements of the maintenance of the Property other than those maintenance-related obligations that are allocated to Seller and Amtrak in that certain Maintenance and Service Outcomes Agreement between Seller, Buyer and Amtrak dated June 27, 2011 (the "SOA"), which shall remain the obligation of Seller and Amtrak as set forth in the SOA unless otherwise agreed to by Buyer and Seller in the Operating Agreement or by the Buyer, the MBTA, and Amtrak in a separate agreement. The Operating Agreement shall reflect the obligations of Seller under the SOA to perform certain maintenance obligations and to pay \$250,000 annually toward such maintenance, as adjusted as set forth in the SOA.
 2. Seller shall not be required to operate passenger trains at the election of Buyer or the MBTA;
 3. Upon the completion of the construction set forth in the Construction Agreement Amendment (as hereinafter defined) or the New Construction Agreement Amendment (as hereinafter defined), as amended, the MBTA shall have the right to run passenger rail trains on the Land and

pursuant to the PAS Passenger Operating Rights, so long as the total number of daily passenger train roundtrips does not exceed four (4) (including Amtrak intercity passenger trains);

4. In the event that the MBTA seeks to add passenger rail trips in excess of four (4) daily passenger roundtrips (including Amtrak intercity passenger trains), Buyer or the MBTA shall conduct a capacity study according to the process described in that certain 2011 Trackage Rights Agreement by and between the MBTA and Seller dated January 10, 2011, fund any improvements deemed necessary by such study prior to operating the additional trains, and be responsible for additional costs of initiation, operation and maintenance arising in connection with such additional trains; and
5. As between Seller, the MBTA and Buyer, if and when Buyer or the MBTA elects to run passenger rail service on the Property, liability for claims, loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, rail passengers or other invitees or trespassers) shall be governed in a substantively identical manner as such matters are governed in the 1976 Deed, provided that (i) a statutory limit of not more than \$75 Million dollars on liability for claims arising out of such passenger rail service applies to Seller's operations on the Property, and (ii) Seller is named as an additional insured on a liability insurance policy having limits of not less than \$75 Million maintained, or caused to be maintained, by Buyer or the MBTA with respect to liability arising out of such passenger service.

7.1.5 The MBTA and Seller shall either (a) execute an amendment (a "**Construction Agreement Amendment**") to that certain Construction Agreement for Rail Line Improvements between Springfield, Massachusetts and East Northfield, Massachusetts between the MBTA and, Seller, and Amtrak dated as of June 27, 2011 (the "**Existing Construction Agreement**") or (b) execute a contract to replace the Existing Construction Agreement (a "**New Construction Agreement**"), in a form reasonably acceptable to both Buyer and Seller. The Construction Agreement Amendment or New Construction Agreement shall govern the construction of new railroad tracks and other facilities on the Land including, without limitation, the reconfiguration of signal and communications systems to allow monitoring and potential control of the rail line from an MBTA facility at no cost to Seller.

7.1.6 Buyer and Seller shall have executed a mutually satisfactory assignment and assumption agreement, pursuant to which Seller shall assign, and Buyer shall assume, all of Seller's rights and obligations under the SOA (the "**SOA Assignment**").

7.2 **Failure of Mutual Contingency.** If any condition to Closing set forth in Section 7.1 is not satisfied at Closing (as the same may be extended), other than as a result of a default by the Buyer or Seller (the remedies for which are provided in ARTICLE 8 below), (a) either Buyer or Seller may terminate this Contract by delivering written notice to the other party on the Closing Date, whereupon the Deposit shall be deemed returned to Buyer and the Trackage Rights Debt shall be reinstated as of the date of such deemed return and all obligations of the parties under this Contract shall terminate (other than any party's obligations under Section 5.4, Section 5.5 and ARTICLE 14 hereof, which shall remain in effect), or (b) Buyer and Seller may elect to close, notwithstanding the non-satisfaction of such condition, in which event each party shall be deemed to have waived any such condition.

7.3 **Buyer's Conditions.** Without limiting any of the other conditions to Buyer's obligations to close set forth in this Contract, the obligations of Buyer under this Contract are subject to the satisfaction at the time of Closing of each of the following conditions (any one of which may be waived in whole or in part by Buyer at or prior to Closing):

7.3.1 All of the representations and warranties by Seller set forth in Article 10 or Article 14 of this Contract shall be true and correct in all material respects when made and shall be true and correct in all material respects as of the Closing;

7.3.2 Subject to the provisions of ARTICLE 9 hereof, the Property shall be in substantially the same condition as at the Due Diligence Expiration Date, reasonable use and wear excepted;

7.3.3 Seller shall have performed, observed, and complied in all material respects with all covenants and agreements required by this Contract to be performed by Seller at or prior to Closing;

7.3.4 There shall be no outstanding notices of violation with respect to the Property from any governmental authorities;

7.3.5 There shall have been no material adverse change, in Buyer's reasonable determination, in the information or items received and approved by Buyer during the Due Diligence Period;

7.3.6 Seller and Amtrak shall execute a host agreement with respect to Amtrak's operations on the Property in form and substance reasonably acceptable to Buyer in its sole discretion (the "**Amtrak Host Agreement**"), including as to Seller's right to assign such agreement to Buyer or the MBTA, as well as the execution by Buyer of a separate host agreement between Buyer and Amtrak, if necessary. During negotiations regarding the Amtrak Host Agreement during the Due Diligence Period, Seller shall keep Buyer

apprised of provisions of such Amtrak Host Agreement that relate to Buyer's future ownership and use of the Property. Such agreement may allow Seller to retain whatever liability provisions (as between Seller and Amtrak) are contained in such agreement notwithstanding Buyer's acquisition of the Property; and

7.4 Failure of Buyer's Condition; Extension of Closing Date. If on or before the Closing Date any condition to Buyer's obligation to close set forth in Section 7.3 has not been satisfied, Buyer shall have the right to either (a) terminate this Contract by delivering written notice to Seller on the Closing Date, whereupon the Trackage Rights Debt shall be reinstated as of the date of such deemed return and all obligations of the parties under this Contract shall terminate (other than any party's obligations under Section 5.4, Section 5.5 and ARTICLE 14 hereof, which shall remain in effect), or (b) direct the Seller to use reasonable and good faith efforts to satisfy any such unsatisfied condition (other than Section 7.3.5) and, if Buyer so directs, the Closing Date shall be extended by written notice from Buyer to Seller for a period of up to thirty (30) days as specified in said notice and Seller shall thereafter use its good faith efforts to cure any such failure or default. If Buyer elects to extend the Closing Date pursuant to clause (b) of the immediately preceding sentence and any condition to Buyer's obligation to close set forth in Section 7.3 remains unsatisfied as of such extended Closing Date, then Buyer shall have the right to terminate this Contract by delivering written notice to Seller on the Closing Date, whereupon the Trackage Rights Debt shall be reinstated as of the date of such deemed return and all obligations of the parties under this Contract shall terminate (other than any party's obligations under Section 5.4, Section 5.5 and ARTICLE 14 hereof, which shall remain in effect). Notwithstanding any provision of this Contract to the contrary, the failure of Seller to satisfy any condition to Buyer's obligation to close set forth in Sections 7.3.1, 7.3.2, 7.3.4, 7.3.5, or 7.3.6 shall not constitute a breach or default by Seller hereunder.

7.5 Seller's Conditions. Without limiting any of the other conditions to Seller's obligations to close set forth in this Contract, the obligations of Seller under this Contract are subject to the satisfaction at the time of Closing of each of the following conditions (any one of which may be waived in whole or in part by Seller at or prior to Closing):

7.5.1 All of the representations and warranties by Buyer set forth in this Contract or any Exhibit attached hereto shall be true and correct in all material respects when made and shall be true and correct in all material respects as of the Closing; and

7.5.2 Buyer shall have performed, observed, and complied in all material respects with all covenants and agreements required by this Contract to be performed by Buyer at or prior to Closing.

7.6 Failure of Seller's Condition. If on or before the Closing Date any condition to Seller's obligations to close set forth in Section 7.5 has not been satisfied, Seller shall have the right to either (a) terminate this Contract by delivering written notice to Buyer on the Closing Date, whereupon the Trackage Rights Debt shall be deemed to be paid in full and all obligations of the parties under this Contract shall terminate (other than any party's obligations under Section 5.4, Section 5.5 and ARTICLE 14 hereof, which shall remain in effect) or (b) elect to

close, notwithstanding the non-satisfaction of such condition, in which event Seller shall be deemed to have waived any such condition. Notwithstanding any provision of this Contract to the contrary, the failure of Buyer to satisfy the condition to Seller's obligation to close set forth in Sections 7.5.1 shall not constitute a breach or default by Buyer hereunder.

ARTICLE 8. Default.

8.1 Seller Default. In the event of a breach or default by Seller of any of the representations or warranties described in Article 10 or Article 14 herein, or in the certificate to be delivered by Seller pursuant to Section 4.2.12 hereof, or any breach or default of Seller of any covenants or obligations hereunder on or before the Closing Date, Buyer's sole and exclusive remedy shall be the right to elect any one of the following rights and remedies:

- 8.1.1 Buyer shall have the right to terminate this Contract by notice to Seller, in which event (a) the Deposit shall be deemed returned to Buyer and the Trackage Rights Debt shall be reinstated as of the date of such deemed return, (b) Buyer shall be reimbursed all costs incurred in connection with this transaction, including its counsel fees and third party due diligence costs, and (c) thereupon all obligations of the parties under this Contract shall terminate (other than any party's obligations under Section 5.4 and ARTICLE 14 hereof, which shall remain in effect).
- 8.1.2 Buyer shall have the right to waive the default or failure of conditions and proceed to Closing in accordance with the provisions of this Contract.
- 8.1.3 Buyer may seek and obtain specific performance for conveyance of the Property on the terms and conditions set forth in this Contract.

8.2 Buyer Default. In the event of a default by Buyer of any of its representations or warranties described in Article 14 or Article 15 herein, or in the certificate to be delivered by Buyer pursuant to Section 4.3.9 hereof, or any default by Buyer of any of its covenants or obligations hereunder, it would be extremely impracticable and difficult to estimate the damage and harm which Seller would suffer, and because a reasonable estimate of the total net detriment that Seller would suffer in the event of Buyer's failure to duly complete the acquisition hereunder is the amount of the Deposit, the Trackage Rights Debt shall be deemed to be satisfied and paid in full, and such deemed payment shall be Seller's sole and exclusive remedy for damages arising from Buyer's failure to complete the acquisition in accordance with the terms hereof, and Seller shall have no further recourse or remedy at law or in equity for any such breach by Buyer hereunder; provided, however that, notwithstanding anything herein to the contrary, in addition to such deemed payment, Seller shall also have the right to enforce Buyer's obligations under Section 5.4, Section 5.5 and ARTICLE 14 hereof.

8.3 No Indirect Damages. Under no circumstances shall Seller or Buyer have the right to any indirect, consequential or punitive damages, "overhead" or similar charges, or any damages relating to lost profits or lost opportunities with respect to any such default by the other party hereto, it being understood that Seller and Buyer hereby waive their right to collect all other damages and all of their rights and remedies on account of a default hereunder by the other

party hereto, and agree that the remedies described in this ARTICLE 8 shall be their sole and exclusive remedies in the event of any such default.

ARTICLE 9. Damage or Destruction.

9.1 The risk of loss, damage or destruction to the Property by fire or other casualty or the taking of all or part of the Property by condemnation or eminent domain or by an agreement in lieu thereof until the Closing is assumed by Seller, provided, however, that Seller shall have no risk under this Section 9.1 with respect to any condemnation or eminent domain action taken by Buyer.

9.2 In the event of any damage or destruction of the Property of a type which, in Buyer's reasonable determination, will not materially impair Buyer's intended use of the Property for passenger rail service and that is fully covered by insurance subject to commercially reasonable insurance deductibles, then Buyer shall (unless such damage has been repaired by Seller in a good and workmanlike manner prior to Closing), accept title to the Property in its destroyed or damaged condition. Buyer shall pay the full Purchase Price at Closing without reduction, and Seller shall pay over or assign to Buyer all rights to any proceeds of insurance payable with respect to such destruction or damage (less amounts reasonably expended by Seller in repairing the damage prior to the Closing Date) and Buyer shall have a credit against the Purchase Price in the amount of any deductible.

9.3 In the event of any damage or destruction of the Property of a type which, in Buyer's reasonable determination, materially impairs Buyer's intended use of the Property for passenger rail service, or, in Buyer's reasonable determination, does not materially impair Buyer's intended use of the Property for passenger rail service but is not fully covered by insurance subject to commercially reasonable insurance deductibles, then at Buyer's election, unless Seller has previously repaired or restored the Property to its former condition, (a) Buyer shall terminate this Contract by delivering written notice to Seller, in which case the Deposit shall be deemed returned to Buyer, the Trackage Rights Debt shall be reinstated as of the date of such deemed return, and all other obligations of the parties hereto shall cease except those set forth in Section 5.4, Section 5.5 and ARTICLE 14 hereof, and this Contract shall be void and without recourse to the parties hereto or (b) Seller shall pay over or assign to Buyer all rights to any proceeds of insurance payable with respect to such destruction or damage (less amounts reasonably expended by Seller in repairing the damage prior to the Closing Date) and Buyer shall have a credit against the Purchase Price in the amount of any deductible.

9.4 Seller shall promptly notify Buyer of any material damage or destruction to the Property or any notice received by it or information or awareness acquired by it regarding the threatening of or commencement of condemnation or similar proceedings.

ARTICLE 10. Representations and Warranties of Seller.

10.1 In order to induce Buyer to enter into this Contract and to consummate the purchase of the Property, Seller hereby represents and warrants to Buyer as of the date of this Contract as follows:

- 10.1.1 Authority. Seller is, and on the Closing Date shall be, a limited liability company duly and validly organized and existing and governed by the laws of the State of Delaware and registered to do business in the Commonwealth of Massachusetts. This Contract and all documents executed by Seller that are to be delivered to Buyer at the Closing are, or at the time of Closing will be, duly authorized, executed and delivered by Seller, and all consents required under Seller's organizational documents or by law will have been obtained. Except as otherwise specifically provided herein, all necessary third party or governmental consents and approvals to the transactions contemplated hereby have been obtained. This Contract and such documents are, or at the Closing will be, legal, valid, and binding obligations of Buyer enforceable in accordance with their terms, and do not, and at the time of Closing will not, violate any provisions of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.
- 10.1.2 Condemnation. There are no condemnation, zoning, environmental or other land use regulation proceedings, either instituted or to Seller's knowledge planned to be instituted, that would materially and detrimentally affect the use, occupancy and operation of the Property for Buyer's intended purpose as a passenger rail line, or the value of the Property.
- 10.1.3 Intangibles and Permits. To Seller's knowledge, Seller has delivered to Buyer true and complete copies of (a) all Intangibles and Permits, and (b) all extensions, renewals and amendments thereto; and the Intangibles and Permits are in full force and effect. To Seller's knowledge, the list of Intangibles and Permits set forth on Exhibit E is true, correct and complete in all respects.
- 10.1.4 Abandonment. None of the Property has been abandoned or discontinued, and Seller has not filed a request for any such abandonment or discontinuance with the STB or otherwise.
- 10.1.5 Violations of Law. To Seller's knowledge, the Property is not in violation of any law, ordinance, rule or regulation applicable to the Property to the extent that such violation would materially and detrimentally affect the use, occupancy and operation of the Property for Buyer's intended purpose as a passenger rail line, or the value of the Property. To Seller's knowledge, all Permits required for the ownership, use or operation of the Property have been duly and validly issued by the appropriate authority and are in full force and effect. Seller has not received any written notice of proceedings relating to the revocation or modification of any such Permits which would have an adverse effect on the Property.

- 10.1.6 Special Assessments. There are no special assessments filed, pending or, to the best of Seller's knowledge, proposed, against the Property or any portion thereof, including, without limitation, any street improvement or special district assessments.
- 10.1.7 Bankruptcy. Seller has not filed any petition, nor has been the party against whom a petition has been filed, in relation to any bankruptcy, including, requests for reorganization, for the appointment of a receiver or trustee, or for the arrangement of debt, nor to the best of Seller's knowledge, is any such action threatened or contemplated.
- 10.1.8 Environmental Matters. To Seller's knowledge, Seller has delivered to Buyer complete copies of all reports prepared for Seller or are in Seller's possession or control related to Hazardous Materials, asbestos, lead paint, radon, lead in drinking water, mold, oil, urea-formaldehyde and other similar substances, a list of which is attached hereto as EXHIBIT F and incorporated herein by reference (the "Environmental Reports"). For purposes of this paragraph, the term "Environmental Laws" shall mean all existing applicable federal, state, or local laws, rules or regulations and any judicial or administrative interpretation thereof, including any judicial or administrative orders or judgments, relating to the protection of human health, safety and the environment; and the term "Hazardous Materials" shall include any substance, chemical, compound, product, solid, gas, liquid, waste, byproduct, pollutant, contaminant or material which is hazardous, toxic, ignitable, corrosive, carcinogenic or otherwise dangerous to human, plant or animal life or the environment or which are defined, determined or identified as such in any Environmental Laws or which are regulated or subject to clean-up authority under any Environmental Laws, including, but not limited to materials defined as (A) "hazardous waste" under the Federal Resource Conservation and Recovery Act; (B) "hazardous substances" under the Federal Comprehensive Environmental Response, Compensation and Liability Act, (C) "pollutants" under the Federal Clean Water Act; (D) "toxic substances" under the Toxic Substances Control Act; and (E) "oil or hazardous materials" under state law, including, without limitation, M.G.L. ch. 21E and the Massachusetts Contingency Plan (310 C.M.R. 40.00). Notwithstanding the foregoing, Buyer shall not in any way rely upon any statement or representation contained in the Environmental Reports, and in conducting this transaction, Buyer shall rely solely upon the results of Buyer's own inspections or other information obtained or otherwise available to Buyer. Seller expressly makes no representations or warranties as to the completeness, accuracy or any other aspect of the Environmental Reports.
- 10.1.9 Litigation. Except as set forth on EXHIBIT G attached hereto and incorporated herein by reference, there is not now pending nor, to Seller's knowledge, has there been threatened any legal action, suit or

proceeding against Seller or the Property before any federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign that would affect Seller's ability to perform under this Contract.

- 10.1.10 No Employees. Except as may be detailed in the Operating Agreement, Buyer shall have no obligation, liability or responsibility with respect to charges, salaries, vacation pay, fringe benefits or like items subsequent to Closing, nor with respect to any management or employment agreements with respect to the Property.
- 10.1.11 Section 1445. Seller is not a "foreign person" as defined by the Internal Revenue Code (the "Code"), Section 1445, Seller's Taxpayer or Employer I.D. Number is _____, and Seller will execute and deliver to Buyer at Closing an affidavit or certification in compliance with Code Section 1445.
- 10.1.12 Patriot Act/Executive Order 13224. Seller is not in violation of any legal requirements, now or hereafter in effect, relating to money laundering, anti-terrorism, trade embargoes and economic sanctions, including, without limitation, Executive Order 13224 (as defined below) and the Patriot Act (as defined below). Seller (i) is not (a) a Blocked Person (as defined below) or (b) owned, in whole or in part, directly or indirectly, by any Blocked Person; and (ii) does not (a) conduct any business or engage in any transaction or dealing with a Blocked Person or (b) deal in, or otherwise engage in, any transaction or dealing relating to any property, or interests in property, blocked pursuant to Executive Order 13224.

As used herein, (i) "Blocked Person" is defined as any individuals or entities which (a) are owned or controlled by, or acting on behalf of, the governments of countries currently listed under section 6(j) of the Export Administration Act as supporting international terrorism, or (b) are owned or controlled by, are acting on behalf of, or are associated with international terrorism, as indicated by their listing on the Treasury Department's Specially Designated Nationals and Blocked Persons, as updated from time to time; (ii) "Executive Order 13224" is defined as Executive Order Number 13224, "Blocking Property Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism," 66 Fed. Reg. 49079 (Sept. 23, 2001); and (iii) "Patriot Act" is defined as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272.

- 10.1.13 Cross-Representations. Seller further represents and warrants that any provision specifically identified as a representation or warranty in the Deed, the PAS Passenger Operating Rights Transfer Document, if any,

the Assignment and Assumption Agreement, the Bill(s) of Sale, the Locomotive Shop Release, the Operating Agreement, the Construction Agreement or the New Construction Agreement, the SOA Assignment Agreement, the Locomotive Shop Claims Release, and any specifically identified representation or warranty contained in an agreement entered into at Closing by Buyer and Seller pursuant to Section 4.2.19 and Section 4.3.10 is true and correct.

10.2 Subject to the provisions in Section 10.1.8, Seller shall indemnify and defend Buyer against and hold Buyer harmless from any and all claims related to losses, costs, damages, liabilities and expenses (including, without limitation, reasonable counsel fees) arising out of any breach by Seller of its representations and warranties described in this Article 10 or in Article 14 herein.

10.3 The representations and warranties of Seller contained herein shall survive the Closing and delivery of the Deed for a period of five (5) years after Closing, and with respect to any written claim made within such period, until final unappealable adjudication or settlement thereof.

ARTICLE 11. Seller's Covenants Prior to Closing. Between the date hereof and the Closing:

11.1 Operation of Property. Subject to the provisions of ARTICLE 11 hereof, Seller shall operate the Property or cause the Property to be operated in the ordinary course of business and consistent with past procedures heretofore followed by it in connection with such operation, including, without limitation, maintaining Seller's existing insurance coverage with respect to the Property provided, however, that Seller shall not cause a change to all or any portion of the Property sufficient to interfere with Buyer's ability to provide passenger rail service on the Land or pursuant to the PAS Passenger Operating Rights. In addition, Seller shall comply with the provisions of the Existing Construction Agreement.

11.2 Removal of Fixtures and Personal Property. Seller shall not permit the removal of any item of the Included Fixtures or the Included Tangible Personal Property, from the Property unless the same is obsolete and is replaced by tangible personal property of equal or greater utility and value.

11.3 Contracts and Intangibles. Except as otherwise permitted by Section 3.9 hereof, Seller shall not (i) enter into any contract, agreement, lease, license, occupancy agreement relating to the ownership, use or operation of the Property, (ii) amend, modify or cancel any of the Intangibles (or any guaranty thereof) or (iii) grant any consents under, or waive any provisions of, any of the Intangibles, in each case without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

ARTICLE 12. Apportionment of Taxes and Other Charges.

12.1 Prorations. All normal and customarily proratable items, including without limitation, real estate and personal property taxes and assessments, utility bills (except as hereinafter provided), collected rents and other income received in connection with any Intangibles, and Operating Contract payments (under Operating Contracts assumed by Buyer),

shall be prorated as of the Closing Date, Seller being charged and credited for all of the same relating to the period up to the Closing Date and Buyer being charged and credited for all of the same relating to the period on and after the Closing Date. If the amount of any such item is not known at the time of the delivery of the Deed, such item shall be apportioned on the basis of the comparable period of the prior year with a reapportionment within ninety (90) days of the Closing Date or as soon thereafter as the amount of the item is actually determined. All street, drainage, betterment and like assessments (or portions thereof) assessed against the Property prior to Closing relating to periods prior to Closing, shall be paid by Seller at Closing.

12.2 Utilities. Final readings and final billings for utilities will be made if possible as of the Closing Date, in which event no proration shall be made at the Closing with respect to utility bills. Otherwise a proration shall be made based upon the parties' reasonable good faith estimate and a readjustment made within thirty (30) days after Closing or such later date as shall be necessary so that such readjustment may be based upon actual bills for such utilities. Seller shall be entitled to receive a return of all deposits presently in effect with the utility providers, and Buyer shall be obligated to make its own arrangements for deposits with the utility providers. The costs of charges for utilities incurred after the Closing shall be allocated as set forth in the Operating Agreement and the Construction Agreement.

12.3 Survival. The provisions of this ARTICLE 12 shall survive the Closing for a period of one (1) year, and in the event of any error in performing the prorations contemplated by this Contract or if information becomes available subsequent to the Closing indicating that the prorations performed at Closing were not accurate the parties hereto shall be obligated promptly to re-prorate the closing adjustments to correct such errors and to reflect such new information. A detailed statement shall be prepared at the Closing setting forth the manner of computation of the aforesaid proration adjustments.

ARTICLE 13. Closing Costs.

Except as hereinafter specifically provided, Seller and Buyer shall allocate all closing costs between them in accordance with standard practice in Boston, Massachusetts. Each of Seller and Buyer shall be responsible for preparing such documents as it is obligated to deliver pursuant to ARTICLE 4 hereof and for its own legal expenses. Seller and Buyer agree to allocate closing costs as follows:

13.1 Transfer taxes, deed taxes, or the like shall be paid by Buyer.

13.2 The cost of Buyer's due diligence inspections including, without limitation, costs for the updating of existing surveys or obtaining new surveys, environmental diligence, property reviews and the like shall be paid by Buyer.

13.3 The cost of preparation and recordation of any releases and termination statements required to clear title to the Property shall be paid by Seller.

13.4 The cost of recordation of the Deed shall be paid by Buyer.

ARTICLE 14. Broker.

14.1 Each party represents hereby to the other that it dealt with no broker in the consummation of this Contract. Seller shall indemnify and save Buyer harmless from and against any claim, loss, cost, damage, liabilities and expense (including, without limitation, reasonable counsel fees and court costs) arising from the breach of such representation by Seller. Buyer shall save Seller harmless from and against any claim, loss, cost, damage, liabilities and expense (including, without limitation, reasonable counsel fees and court costs) arising from the breach of such representation by Buyer.

14.2 The provisions of this ARTICLE 14 shall survive Closing or the termination of this Contract.

ARTICLE 15. Representations and Warranties of Buyer.

Buyer hereby represents and warrants to Seller as of the date hereof as follows:

15.1 This Contract and all documents executed by Buyer that are to be delivered to Seller at the Closing are, or at the time of Closing will be, duly authorized, executed and delivered by Buyer, and all consents required under Buyer's organizational documents or by law will have been obtained. Except as otherwise specifically provided herein, all necessary third party consents and approvals to the transactions contemplated hereby have been obtained. This Contract and such documents are, or at the Closing will be, legal, valid, and binding obligations of Buyer enforceable in accordance with their terms, and do not, and, at the time of Closing will not, violate any provisions of any agreement or judicial order to which Buyer is a party or to which it is subject.

15.2 There are no proceedings pending or, to Buyer's knowledge, threatened against it in any court or before any governmental authority or any tribunal which, if adversely determined, would have an adverse effect on its ability to purchase the Property or to carry out its obligations under this Contract.

15.3 Buyer is not in violation of any legal requirements, now or hereafter in effect, relating to money laundering, anti-terrorism, trade embargoes and economic sanctions, including, without limitation, Executive Order 13224 and the Patriot Act. Buyer (i) is not (a) a Blocked Person or (b) owned, in whole or in part, directly or indirectly, by any Blocked Person; and (ii) does not (a) conduct any business or engage in any transaction or dealing with a Blocked Person or (b) deal in, or otherwise engage in, any transaction or dealing relating to any property, or interests in property, blocked pursuant to Executive Order 13224.

15.4 Buyer further represents and warrants that any provision specifically identified as a representation or warranty in the Deed, the PAS Passenger Operating Rights Transfer Document, if any, the Assignment and Assumption Agreement, the Bill(s) of Sale, the Locomotive Shop Release, the Operating Agreement, the Construction Agreement or the New Construction Agreement, the SOA Assignment Agreement, the Locomotive Shop Claims Release, and any specifically identified representation or warranty contained in an agreement entered into at Closing by Buyer and Seller pursuant to Section 4.2.19 and Section 4.3.10 is true and correct.

15.5 Buyer shall hold Seller harmless from any and all losses, costs, damages, liabilities and expenses (including, without limitation, reasonable counsel fees) arising out of any breach by Buyer of its representations and warranties hereunder.

15.6 The representations and warranties of Buyer contained herein shall survive the Closing and delivery of the Deed for a period of five (5) years after Closing, and with respect to any written claim made within such period, until final unappealable adjudication or settlement thereof.

ARTICLE 16. Eminent Domain.

16.1 Nothing contained herein shall preclude Buyer's ability to record a "Confirmatory Order of Taking" for the Property; provided, however, that such exercise shall not modify, amend, limit or restrict the Retained Freight Easement or the rights and obligations of the parties hereto under this Contract, nor reduce the Purchase Price.

16.2 If prior the Closing Date, all or a material portion of the Property is taken by condemnation, eminent domain or by agreement in lieu thereof by any governmental entity other than Buyer, or any proceeding to acquire, take or condemn all or a material portion of the Property is threatened or commenced by any governmental entity other than Buyer, Buyer may either terminate this Contract (in which event the Deposit shall be deemed returned to Buyer, the Trackage Rights Debt shall be reinstated as of the date of such deemed return, and all other obligations of the parties hereto shall cease except those set forth in Section 5.4 and ARTICLE 14 hereof) or purchase the Property in accordance with the terms hereof, without reduction in the Purchase Price, together with an assignment of Seller's rights to any award paid or payable by or on behalf of the condemning authority. If Seller has received payments from the condemning authority and if Buyer elects to purchase the Property, Seller shall credit the amount of said payments against the Purchase Price at the Closing (less amounts reasonably expended by Seller in repairing the damage prior to the Closing Date).

16.3 The provisions of this ARTICLE 16 shall survive the Closing.

ARTICLE 17. Further Assurances.

Seller and Buyer shall cooperate with one another at reasonable times and on reasonable conditions and shall execute and deliver such instruments and documents as may be necessary in order fully to carry out the intent and purposes of the transactions contemplated hereby. Except for such instruments and documents as the parties were originally obligated to deliver by the terms of this Contract, such cooperation shall be without additional cost or liability. The provisions of this ARTICLE 17 shall survive the Closing.

ARTICLE 18. Notices.

Any notice, consent or approval required or permitted to be given under this Contract shall be in writing and shall be deemed to have been given upon (i) hand delivery, (ii) one business day after being deposited with Federal Express or another reliable overnight courier service for next day delivery, or (iii) three business days after being deposited in the United

States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

To Seller: General Manager
Pan Am Southern LLC
1700 Iron Horse Park
North Billerica, MA 01862

with a copy to:

Law Department
Pan Am Southern LLC
1700 Iron Horse Park
North Billerica, MA 01862

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

To Buyer: Deputy Rail Administrator
Massachusetts Department of Transportation
10 Park Plaza
Boston, MA 02116
Attention: John D. Ray

and to:

Senior Director of Operations Contracted Services
Massachusetts Bay Transportation Authority
45 High Street, 9th Floor
Boston, MA 02110
Attention: Steven C. Mudge

with a copy to:

Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110
Attention: Peter N. Kochansky

or such other address as either party may from time to time specify in writing to the other. Any notice, consent, approval or extension of time hereunder may be given on behalf of a party by its attorney in accordance with the terms of this ARTICLE 18.

ARTICLE 19. Miscellaneous.

19.1 Cooperation. Buyer and Seller shall cooperate in providing such information as may be required by governmental authorities to approve the transactions contemplated by this Contract.

19.2 Assignment by Buyer; Successors and Assigns. Without the prior written consent of Seller, which consent may be withheld in Seller's sole discretion, Buyer shall not, directly or indirectly, assign this Contract or any of its rights hereunder. Notwithstanding the foregoing, Buyer shall have the right to assign this Contract to the MBTA without Seller's prior written consent; provided that Buyer gives Seller written notice of such assignment and the MBTA assumes the obligations of Buyer hereunder in writing. Subject to the terms of this paragraph, this Contract shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

19.3 Entire Agreement; Amendment. The parties understand and agree that their entire agreement is contained herein and that no warranties, guarantees, statements, or representations shall be valid or binding on a party unless set forth in this Contract. It is further understood and agreed that all prior understandings and agreements heretofore had between the parties are merged in this Contract which alone fully and completely expresses their agreement and that the same is entered into after full investigation, neither party relying on any statement or representation not embodied in this Contract. This Contract may be changed, modified, altered or terminated only by a written agreement signed by Buyer and Seller.

19.4 Governing Law. This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to principles of choice of law or conflicts of law. For purposes of any suit, action or proceeding involving this Contract, Buyer and Seller hereby expressly submit to the jurisdiction of all federal and state courts sitting in the Commonwealth of Massachusetts and consent that any order, process, notice of motion or application to or by any such court or a judge thereof may be served within or without such court's jurisdiction by registered mail or by personal service, provided that a reasonable time for appearance is allowed, and the parties agree that such courts shall have exclusive jurisdiction over any such suit, action or proceeding commenced by either or both of said parties. In furtherance of such agreement, the parties agree upon the request of the other to discontinue (or agree to the discontinuance of) any such suit, action or proceeding pending in any other jurisdiction. Each party hereby irrevocably waives any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Contract brought in any federal or state court sitting in the Commonwealth of Massachusetts, and hereby further irrevocably waives any claim that such suit, action or proceeding brought in any such court has been brought in an inconvenient form.

19.5 Waiver of Trial by Jury. In recognition of the benefits of having any disputes with respect to this Contract resolved by an experienced and expert person, Buyer and Seller hereby

agree that any suit, action or proceeding, whether claim or counterclaim, brought or instituted by any party hereto on or with respect to this Contract or which in any way relates, directly or indirectly, to this Contract or any event, transaction, or occurrence arising out of or in any way connected with this Contract or the Property, or the dealings of the parties with respect thereto, shall be tried only by a court and not by a jury. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, EXPRESSLY AND INTENTIONALLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION, OR PROCEEDING.

19.6 No Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by Seller or Buyer of the breach of any covenant of this Contract shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Contract.

19.7 Time of the Essence; Time Periods. Time is of the essence of this Contract. Any reference in this Contract to the time for the performance of obligations or elapsed time shall mean consecutive calendar or business days, months, or years, as applicable. As used in this Contract, the term "business day" shall mean any day other than a Saturday, Sunday, recognized federal holiday or a recognized state holiday in the Commonwealth of Massachusetts. If the last date for performance by either party under this Contract occurs on a day which is not a business day, then the last date for such performance shall be extended to the next occurring business day.

19.8 Severability. If any term, provision, covenant, or condition of this Contract, or the application thereof to any person or any circumstance, is held to be unenforceable, invalid or illegal (in whole or in part) for any reason (in any relevant jurisdiction), the remaining terms, provisions, covenants, and conditions of this Contract, modified by the deletion of the unenforceable, invalid or illegal portion (in any relevant jurisdiction), will continue in full force and effect, and such unenforceability, invalidity, or illegality will not otherwise affect the enforceability, validity or legality of the remaining terms, provisions, covenants and conditions of this Contract so long as this Contract as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the deletion of such portion of this Contract will not substantially impair the respective expectations of the parties or the practical realization of the benefits that would otherwise be enforced upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited or unenforceable provision with a valid provision, the economic effect of which comes as close as possible to that of the prohibited or unenforceable provision.

19.9 Counterparts. This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, but any number of which, taken together, shall be deemed to constitute one and the same instrument.

19.10 Construction of Agreement. This Contract shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared primarily by counsel for one of the parties, it being recognized that both Buyer and Seller have contributed substantially and materially to the preparation of this Contract.

19.11 No Personal Liability. Buyer acknowledges and agrees that no general or limited partner, officer, director, equity owner, employee, agent, member, manager or representative of

Seller (or any partner, member or manager of such a partner, member or manager) shall ever have any personal liability under this Contract. Seller acknowledges and agrees that no general or limited partner, officer, director, member, manager, equity owner, employee or representative of Buyer (or any partner, member or manager of such a partner, member or manager) shall ever have any personal liability under this Contract.

19.12 Merger. Except as otherwise specifically provided herein or in any closing document, the acceptance of the deed and the recordation thereof shall be deemed to be a full and complete performance and discharge of every agreement and obligation of the Seller herein contained.

19.13 No Third Party Beneficiaries. Nothing in this Contract is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Contract.

19.14 Captions. The captions in this Contract are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Contract or any part hereof.

19.15 Recording. It is agreed hereby that neither this Contract nor any notice or memorandum hereof shall be recorded or filed with any Registry of Deeds or Registry District of the Land Court.

19.16 Marketing. During the term of this Contract, Seller agrees not to market the Property to any other prospective purchasers or accept any offers for the Property (whether or not subordinate to this Contract) from any other prospective purchasers.

19.17 No Offer. The submission of this Contract for review and execution shall not be deemed an offer by Seller to sell the Property nor a reservation or option for the Property on behalf of the Buyer. This Contract shall become effective and binding only upon the execution and delivery hereof by both Buyer and Seller.

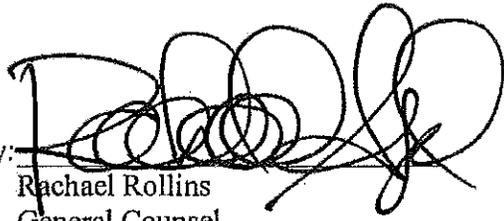
[Signatures to follow on next page]

IN WITNESS WHEREOF, the parties hereto have executed this Contract as an instrument under seal as of the day and date first written above.

Buyer:

APPROVAL AS TO FORM

**MASSACHUSETTS DEPARTMENT OF
TRANSPORTATION**

By: 
Rachael Rollins
General Counsel
Massachusetts Department of
Transportation

By: 
Richard A. Davey
Secretary and Chief Executive Officer

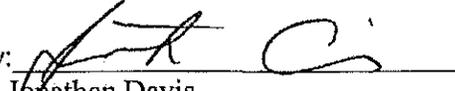
Seller:

PAN AM SOUTHERN LLC

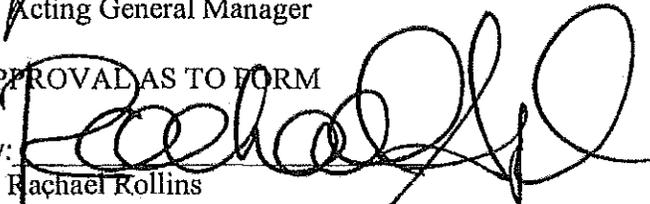
By: 
Name:
Title:

ACCEPTED AND AGREED TO:

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

By: 
Jonathan Davis
Acting General Manager

APPROVAL AS TO FORM

By: 
Rachael Rollins
General Counsel
Massachusetts Bay Transportation Authority

ACCEPTED AND AGREED TO:

BOSTON AND MAINE CORPORATION

By: Paul G. Fitch
Name:
Title:

ACCEPTED AND AGREED TO:

SPRINGFIELD TERMINAL RAILWAY CORPORATION

By: Paul G. Fitch
Name:
Title:

EXHIBIT A

DESCRIPTION OF PROPERTY

The Right of Way between Station 2+25 in Springfield, Massachusetts and Station 2613+6685 in Northfield, Massachusetts and all adjoining property and any right, title, or interest of Seller with respect to the operation of passenger trains held by Seller in the Right of Way between Station 2+25 in Springfield, Massachusetts and the Massachusetts border with Connecticut in Longmeadow.

EXHIBIT A-1
PLANS AND VALUATION MAPS

[To be developed.]

EXHIBIT B

CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a transferee (or buyer) of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by _____ ("Transferor"), the undersigned being duly authorized hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in §1.1445-2(b)(2)(iii) [*or Transferor is a disregarded entity and _____ is its sole member*];
3. Transferor's U.S. employer identification number is _____; and
4. Transferor's office address is 1700 Iron Horse Park, North Billerica, Massachusetts, 01862.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalties of perjury, the undersigned declares that he/she has examined this certification, and to the best of his/her knowledge and belief it is true, correct, and complete.

By: _____
Name:
Title:

EXHIBIT D

DISCLOSURE STATEMENT UNDER SECTION 40J
OF CHAPTER 7 OF THE MASSACHUSETTS GENERAL LAWS

1. Location: See Exhibit A attached hereto.
2. Grantor: Pan Am Southern LLC
3. Grantee: Massachusetts Bay Transportation Authority
4. I hereby state, under the pains and penalties of perjury, that the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in the above-listed property are listed below in compliance with the provisions of Section 40J of Chapter 7.

NAMES AND ADDRESSES OF ALL PERSONS WITH SAID BENEFICIAL INTEREST:

5. The undersigned also acknowledges and states that none of the above listed individuals is an official elected to public office in the Commonwealth of Massachusetts, nor is an employee of the State Department of Capital Asset Management and Maintenance.

SIGNED under the penalties of perjury.

PAN AM SOUTHERN LLC

By: _____
Name:
Title:

Date: As of _____, 2012

Exhibit A to Disclosure Statement Under Section 40J
of Chapter 7 of the Massachusetts General Laws

EXHIBIT E

LIST OF INTANGIBLES AND PERMITS

[To be developed.]

EXHIBIT E-1

EXCLUDED INTANGIBLES

[To be developed.]

EXHIBIT F
ENVIRONMENTAL REPORTS

[To be developed.]

EXHIBIT G

LITIGATION

[To be developed.]

EXHIBIT H

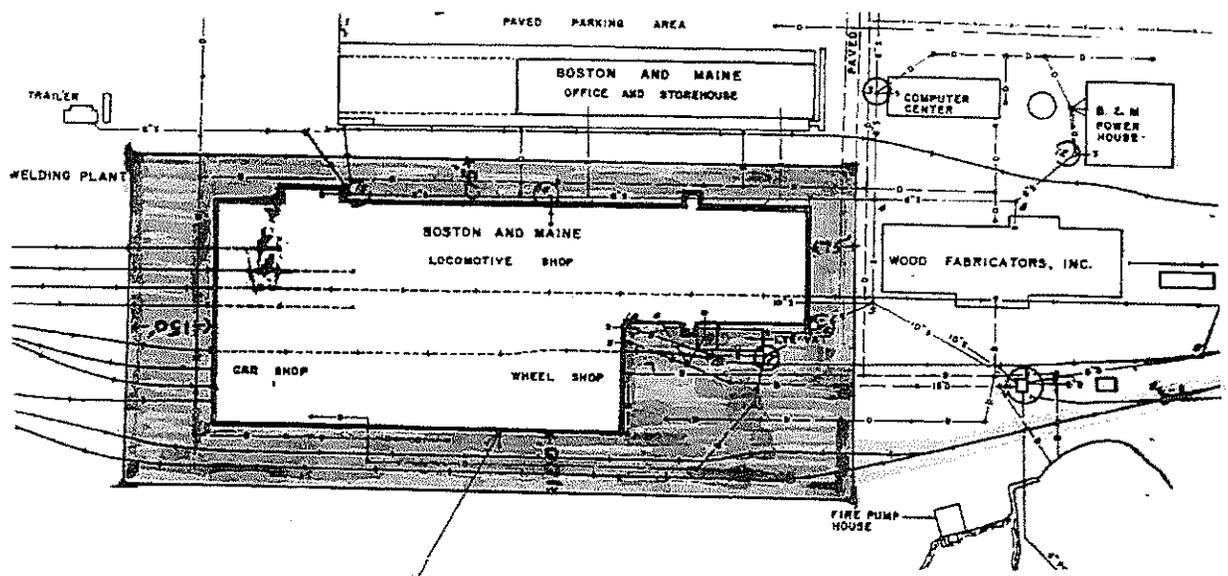
BILLERICA LOCOMOTIVE SHOP

[To be developed.]

(NW)

← TO BILLERICA

TO LOWELL →



75' off NW F.
 75' off NE F.
 100' off SE F.
 150' off SW F.

(SW)

(NE)

BUILDING AREA = 227,200± S.F.
 (5.22± ACRES)

BOSTON & MAINE CORPORATION		
OFFICE OF THE VICE PRESIDENT - ENGINEERING		
LAND SALE PLAN BILLERICA, MA		
LINE : BILLERICA SHOPS		
V.S. 7.18	MAP 1	MILEPOST :
SCALE : 1" = 200'		DATE : 12/30/09
DRAWN BY : M.S.	CHECKED BY : V.C.M.	APPROVED BY : M.A.T.

(SE)

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35863

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF PAN AM SOUTHERN LLC

MOTION TO DISMISS

EXHIBIT F

REINSTATEMENT AND FIRST AMENDMENT TO PURCHASE AND SALE CONTRACT

This Reinstatement and First Amendment to Purchase and Sale Contract (the "**Amendment**") is made as of this ___ day of _____, 2014, by and between PAN AM SOUTHERN LLC, a Delaware limited liability company, having an address of 1700 Iron Horse Park, Billerica, Massachusetts (hereinafter referred to as "**Seller**"), and THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION, having an address of 10 Park Plaza, Boston, Massachusetts (hereinafter referred to as "**Buyer**"). The Massachusetts Bay Transportation Authority, a body politic and corporate created by and acting pursuant to Chapter 161A of the General Laws of the Commonwealth of Massachusetts, as amended (the "**MBTA**"), Boston and Maine Corporation, a Delaware corporation ("**B&M**"), Springfield Terminal Railway Company, a Vermont corporation ("**STRC**"), and _____, a _____ ("**Escrow Agent**") join in the Amendment to confirm their agreement with respect to the rights and obligations described in certain provisions of the Contract (defined below), as set forth therein.

RECITALS

A. Seller and Buyer are parties to that certain Purchase and Sale Contract (as amended, the "**Contract**"), dated as of May 25, 2012, affecting property defined in the Contract as the Property. The conditions to Seller's and Buyer's obligations to close the transaction contemplated in the Contract were not satisfied as of the Closing Date, but Seller and Buyer wish to reinstate and amend the Contract to extend the Closing Date under the Contract.

B. All capitalized terms used but not defined in this Amendment shall have the meaning given to such terms in the Contract.

AMENDMENT

In consideration of the mutual covenants and agreements contained herein and \$10.00 and other good and valuable consideration, the receipt, sufficiency and delivery of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Section 4.1 of the Contract is hereby deleted in its entirety and replaced with the following:

"4.1.1 Unless extended pursuant to the terms of this Contract, the closing of the transactions contemplated hereunder (the "**Closing**") shall take place at 10 a.m. _____, 2014 (the "**Closing Date**"), through an escrow established with Escrow Agent. Simultaneously with the execution of the Reinstatement and First Amendment to this Contract, (i) Seller has delivered to Escrow Agent (a) the Deed, duly executed by Seller and acknowledged as required and (b) the Operating Agreement (as hereinafter defined), duly executed by Seller (the Deed and the Operating Agreement are sometimes referred to collectively herein as the "**Escrow Documents**"); and (ii) Buyer has delivered to Escrow Agent the Operating Agreement (as hereinafter defined) duly executed by Buyer.

4.1.2 Escrow Agent hereby agrees to hold, administer, and release the Escrow Documents pursuant to the terms of the Contract, and shall conduct the Closing and carry

out the duties of Escrow Agent, in accordance with this Contract. Without limiting the foregoing and notwithstanding anything herein to the contrary, Escrow Agent shall conduct the Closing upon satisfaction of the following conditions:

1. Escrow Agent shall have received from Seller each of the documents, duly executed by Seller, and other items described in Section 4.2 herein;

2. Escrow Agent shall have received from Buyer each of the documents, duly executed by Buyer, and other items described in Section 4.3 herein;

3. Escrow Agent shall have received written closing instructions signed by authorized representatives of Seller and Buyer (the "**Closing Instructions**"), which Closing Instructions shall confirm that the conditions to Closing set forth in this Contract have either been satisfied or waived by Seller and/or Buyer, as appropriate, and directing the release, and, as appropriate, the recording of certain of the documents listed in Section 4.2 and Section 4.3.

4.1.3 Upon the satisfaction of the requirements enumerated in Section 4.1.2 above, Escrow Agent shall, in the manner set forth in accordance with the Closing Instructions and closing statement signed by Seller and Buyer, record the Deed and release each of the documents received from Buyer and Seller pursuant to this Contract, all consistent with the Closing Instructions.

4.1.4 In the event that the Escrow Agent has not received the Closing Instructions on or before the date that is one hundred twenty (120) days after the delivery of the Escrow Documents from Buyer and Seller, Escrow Agent shall return any and all documents received pursuant to this Contract to the party that originally delivered the same, and the escrow established by this Contract shall terminate.

4.1.5 In performing any of its duties hereunder, Escrow Agent shall not incur any liability to anyone for any damages, losses, or expenses, except for gross negligence, willful default or breach of trust, and it shall accordingly not incur any such liability with respect to (i) any action taken or omitted in good faith upon advice of its legal counsel given with respect to any questions relating to the duties and responsibilities of Escrow Agent under this Contract, or (ii) any action taken or omitted in reliance upon any instrument, including any written notice or instruction provided for in this Contract, not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by a proper person or persons, and to conform with the provisions of this Contract.

4.1.6 By joining and signing this Contract, Escrow Agent hereby agrees to be bound by the terms of this Contract, subject to each of the following conditions:

- (i) Escrow Agent shall not be liable to anyone for damages, losses or expenses arising out of this Agreement or any action or failure to

act by Escrow Agent hereunder so long as such action or failure to act is in good faith.

- (ii) Escrow Agent shall not be responsible for the acts or omissions of any other parties hereto.
- (iii) Escrow Agent shall be entitled to assume in good faith the authenticity, validity and effectiveness of any notices delivered to it, and Escrow Agent shall not be obligated to make any investigation or determination as to the truth and accuracy of any information contained therein. Without limiting the generality of the foregoing, should any dispute arise among the parties, or should a third party serve Escrow Agent with a notice of any claim, Escrow Agent is authorized to retain the Funds without liability to anyone until such dispute shall have been settled by mutual agreement of the parties concerned or by a final order, decree or judgment by a court of competent jurisdiction, not subject to appeal, or until such notice shall have been withdrawn, but Escrow Agent shall be under no duty whatsoever to institute or defend such proceedings.
- (iv) Buyer and Seller jointly and severally agree to defend, indemnify and hold Escrow Agent harmless from any suits, actions, charges, liabilities, debts, claims or expenses arising from or out of or in connection with Escrow Agent's act or failure to act hereunder, except for any suits, actions, charges, liabilities, debts, claims or expenses arising from or out of the bad faith, gross negligence or willful misconduct of Escrow Agent. Escrow Agent shall be entitled to reimbursement by Buyer and Seller jointly and severally, for its reasonable costs and expenses incurred in the performance of its duties hereunder, including without limitation reasonable attorneys' fees of counsel retained by Escrow Agent. As between Buyer and Seller, all amounts under this Section 4.1.6 shall be divided equally.

2. The definition of "Amtrak Host Agreement" is hereby deleted from the table of Definitions following the Table of Contents. Sections 4.2.9 and Section 7.3.6 are hereby deleted.

3. Section 4.2 of the Contract is amended by deleting the first clause thereof and inserting the following new language:

"4.2 At the Closing, Seller shall deliver the following documents, except that the Escrow Documents shall have been delivered to the Escrow Agent prior to Closing in accordance with the provisions set forth in Section 4.1 hereinabove:"

4. Subsection 4.2.16 of the Contract is amended by deleting "Chapter 7, Section 40J" and inserting "Chapter 7C, Section 38".

5. Section 4.2 of the Contract is amended by renumbering the existing Subsection 4.2.19 as Subsection 4.2.22.

6. Section 4.2 of the Contract is amended by inserting the following new subsections after Subsection 4.2.18:

“4.2.19 An agreement executed by Seller and reasonably acceptable to Buyer in which Seller agrees to indemnify, defend and hold harmless Buyer from and against any and all claims, losses, costs, damages and expenses of every kind, including reasonable attorneys’ fees, arising from or related to any instrument or document affecting the Property that is recorded or filed in the applicable Registry of Deeds or Registry District of the Land Court (a) on or after the Closing Date, and (b) prior to the recording of the Deed in such Registry of Deeds or Registry District of the Land Court.”

“4.2.20 One or more affidavits executed by Seller and reasonably acceptable to Buyer in which Seller, the Vermont and Massachusetts Railroad Company, and B&M (a) describe the information that should have been included as Exhibit B to that certain deed recorded with the Hampden County Registry of Deeds in Book 17766, Page 47, that certain deed recorded with the Hampshire County Registry of Deeds in Book 9791, Page 163, and that certain deed recorded with the Franklin County Registry of Deeds in Book 5665, Page 1 (the “**Franklin Deed**”) and (b) confirm that the Franklin Deed intended to convey the land in the Towns of Whately, Bernardston and Northfield described therein notwithstanding the omission of any reference to such towns from the granting clause thereof.”

“4.2.21 An agreement executed by Seller and reasonably acceptable to Buyer in which Seller agrees to indemnify, defend and hold harmless Buyer from and against any and all claims, losses, costs, damages and expenses of every kind, including reasonable attorneys’ fees, arising from or related to the instruments described in Exhibit I attached hereto.” [NOTE: Exhibit I will be revised to include the Northampton Tax Takings that were referenced in former Section 4.2.21.]

7. Section 4.3 of the Contract is amended by deleting the first clause thereof and inserting the following new language:

“4.2 At the Closing, Buyer shall deliver the following documents, except that the Operating Agreement shall have been delivered to the Escrow Agent prior to Closing in accordance with the provisions set forth in Section 4.1 hereinabove:”

8. Section 5.3 is hereby amended by deleting the words “on any day prior to and including the date which is ninety (90) days after the date hereof” from the first sentence of said Section 5.3 and replacing the same with, “at any time prior to 11:59 p.m. on November 1, 2014”.

9. Section 7.1.3 is hereby deleted and replaced with the following: “Buyer and Seller shall mutually agree on the Railroad Line Plans to be attached hereto as EXHIBIT A-1,

and documents (other than the Escrow Documents) to be delivered at Closing, including, without limitation, the form of Bill of Sale, such agreement not to be unreasonably withheld, conditioned, or delayed.”

10. Section 7.1.4 is hereby amended by deleting the third sentence thereof and subparagraphs 1 through 5 thereof.

11. Section 7.2 is hereby deleted and replaced with the following:

7.2 Failure of Mutual Contingency. If any condition to Closing set forth in Section 7.1 is not satisfied at Closing (as the same may be extended), other than as a result of a default by the Buyer or Seller (the remedies for which are provided in **Error! Reference source not found.** below), (a) either Buyer or Seller may terminate this Contract by delivering written notice to the other party and to the Escrow Agent on or after the Closing Date, whereupon the Deposit shall be deemed returned to Buyer, the Trackage Rights Debt shall be reinstated as of the date of such deemed return, Escrow Agent shall return the executed Deed to the Seller and the executed Operating Agreement to Seller and to Buyer, respectively, and all obligations of the parties under this Contract shall terminate (other than any party’s obligations under Section 5.4, Section 5.5 and **Error! Reference source not found.** hereof, which shall remain in effect), or (b) Buyer and Seller may elect to close, notwithstanding the non-satisfaction of such condition, in which event each party shall be deemed to have waived any such condition.

12. Section 7.4 is hereby deleted and replaced with the following:

7.4 Failure of Buyer’s Condition; Extension of Closing Date. If on or before the Closing Date any condition to Buyer’s obligation to close set forth in Section 7.3 has not been satisfied, Buyer shall have the right to either (a) terminate this Contract by delivering written notice to Seller and to Escrow Agent on or after the Closing Date, whereupon the Trackage Rights Debt shall be reinstated as of the date of such deemed return, Escrow Agent shall return the executed Deed to the Seller and the executed Operating Agreement to Seller and to Buyer, respectively, and all obligations of the parties under this Contract shall terminate (other than any party’s obligations under Section **Error! Reference source not found.**, Section 5.5 and Article 14 hereof, which shall remain in effect), or (b) direct the Seller to use reasonable and good faith efforts to satisfy any such unsatisfied condition (other than Section 7.3.5) and, if Buyer so directs, the Closing Date shall be extended by written notice from Buyer to Seller for a period of up to thirty (30) days as specified in said notice and Seller shall thereafter use its good faith efforts to cure any such failure or default. If Buyer elects to extend the Closing Date pursuant to clause (b) of the immediately preceding sentence and any condition to Buyer’s obligation to close set forth in Section 7.3 remains unsatisfied as of such extended Closing Date, then Buyer shall have the right to terminate this Contract by delivering written notice to Seller on the Closing Date, whereupon the Trackage Rights Debt shall be reinstated as of the date of such deemed return, Escrow Agent shall return the executed Deed to the Seller and the

executed Operating Agreement to Seller and to Buyer, respectively, and all obligations of the parties under this Contract shall terminate (other than any party's obligations under Section **Error! Reference source not found.**, Section 5.5 and **Error! Reference source not found.** hereof, which shall remain in effect). Notwithstanding any provision of this Contract to the contrary, the failure of Seller to satisfy any condition to Buyer's obligation to close set forth in Sections 7.3.1, 7.3.2, 7.3.4, , or 7.3.5 shall not constitute a breach or default by Seller hereunder.

13. Section 7.6 is hereby deleted and replaced with the following:

7.6 Failure of Seller's Condition. If on or before the Closing Date any condition to Seller's obligations to close set forth in Section 7.5 has not been satisfied, Seller shall have the right to either (a) terminate this Contract by delivering written notice to Buyer and to Escrow Agent on or after the Closing Date, whereupon the Trackage Rights Debt shall be deemed to be paid in full, Escrow Agent shall return the executed Deed to the Seller and the executed Operating Agreement to Seller and to Buyer, respectively, and all obligations of the parties under this Contract shall terminate (other than any party's obligations under Section 5.4, Section 5.5 and ARTICLE 14 hereof, which shall remain in effect) or (b) elect to close, notwithstanding the non-satisfaction of such condition, in which event Seller shall be deemed to have waived any such condition. Notwithstanding any provision of this Contract to the contrary, the failure of Buyer to satisfy the condition to Seller's obligation to close set forth in Sections 7.5.1 shall not constitute a breach or default by Buyer hereunder.

14. The Contract is amended by inserting the attached Exhibit I after Exhibit H.

15. To the extent any documents or information described in Section 5.1 of the Contract first became available to Seller on or after August 1, 2012, or were otherwise not previously delivered to Buyer, Seller shall deliver such documents and information to Buyer within fourteen (14) days of the date of this Amendment.

16. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, but any number of which, taken together, shall be deemed to constitute one and the same instrument. Facsimile or emailed (e.g., PDF) signatures shall be deemed originals for all purposes.

17. Except as expressly set forth in this Amendment, the Contract is hereby ratified and confirmed, and remains unmodified and in full force and effect, in accordance with its terms.

(Signatures on following pages.)

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as an instrument under seal as of the day and date first written above.

Buyer:

APPROVAL AS TO FORM

**MASSACHUSETTS DEPARTMENT OF
TRANSPORTATION**

By: _____
Paige Scott Reed
General Counsel
Massachusetts Department of
Transportation

By: _____
Richard A. Davey
Secretary and Chief Executive Officer

Seller:

PAN AM SOUTHERN LLC

By: _____
David A. Fink
President

ACCEPTED AND AGREED TO:

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

By: _____
Beverly A. Scott, Ph.D.
General Manager

APPROVAL AS TO FORM

By: _____
Paige Scott Reed
General Counsel
Massachusetts Bay Transportation Authority

ACCEPTED AND AGREED TO:

BOSTON AND MAINE CORPORATION

By: _____
David A. Fink
President

ACCEPTED AND AGREED TO:

SPRINGFIELD TERMINAL RAILWAY CORPORATION

By: _____
David A. Fink
President

ACCEPTED AND AGREED TO:

[ESCROW AGENT]

By: _____

EXHIBIT I

LIENS OF RECORD

[NOTE: This Exhibit will be revised to include the Northampton tax takings of record]

1. Statement Filed to Continue Municipal Lien on a parcel of land on the north side of Clinton Street, containing 7.964 acres dated June 28, 1977 recorded in Hampden in Book 4457, Page 48 (Val Map 42.1M/1 – Springfield, Hampden County).
2. Statement Filed to Continue Municipal Lien on a parcel of land on the north side of Clinton Street, containing 7.964 acres dated April 1, 1980 recorded in Hampden in Book 4946, Page 326 (Val Map 42.1M/1 – Springfield, Hampden County).
3. Numerous additional Statements Filed to Continue Municipal Liens pertaining to property in Springfield, as noted on Schedule 1 attached hereto (Val Map 42.1M/2 – Springfield, Hampden County).
4. Numerous Statements Filed to Continue Municipal Liens pertaining to property in Chicopee, as noted on Schedule 2 attached hereto (Val Map 42.1M/4 – Chicopee, Hampden County).
5. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 139 (Val Map 42.1M/16 – Northampton, Hampshire County)..
6. Statements Filed to Continue Municipal Lien by the City of Northampton of a parcel of land identified as “Mt. Tom Road, Northampton, MA –Map 46 Lot 072”, one dated September 1, 1981 recorded in Hampshire in Book 2242, Page 79, and one dated August 31, 1982 recorded in Hampshire in Book 2297, Page 275 (Val Map 42.1M/16 – Northampton, Hampshire County).
7. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 140 (Val Map 42.1M/17 – Northampton, Hampshire County).
8. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 142 (Val Map 42.1M/17 – Northampton, Hampshire County).
9. Statements Filed to Continue Municipal Lien on a parcel of land identified as “Hockanum Rd., South – Northampton, MA Map 39A Lot 74”, one dated September 1, 1981 recorded in Hampshire in Book 2242, Page 82 and one dated August 31, 1982 recorded in Hampshire in Book 2297, Page 280 (Val Map 42.1M/17 – Northampton, Hampshire County).
10. Statement Filed to Continue Municipal Lien on a parcel of land identified as “Rear Pomeroy Shop to Hockanum Rd., - East side lot” dated October 1, 1981 recorded in Hampshire in Book 2248, Page 135 (Val Map 42.1M/17 – Northampton, Hampshire County).
11. Statements Filed to Continue Municipal Lien: (a) dated September 1, 1981 recorded in Hampshire in Book 2242, Page 80; (b) dated October 1, 1981 recorded in Hampshire

in Book 2248, Page 131; and (c) dated August 31, 1982 recorded in Hampshire in Book 2297, Page 279 (Val Map 42.1M/18 – Northampton, Hampshire County).

12. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 136 (Val Map 42.1M/18 – Northampton, Hampshire County).

13. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 137 (Val Map 42.1M/18 – Northampton, Hampshire County).

14. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 138 (Val Map 42.1M/18 – Northampton, Hampshire County).

15. Statement to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 144 (Val Map 42.1M/18 – Northampton, Hampshire County).

16. Sidewalk Assessment on Main Street dated October 5, 1981 recorded in Hampshire in Book 2251, Page 134 (Val Map 42.1M/18 – Northampton, Hampshire County).

17. Statement Filed to Continue Municipal Lien on a parcel of land identified as “Holyoke St., Northampton, MA. Map 32C/331” dated August 31, 1982 recorded in Hampshire in Book 2297, Page 278 (Val Map 42.1M/18 – Northampton, Hampshire County).

18. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 141 (Val Map 42.1M/19 – Northampton, Hampshire County).

19. Statements Filed to Continue Municipal Lien on a parcel of land identified as “Damon Rd., West – Northampton, MA – Map 25A Lot 166 – Land and Buildings”, one dated September 1, 1981 recorded in Hampshire in Book 2242, Page 85, and one dated August 31, 1982 recorded in Hampshire in Book 2297, Page 276 (Val Map 42.1M/19 – Northampton, Hampshire County).

20. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 133 (Val Map 42.1M/20 – Northampton, Hampshire County).

21. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 134 (Val Map 42.1M/20 – Northampton, Hampshire County).

22. Statements Filed to Continue Municipal Lien on a parcel of land identified as “Near Connecticut River, Northampton, MA Map 13 Lot 053”, one dated September 1, 1981 recorded in Hampshire in Book 2242, Page 81, and one dated August 31, 1982 recorded in Hampshire in Book 2297, Page 281 (Val Map 42.1M/20 – Northampton, Hampshire County).

23. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 132 (Val Map 42.1M/21 – Northampton, Hampshire County).

24. Statement Filed to Continue Municipal Lien dated October 1, 1981 recorded in Hampshire in Book 2248, Page 143 (Val Map 42.1M/21 – Northampton, Hampshire County).

25. Orders for a sewer assessment under Orders of Sewer Commissioners of Town of Deerfield, one dated December 18, 1936 recorded in Franklin in Book 819, Page 186, and one dated December 21, 1936 recorded in Franklin in Book 819, Page 197, both in the amount of \$83.30 (Val Map 42.1M/29 – Deerfield, Franklin County).

26. Numerous Statements Filed to Continue Municipal Liens pertaining to property in Deerfield, as noted on Schedule 3 attached hereto (Val Map 42.1M/29, 30, 31, 32, 33, 34, 35, 36 – Deerfield, Franklin County).

27. Numerous Statements Filed to Continue Municipal Liens pertaining to property in Greenfield, as noted on Schedule 4 attached hereto (Val Map 42.1M/36, 37, 38, 39, 40, 41, 42 – Greenfield, Franklin County).

28. Numerous Statements Filed to Continue Municipal Liens pertaining to property in Bernardston, as noted on Schedule 5 attached hereto (Val Map 42.1M/42, 43, 44, 45, 46, 47 – Bernardston, Franklin County).

29. Numerous Statements Filed to Continue Municipal Liens pertaining to property in Northfield, as noted on Schedule 6 attached hereto (Val Map 42.1M/47, 48, 49, 50, 51 – Northfield, Franklin County).

SCHEDULE 1 OF EXHIBIT I

STATEMENTS FILED TO CONTINUE MUNICIPAL LIENS

SPRINGFIELD, MASSACHUSETTS

NOTE: All recording references are to the Hampden County Registry of Deeds.

ARCH STREET – 9076 ST. FT.

6/28/1977 4457/44
4/1/1980 4946/324

BIRNIE AVENUE (REAR WEST SIDE) – 29,726 SQ. FT

6/28/1977 4457/45
4/1/1980 4946/325

BIRNIE AVENUE (REAR WEST SIDE) – 232,042 SQ. FT

6/28/1977 4457/46
4/1/1980 4946/323

BIRNIE AVENUE (REAR WEST SIDE) – 11,528 SQ. FT

6/28/1977 4457/47
4/1/1980 4946/322

PLAINFIELD STREET (REAR EAST SIDE) – 9725 SQ. FT.

4/13/1971 3581/93
2/8/1972 3670/396
5/8/1973 3804/73
7/30/1974 4021/90
6/28/1977 4457/51
4/1/1980 4946/319

PLAINFIELD STREET (REAR EAST SIDE) – 65,926 SQ. FT.

6/28/1977 4457/49
4/1/1980 4946/321

229 PLAINFIELD STREET – 30,600 SQ. FT.

6/28/1977 4457/50
4/1/1980 4946/320

WASON AVENUE (REAR) – 17,374 SQ. FT.

6/28/1977 4457/52
4/1/1980 4946/327

WASON AVENUE (SOUTH SIDE) - 52,932 SQ. FT.

6/28/1977 4457/53
4/1/1980 4946/328

SCHEDULE 2 OF EXHIBIT I

STATEMENTS FILED TO CONTINUE MUNICIPAL LIENS

CHICOPEE, MASSACHUSETTS

NOTE: All recording references are to the Hampden County Registry of Deeds.

CHICOPEE STREET- Assessor's Map #7109, later Map #626

1/17/1972	3659/479
1/17/1972	3659/481
1/17/1972	3659/487
1/17/1972	3659/489
1/17/1972	3659/495
1/17/1972	3659/497
12/13/1972	3758/572
12/13/1972	3758/574
12/6/1973	3890/128
12/6/1973	3890/129
6/12/1974	3984/195
6/12/1974	3984/196
2/22/1977	4388/263
2/22/1977	4388/265
2/22/1977	4388/271
2/22/1977	4388/273
6/14/1977	4435/289
6/14/1977	4435/291
6/26/1978	4609/81
6/26/1978	4609/82
6/18/1979	4783/48
6/18/1979	4783/49
6/23/1980	4958/257
6/23/1980	4958/259
6/15/1981	5123/123
6/15/1981	5123/125

CHICOPEE (NORTH) STREET- Assessor's Map #7109, later Map # 626 & 646

1/17/1972	3659/478
1/17/1972	3659/486
1/17/1972	3659/494
12/13/1972	3758/571
12/6/1973	3890/130
6/12/1974	3984/197
2/22/1977	4388/262
2/22/1977	4388/270

6/14/1977	4435/292
6/26/1978	4609/79
6/18/1979	4783/46
6/23/1980	4958/260
6/15/1981	5123/122

CHICOPEE STREET (OFF)- Assessor's Map #308, later Map #195 & 223

1/17/1972	3659/480
1/17/1972	3659/488
1/17/1972	3659/496
12/13/1972	3758/573
12/6/1973	3890/127
6/12/1974	3984/194
2/22/1977	4388/264
2/22/1977	4388/272
6/14/1977	4435/290
6/26/1978	4609/80
6/18/1979	4783/47
6/23/1980	4958/258
6/15/1981	5123/124

DUBLIN STREET - Assessor's Map #110, later Map #060

1/17/1972	3659/475
1/17/1972	3659/483
1/17/1972	3659/491
12/13/1972	3758/568
12/6/1973	3890/133
6/12/1974	3984/200
2/22/1977	4388/259
2/22/1977	4388/267
6/14/1977	4435/295
6/26/1978	4609/76
6/18/1979	4783/43

EMERALD STREET- Assessor's Map #110, later Map # 060 & 076

1/17/1972	3659/474
1/17/1972	3659/482
1/17/1972	3659/490
12/13/1972	3758/567
12/6/1973	3890/134
6/12/1974	3984/201

2/22/1977	4388/258
2/22/1977	4388/266
6/14/1977	4435/296
6/26/1978	4609/75
6/18/1979	4783/42

FRONT STREET- Assessor's Map #108, later Map #076

1/17/1972	3659/476
1/17/1972	3659/484
1/17/1972	3659/492
12/13/1972	3758/569
12/6/1973	3890/132
6/12/1974	3984/199
2/22/1977	4388/260
2/22/1977	4388/268
6/14/1977	4435/294
6/26/1978	4609/77
6/18/1979	4783/44

RAILROAD ROW- Assessor's Map #107, later Map # 076 & 095

1/17/1972	3659/477
1/17/1972	3659/485
1/17/1972	3659/493
12/13/1972	3758/570
12/6/1973	3890/131
6/12/1974	3984/198
2/22/1977	4388/261
2/22/1977	4388/269
6/14/1977	4435/293
6/26/1978	4609/78
6/18/1979	4783/45

SCHEDULE 3 OF EXHIBIT I

STATEMENTS FILED TO CONTINUE MUNICIPAL LIENS

DEERFIELD, MASSACHUSETTS

NOTE: All recording references are to the Franklin County Registry of Deeds.

BOOK/PAGE

1237/68

1237/70

1237/72

1273/290

1273/296

1273/299

SCHEDULE 4 OF EXHIBIT I
STATEMENTS FILED TO CONTINUE MUNICIPAL LIENS
GREENFIELD, MASSACHUSETTS

NOTE: All recording references are to the Franklin County Registry of Deeds.

BOOK/PAGE

1176/72

1178/239

1190/219

1203/250

1236/660

1250/688

1256/351

1270/256

1287/95

1334/196

1374/150

1431/79

1554/314

SCHEDULE 5 OF EXHIBIT I

STATEMENTS FILED TO CONTINUE MUNICIPAL LIENS

BERNARDSTON, MASSACHUSETTS

NOTE: All recording references are to the Franklin County Registry of Deeds.

BOOK/PAGE

1611/117

1611/118

1611/119

1611/120

1701/112

1701/113

1701/114

1701/115

1701/116

1701/117

SCHEDULE 6 OF EXHIBIT I
STATEMENTS FILED TO CONTINUE MUNICIPAL LIENS
NORTHFIELD, MASSACHUSETTS

NOTE: All recording references are to the Franklin County Registry of Deeds.

BOOK/PAGE

1287/123

1331/279

1376/80

1414/64

1437/34

1463/45

1524/203

1567/328

1605/349

1638/214

1659/122

1693/13

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35863

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF PAN AM SOUTHERN LLC

MOTION TO DISMISS

EXHIBIT G

2014 OPERATING AGREEMENT

BY AND AMONG

THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

AND

THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

AND

PAN AM SOUTHERN LLC

INTRODUCTION AND RECITALS

This agreement (the “Agreement”) is made this ___ day of _____, 2014, by and among the Massachusetts Department of Transportation, a body politic and corporate created by and acting pursuant to Chapter 6C of the General Laws of the Commonwealth of Massachusetts, as amended, having an address of 10 Park Plaza, Boston, Massachusetts (“MassDOT”); the Massachusetts Bay Transportation Authority, a body politic and corporate created by and acting pursuant to Chapter 161A of the General Laws of the Commonwealth of Massachusetts, as amended, having an address of 10 Park Plaza, Boston, Massachusetts (the “MBTA”); and Pan Am Southern LLC, a Delaware limited liability company, having an address of 1700 Iron Horse Park, Billerica, Massachusetts (“PAS”) (hereinafter the “Parties,” or each a “Party”), in order to memorialize their mutual understanding with regard to certain rights to conduct passenger and freight services on certain property owned by MassDOT or the MBTA, and for the purpose of defining their respective rights and obligations with respect to the same.

WHEREAS, MassDOT and PAS entered into that certain Purchase and Sale Contract dated as of May 25, 2012 (the “Purchase Contract”), as amended by that certain Reinstatement and First Amendment to Purchase and Sale Contract dated as of _____, 2014, pursuant to which PAS has agreed to convey to MassDOT certain real property, railroad assets, and passenger operating rights that comprise a section of railroad line known as the Connecticut River Main Line, also known as the “Knowledge Corridor,” between Station 2+25 in Springfield, Massachusetts and the Massachusetts border with Vermont in Northfield, Massachusetts, all as described in Exhibit A attached hereto, to MassDOT (the “Property”) and, as set forth in the Purchase Contract, PAS shall retain the Freight Easement (as hereinafter defined).

WHEREAS, the transfer of the Property from PAS to MassDOT is contingent upon, among other things, the execution and delivery by MassDOT or the MBTA and PAS of an

operating agreement setting forth the rights and obligations of the Parties with respect to the Property.

WHEREAS, MassDOT may in the future transfer or delegate operational control of the Property to the MBTA;

WHEREAS, MassDOT is purchasing the Property as part of a plan to restore the existing National Railroad Passenger Corporation ("Amtrak") service to the Property between Station 2+25 in Springfield, Massachusetts and the Massachusetts border with Vermont in Northfield, Massachusetts, and Seller; and

WHEREAS, Seller and Amtrak entered into that certain Host Agreement (defined below), and, as set forth in the Purchase Contract, Seller will contemporaneously with the execution of this Agreement assign such Host Agreement to Buyer, and Buyer has assumed Seller's obligations under such agreement;

WHEREAS, Seller, MassDOT, and Amtrak are parties to that certain SOA (defined below), and, as required by the Purchase Contract, Seller has assigned and Buyer has assumed all of Seller's rights and obligations under the SOA; and

WHEREAS, the Parties acknowledge and agree that the Knowledge Corridor Reconstruction Project will benefit both passenger and freight service on the Property.

NOW, THEREFORE, the Parties agree as follows:

SECTION 1. DEFINITIONS.

"Additional Freight Service" shall have the meaning set forth in Section 2.2(a).

"Additional Amtrak Passenger Service" shall have the meaning set forth in Section 2.2(b).

"Additional PAS Maintenance" shall have the meaning ascribed thereto in Section 3.1(a)(vii).

"Agreement" shall have the meaning ascribed in the Introduction to this Agreement.

"Amtrak" shall have the meaning set forth in the recitals to this Agreement.

"Amtrak Passenger Service" shall mean intercity passenger service conducted by Amtrak, but shall not include Commuter Rail Passenger Service operated by Amtrak, which shall be considered Commonwealth Passenger Service.

"Amtrak Passenger Service Capacity" means Amtrak's right to operate up to three (3) daily through round-trip passenger trains that Amtrak may operate on the Rail Operating Property, as described in Section 2.2(b).

“Appropriate Statutory and Regulatory Authority” means 49 U.S.C. § 10903, et seq. and 49 C.F.R. part 1152, and the STB’s interpretations thereof.

“Base Volume” shall have the meaning ascribed thereto in Section 4.2(a).

“Clearances” shall have the meaning ascribed thereto in Section 6.5.

“Commonwealth Employees” shall mean the employees and agents of the Commonwealth Parties, and the Commonwealth Parties’ operating contractors and said contractors’ employees.

“Commonwealth Parties” means MassDOT and the MBTA, both individually and collectively, and their contractors, agents and designees.

“Commonwealth Passenger” means (i) any person who is on board a train providing Commonwealth Passenger Service (ii) any person who is not on board any train who either has purchased a ticket valid on a train providing Commonwealth Passenger Service or holds a pass document reflecting personal pass privileges granted by a party providing Commonwealth Passenger Services that is valid for travel on a train providing Commonwealth Passenger Service, and (iii) any person who is on, getting on or alighting from a train providing Commonwealth Passenger Service for the purpose of accompanying or meeting any person described in (i) or (ii) of this sentence.

“Commonwealth Passenger Service” means all of the rail operations, including Commuter Rail Passenger Service and movement of the Commonwealth Parties’ materials and equipment, services and activities performed by the Commonwealth Parties or their Operating Contractor (or their respective contractors, assignees or designees) in connection with the provision of passenger rail service in the Commonwealth of Massachusetts.

“Commuter Rail Passenger Service” shall mean any short haul rail passenger transportation provided primarily to passengers traveling between a metropolitan area and its suburbs using reduced fare multiple-ride commutation tickets and provided primarily during morning and peak periods.

“Construction Agreement” shall have the meaning ascribed thereto in Section 3.3.

“Construction Work” means all construction work (other than Reconstruction Activities) performed by the Commonwealth Parties or its agents or contractors, including PAS, pursuant to this Agreement.

“Effective Date” means the date on which PAS conveys the Property to MassDOT.

“Effective Interest Rate” means the then applicable late payment interest rate established by the Office of the Comptroller of the Commonwealth of Massachusetts pursuant to 815 CMR 4.00.

“Force Account Work” shall have the meaning ascribed in Section 5 hereof.

“FRA” means the Federal Railroad Administration.

“Freight Easement” means the perpetual and exclusive easement to provide Freight Rail Service and such other rights over the Rail Operating Property reserved and retained by PAS as are described in any deed or deeds transferring the Property from PAS to MassDOT pursuant to the Purchase Contract, and any additional easements to provide freight rail service and such other rights over the Rail Operating Property as may be added to this Agreement from time to time by mutual agreement of the Parties.

“Freight Rail Service” means the full range of services and activities performed in connection with the provision of current and future freight common carrier and contract carrier obligations on the Rail Operating Property and other activities permitted or required under this Agreement. Freight Rail Service includes PAS’s right to transport railroad material, equipment, ballast, rails and the like in support of Freight Rail Service.

“Freight Service Capacity” shall have the meaning ascribed thereto in Section 2.2(a).

“Host Agreement” means that certain Operating Agreement between National Railroad Passenger Corporation and Pan Am Southern LLC and Springfield Terminal Railway Company dated May 1, 2012, which shall be assigned to MassDOT contemporaneously with the execution of this Agreement.

“Knowledge Corridor Reconstruction Project” shall have the meaning set forth in the Section 3.3 of this Agreement.

“Maintenance Services” means all actions necessary or required for the maintenance of the rights-of-way, tracks, bridges, signals, communications equipment of any relevant section of the Rail Operating Property in accordance with the Maintenance Standard. Maintenance Services shall not include any actions necessary or required for the maintenance of Passenger Facilities. Maintenance Services shall include actions necessary or required for the maintenance of portions of the Rail Operating Property used solely in connection with Freight Rail Service.

“Maintenance Standard” means the standards to be set from time to time by the Party obligated to provide maintenance hereunder which in all instances shall be appropriate for freight rail operations and which shall always meet or exceed the standard required by FRA rules and regulations for the applicable class of track provided for in this Agreement.

“Maintenance Termination Notice” has the meaning set forth in Section 3.1(d).

“MassDOT” shall have the meaning set forth in the recitals of this Agreement.

“MBTA” shall have the meaning set forth in the recitals of this Agreement.

“MBTA Employees” shall mean the employees and agents of the MBTA, and the MBTA’s operating contractors and said contractors’ employees.

“Operating Contractor” means any entity contracted with by the Commonwealth Parties to provide Commonwealth Passenger Rail Service on behalf of the Commonwealth Parties.

“Party” and “Parties” shall have the meaning set forth in the Recitals to this Agreement.

“PAS” shall have the meaning set forth in the Recitals to this Agreement.

“PAS Employees” shall mean the employees and agents of PAS, and PAS’s operating contractors and said contractors’ employees.

“PAS Maintenance Credit” shall have the meaning set forth in Section 4.2(a).

“PAS Max Maintenance Credit” shall have the meaning set forth in Section 4.2(a).

“PAS Trains” means all trains operated by or on behalf of PAS.

“Passenger Facilities” means the non-operating portions of the Property exclusively used for and related to Passenger Service, including but not limited to stations, platforms, parking areas and passenger service amenity facilities, which shall be owned, controlled, and/or used by the Commonwealth Parties and third parties.

“Passenger Service” shall mean passenger rail service conducted by Amtrak and/or the Commonwealth Parties or other third parties.

“Passenger Service Commencement Date” shall have the meaning set forth in Section 2.2(e).

“Passenger Service Commencement Notice” shall have the meaning set forth in Section 2.2(e).

“Person” means any individual, corporation, partnership, association, trust or any other entity or organization, including, without limitation, a government, a public agency, political instrumentality or political subdivision or authority.

“Property” shall have the meaning set forth in the Recitals to this Agreement, and shall include but not be limited to the Rail Operating Property.

“Purchase Contract” shall have the meaning set forth in the recitals to this Agreement.

“PTC” shall have the meaning set forth in Section 4.4.

“Reconstruction Activities” means all construction and construction-related activities reasonably necessary for the completion of the Knowledge Corridor Reconstruction Project.

“Rail Operating Property” means those portions of the Property used by any Party hereto for the provision of rail services and excludes Passenger Facilities and all other non-operating portions of the Property.

“Service Suspension” means the suspension of Freight Rail Service and/or Passenger Rail Service in connection with the Maintenance Services.

“SOA” shall mean that certain Maintenance and Service Outcomes Agreement for Rail Line Improvements between Springfield, Massachusetts and East Northfield, Massachusetts by and among Amtrak, PAS, and MassDOT dated June 27, 2011, as amended, which PAS has assigned to the Commonwealth Parties, and the Commonwealth Parties have assumed.

“STB” means the Surface Transportation Board of the United States Federal Government.

SECTION 2. GENERAL OPERATING RIGHTS

2.1 PAS Freight Rail Service.

Consistent with the Freight Easement and subject to this Agreement, PAS, and only PAS, shall have the exclusive right to perform Freight Rail Service on the Rail Operating Property. PAS shall at all times provide Freight Rail Service over the Rail Operating Property in accordance with FRA regulations and the terms of this Agreement and the terms of the Freight Easement. Subject to this Agreement, PAS shall have the unilateral right to determine the levels of Freight Rail Service as PAS deems in its sole discretion. The character, scheduling or extent of PAS Freight Rail Service shall not preclude the Commonwealth Parties’ or Amtrak’s potential future use of the Rail Operating Property for Passenger Service, as, if and when such Passenger Service commences on the Rail Operating Property in accordance with the terms of this Agreement, after such improvements and rehabilitation as may be necessary to safely enable such use have been performed at the expense of the Commonwealth Parties.

2.2 Operations over the Property.

(a) Operations by PAS.

Upon completion of construction of the Knowledge Corridor Reconstruction Project, PAS shall have the right to run up to two (2) daily round-trip Freight Rail Service trains on the Rail Operating Property and one local Freight Rail Service train to serve customers (the “Freight Service Capacity”). PAS shall have first priority to schedule Freight Service Capacity trains daily except as otherwise set forth in Section 2.2(b) below; provided, however, that PAS acknowledges the importance of the Commonwealth Parties’ ability to provide Commuter Rail Passenger Service trains during commuter rush hours and shall use reasonable efforts to avoid conflicts with Passenger Service operations. PAS shall have the exclusive right to run as many Freight Rail Service trains in excess of the Freight Service Capacity (“Additional Freight Service”), including but not limited to local working trains, as necessary, provided such Additional Freight Service trains do not interfere with the Amtrak Passenger Service Capacity or the Commonwealth Passenger Service. Any Freight Service train that is not designated as a Freight Service Capacity train shall automatically be designated an Additional Freight Service train. The Commonwealth Parties agree to use reasonable efforts to accommodate such Additional Freight Service Trains.

(b) Operations by Amtrak

Amtrak may use the Rail Operating Property to provide Amtrak Passenger Service subject to any host railroad agreement then in effect between the Commonwealth Parties and Amtrak. Amtrak shall have the exclusive right to run up to three (3) round trip intercity passenger train trips per day (the “Amtrak Passenger Service Capacity”), according to a schedule agreed upon by PAS and the Commonwealth Parties, in consultation with Amtrak. Amtrak shall have the right to run additional intercity passenger train trips in excess of the Amtrak Passenger Service Capacity (such additional service, the “Additional Amtrak Passenger Service”) provided such Additional Amtrak Passenger Service trains will not interfere with or limit PAS’s ability to operate Freight Rail Service up to the Freight Service Capacity. Deadhead moves shall not be considered as trips under this Section 2.2(b).

(c) Operations by the Commonwealth Parties.

The Commonwealth Parties may use the Rail Operating Property to provide Commonwealth Passenger Service, to perform Construction Work, and for related uses. Nothing in this Agreement other than Section 2.2(a) and Section 2.2(b) shall derogate from the Commonwealth Parties’ right to utilize, directly or through its Operating Contractor or another subcontractor, or to permit other carrier(s) to utilize any portion of the Rail Operating Property for the provision of Commonwealth Passenger Service, including without limitation, long-haul intercity service as well as Commuter Rail Passenger Service. The Commonwealth Parties may operate as many passenger train round-trips as they deem reasonable or necessary, provided that such use does not interfere with or limit (i) PAS’s ability to operate Freight Rail Service up to the Freight Service Capacity, or (ii) Amtrak’s ability to operate the Amtrak Rail Service up to the Amtrak Passenger Service Capacity. If the Commonwealth Parties propose to add Commuter Rail Passenger Service or other Commonwealth Passenger Service trains during time periods that would interfere with previously scheduled Additional Freight Service trains, the Commonwealth Parties shall provide PAS with thirty (30) days prior written notice and PAS may reschedule such Additional Freight Service trains to a different time period.

(d) Schedules.

PAS, Amtrak, and the Commonwealth Parties shall mutually agree (such agreement not to be unreasonably withheld) on schedules to accommodate PAS, Amtrak and Commonwealth Passenger Service, with the concurrent consideration that such schedules and operations shall make adequate provision for, and shall not unreasonably interfere with, the PAS Freight Rail Service train trips. Such schedule will accommodate Freight Rail Service and Passenger Rail Service operating in adjacent slots throughout the course of a 24-hour period.

(e) Passenger Service Commencement.

The Commonwealth Parties shall provide (or shall cause Amtrak to provide) notice to PAS (a “Passenger Service Commencement Notice”) advising PAS of the date on which Amtrak or the Commonwealth Parties or the Commonwealth Parties’ Operating Contractor intends to commence Passenger Service on the Rail Operating Property (such date, a “Passenger Service

Commencement Date”) at least sixty (60) days prior to such Passenger Service Commencement Date.

(f) Commonwealth Use Prior to Commonwealth Passenger Service Commencement or during Suspension of Passenger Service

Prior to the Passenger Service Commencement Date or at any time when Passenger Service has been and continues to be discontinued pursuant to Section 2.3(e), the Commonwealth Parties shall have the right to periodically run trains over the Rail Operating Property for the purpose of (x) inspecting the Property; (y) transporting railroad material and equipment, ballast, rails, and the like owned by the MBTA or MassDOT or their contractors (but not common or contract carriage of freight); and (z) transporting passengers in connection with special civic, sports or other events. The right described in the foregoing sentence shall be exercised in an intermittent, but not regularly scheduled, manner that does not unreasonably interfere with PAS’s use of the Rail Operating Property for Freight Rail Service. The Commonwealth Parties shall assume all incremental costs and expenses incurred as a result of such use, if any, including costs to provide additional maintenance, perform additional inspections, or build infrastructure if reasonable or necessary to permit such use.

2.3 Discontinuance of Freight Rail Operations.

(a) PAS-Initiated Abandonment or Discontinuance.

In the event that PAS ceases to have current use, or, in PAS’s sole and absolute determination, reasonably foreseeable future use, of any segment of the Rail Operating Property, or, if in PAS’s sole and absolute discretion it determines that it no longer wishes to continue the use of any such segment for Freight Rail Service, PAS will have the option to seek from the STB approval pursuant to Appropriate Statutory and Regulatory Authority, which approval may come in the form of an exemption from the requirement to obtain such approval, to abandon and/or discontinue Freight Rail Service over all or any portion of such segment of the Rail Operating Property. The Commonwealth Parties shall not oppose any such request by PAS to abandon and/or discontinue Freight Rail Service. Should PAS receive such approval for abandonment, or exemption from such approval for abandonment, PAS shall promptly notify MassDOT, which notification shall designate a specific date upon which such authority to abandon is to be consummated. Upon such consummation, PAS shall no longer have the right to operate Freight Rail Service over such abandoned portions of the Rail Operating Property, but otherwise the property shall be subject to the terms of this Agreement. Upon the consummation, any discontinued portions of the Rail Operating Property shall continue to be subject to the terms of this Agreement and the Interstate Commerce Act as amended from time to time.

(b) MassDOT Request for Abandonment.

In the event PAS has not provided Freight Rail Service over any segment of the Rail Operating Property for a continuous period of eight (8) years, MassDOT may request that PAS seek abandonment authority over said segment. Promptly upon receiving said written request by MassDOT, PAS shall seek approval pursuant to Appropriate Statutory and Regulatory Authority,

which approval may come in the form of an exemption from the requirement to obtain such approval, to abandon Freight Rail Service over all or any portion of said segment of the Rail Operating Property. Should PAS receive such approval, or exemption from such approval, PAS shall promptly notify MassDOT, which notification shall designate a specific date upon which such authority to abandon is to be consummated. PAS shall consummate such abandonment authority upon such date, and PAS shall no longer have the right to operate Freight Rail Service over such abandoned portions of the Rail Operating Property, but otherwise the property shall be subject to the terms of this Agreement.

(c) MassDOT Petition for Abandonment.

In the event that PAS has failed to provide Freight Rail Service on any segment of the Rail Operating Property for a continuous period of three (3) years, and provided that any such failure is not a direct or indirect result of the failure of the Commonwealth Parties to properly maintain or repair the Rail Operating Property or of any other breach by the Commonwealth Parties of their obligations under this Agreement, then MassDOT will be entitled, in its sole discretion, to commence adverse abandonment proceedings with the STB with respect to such segments. PAS may oppose such proceedings and will have no obligation to assist MassDOT or to otherwise cooperate or participate in such proceedings in any way. If such adverse abandonment proceedings are successfully consummated with respect to such portions of the Rail Operating Property, MassDOT shall promptly notify PAS, which notification shall designate a specific date upon which such authority to discontinue service or authority to abandon is to be consummated. PAS shall consummate such abandonment authority upon such date, subject to any terms and conditions set forth in the applicable STB order or decision.

(d) Maintenance and Dispatching if PAS Abandons Portions.

In the event that PAS discontinues its right to provide Freight Rail Service over all or substantially all of the Rail Operating Property, or abandons its right to provide Freight Rail Service over substantially all of the Rail Operating Property, PAS may at its discretion decline to perform maintenance and dispatching services on the Rail Operating Property.

(e) Termination of Agreement upon Total Abandonment.

This Agreement will terminate if PAS abandons its right to provide Freight Rail Service over all of the Rail Operating Property under Section 2.3(a),(b), or (c).

(f) Limitations on Adverse Abandonment.

The Commonwealth Parties hereby agree that they will not commence or otherwise seek or pursue any adverse abandonment proceedings with the STB except as permitted by Section 2.3(c).

(g) Discontinuance and Restoration of Passenger Service

In the event that Amtrak and the Commonwealth Parties discontinue all Passenger Service on the Rail Operating Property, Amtrak or the Commonwealth Parties shall have the

right to restore Passenger Service on the Rail Operating Property upon delivery of a Passenger Service Commencement Notice pursuant to Section 2.2(e), subject to Section 3.1(i) below.

(h) Third Party Operations on the Rail Operating Property

The Parties shall ensure that their respective contractors and subcontractors performing work or services on the Rail Operating Property perform and complete their respective work or services in accordance with this Agreement.

SECTION 3. MAINTENANCE AND ACCESS

3.1 Maintenance.

(a) Except for so long as the placement of temporary speed restrictions is reasonable or necessary, the Rail Operating Property shall be maintained as provided for in this Section 3.1.

(b) Prior to the Passenger Service Commencement Date, the Rail Operating Property shall be maintained to a level sufficient for PAS to operate the Freight Rail Service, as determined by PAS.

(c) After the Passenger Service Commencement Date, sufficient portions of the main line of the Rail Operating Property shall be maintained as directed by the Commonwealth Parties to a standard that will permit Amtrak Passenger Service Trains or the trains of a successor to Amtrak to achieve at least the Service Outcomes as set forth in Exhibit B to this Agreement (the “**Service Outcomes Maintenance Standard**”) for so long as the SOA or any similar agreement with respect to the Knowledge Corridor is in force and effect. In the event the SOA is no longer in effect, the Rail Operating Property shall be maintained as directed by the Commonwealth Parties, but at least to a FRA Class I condition.

(d) At any time, whether or not PAS is designated to perform the Maintenance Services, PAS may choose not to perform, or have performed, any maintenance on portions of any industrial sidings and assets required solely in relation to Freight Rail Service, based upon lack of freight demand or otherwise.

(e) At any time, the Commonwealth Parties may choose not to perform, or have performed, any maintenance on any assets required solely in relation to Passenger Service. Nothing in this Agreement shall be construed to require the Commonwealth Parties to use or maintain the Rail Operating Property, or to maintain the tracks on said Rail Operating Property, to a condition that allows use of the Rail Operating Property for Passenger Service by any Person.

(f) PAS, in its sole and absolute discretion and at its sole cost and expense, may request and/or provide maintenance in excess of what is directed by the Commonwealth Parties pursuant to Section 3.1(c) (“**Additional PAS Maintenance**”).

(g) Should a PTC system be installed, the maintenance and renewal of that PTC system (but not including any PTC equipment installed on PAS locomotives pursuant to Section 4.4 below) shall be an element of the Maintenance Services.

(h) Regardless of who is providing the Maintenance Services at the time, in the event that Amtrak and the Commonwealth Parties discontinue all Passenger Service on the Rail Operating Property, PAS shall automatically be designated as the Party responsible for Maintenance Services and shall be solely be responsible for maintaining the mainline of the Rail Operating Property to FRA Class IV for a period of one (1) year.

(i) After one (1) year following the discontinuance of Passenger Service on the Rail Operating Property, PAS shall, at its sole cost and expense, maintain the Rail Operating Property to a level that PAS determines is sufficient for PAS to operate Freight Rail Service and not to a level to support Passenger Rail Service, and shall not be required to make the PAS Maintenance Payment or provide the PAS Maintenance Credit described below in Section 4.2(a). All such Maintenance Services shall be undertaken in a manner which does not preclude or materially impair the Commonwealth Parties' or Amtrak's future use of the Rail Operating Property for Passenger Service, as, if and when Passenger Service is restored in accordance with Section 2.3(g), provided, however, that the foregoing shall not be interpreted as requiring PAS to bear the cost for any rehabilitation or upgrade to permit the reintroduction of Passenger Service once it has taken over responsibility for Maintenance Services pursuant to this Section 3.1(i).

(j) All Maintenance Services, whether performed by PAS or by the Commonwealth Parties or their contractor, shall be undertaken in a manner so as to minimize interference with train operations. In all circumstances where a track outage is required for the performance of Maintenance Services (except emergency maintenance services), such maintenance work shall be scheduled and the Party performing such maintenance shall provide to Amtrak and the other Party(ies), written notice of such maintenance work at least fifteen (15) calendar days in advance of any such track outage. Notwithstanding the foregoing, each Party performing Maintenance Service work shall make reasonable efforts to provide written notice at least thirty (30) days in advance of any such track outage. Notwithstanding any provision of this Agreement to the contrary, PAS and the Commonwealth Parties acknowledge that one or more Service Suspensions may be necessary in order perform Maintenance Services. All Maintenance Services shall be performed in a manner to minimize, to the extent practicable, and to mitigate disruption to the Freight Rail Service and Passenger Service.

(k) The Party designated to perform the Maintenance Services shall provide and furnish all labor, administrative, professional, and supervisory personnel necessary for its performance of the Maintenance Services. Such personnel or subcontractor personnel involved in any aspect of providing services under this Agreement shall be subject to the direction, supervision, and control of the Party designated to perform said Maintenance Services. Said Party designated to perform such Maintenance Services shall be solely responsible for all labor relations issues relating to their employees (or those of their respective contractors) that arise in connection with the performance of services

under this Agreement. Said Party designated to perform such Maintenance Services shall provide and furnish, or cause to be provided and furnished, all labor, administrative, professional, and supervisory personnel necessary for its performance of the Maintenance Services under this Section 3.1.

(l) In the event that the party responsible for Maintenance Services does not provide a particular item of Maintenance Services as required pursuant to this Section 3.1, the other Party(s) may, at its option after providing notice of such Maintenance Service deficiencies to the responsible Party, such responsible Party's failure to correct such deficiencies in performing the Maintenance Services within seven (7) days of such notice, either with or without the consent or request of such responsible Party, either itself or through a contractor, provide said item of maintenance, and the responsible Party shall reimburse the other Party for all incremental costs incurred in rendering such item of Maintenance Services. The provision of Maintenance Services pursuant to this Section 3.1(l) shall not be considered a waiver of any other remedies available to the Parties under this Agreement including, without limitation, the remedies set forth in Section 12.

3.2 Access for the Commonwealth Parties.

Nothing in this Section 3 shall derogate from the Commonwealth Parties' right to enter upon any portion of the Rail Operating Property for any purpose, provided that such entry does not unreasonably interfere with Freight Rail Service and provided that reasonable notice is provided and all applicable safety rules and practices are followed.

3.3 Knowledge Corridor Reconstruction Project.

Pursuant to that certain Construction Agreement for Rail Line Improvements between Springfield, Massachusetts and East Northfield, Massachusetts dated June 22, 2011, by and among PAS and the MBTA (the "Construction Agreement"), PAS and the MBTA have agreed to reconstruct the Property to facilitate the commencement of Amtrak Passenger Service. The project described in the Construction Agreement shall be referred to herein as the "Knowledge Corridor Reconstruction Project," and the rights and responsibilities of PAS and the MBTA shall be as set forth in such Construction Agreement.

SECTION 4. RESPONSIBILITY FOR MAINTENANCE SERVICES AND CAPITAL EXPENSES

4.1 Prior to the Passenger Service Commencement Date.

Prior to the Passenger Service Commencement Date, PAS shall be responsible for all costs involved in performing the Maintenance Services.

4.2 After the Passenger Service Commencement Date.

(a) PAS Maintenance Payment

From and after the Passenger Service Commencement Date, the Commonwealth Parties shall be responsible for, and shall reimburse PAS for, all costs for PAS involved in performing the Maintenance Services, other than maintenance of portions of the Rail Operating Property used solely for Freight Rail Service purposes, subject to a credit (the “PAS Maintenance Credit”). The PAS Maintenance Credit shall be an annual credit by PAS to the Commonwealth Parties towards the cost of Maintenance Services. The PAS Maintenance Credit shall be the lesser of (i) \$250,000 (the “PAS Max Maintenance Credit”), indexed as described in the next sentence, and (ii) the costs of the Maintenance Services actually performed. The PAS Max Maintenance Credit shall be adjusted annually for price level changes, beginning January 1, 2015, based on the relationship of the most recent Fourth Quarter Index (beginning with Fourth Quarter 2014) from the Association of American Railroads Quarterly Indices of Chargeout Prices and Wage Rates (Table C)-East, material prices, wage rates and supplements combined (excluding fuel), to the Fourth Quarter 2013 index value. The PAS Max Maintenance Credit represents the maintenance costs to maintain the Rail Operating Property to FRA Class I conditions, given a freight volume of 5,000 carloads annually (the “Base Volume”). At any time that freight volume in any year increases by at least 10,000 carloads or decreases by at least 1,000 carloads from the Base Volume, then the Parties shall increase or decrease, as appropriate, the PAS Maintenance Credit for such year; provided, however, that if the freight volume in the subsequent years reverts to between 4,000 carloads and 15,000 carloads, the amount of the PAS Maintenance Credit shall revert to the original PAS Maintenance Credit.

(i) So long as PAS is performing the Maintenance Services, the Commonwealth Parties shall receive a first dollar credit for all Maintenance Services up to the amount of the PAS Max Maintenance Credit. The Commonwealth Parties shall provide monthly payment to PAS for the provision of said maintenance of the Rail Operating Property after the PAS Maintenance Credit first dollar credit is exhausted in a calendar year. If the PAS Max Maintenance Credit exceeds the cost of Maintenance Services performed in a calendar year, PAS will not be responsible to the Commonwealth Parties for any payment, and no credit shall be carried forward to future years.

(ii) In the event that the Commonwealth Parties assume maintenance control and perform the Maintenance Services pursuant to Section 4.3(d), PAS shall no longer provide a credit, and shall instead pay, in twelve (12) equal monthly installments annually, an amount equal to the Max PAS Maintenance Credit toward the cost of the Maintenance Services for the Rail Operating Property (the “PAS Maintenance Payment”). Each month, PAS shall also be responsible for paying the costs of the Additional PAS Maintenance, if any. At the end of the calendar year, the Parties shall true up the PAS payment for Maintenance Services pursuant to this Section 4.2(a) to account for any overpayment, if any, by PAS. In the discretion of the Commonwealth Parties, such true up may take the form of a credit to the payment of PAS for Maintenance Services for the following calendar year.

4.3 Maintenance Service Responsibilities.

(a) Initial Designation of Responsibilities

The Parties acknowledge that PAS shall initially be designated by the Commonwealth Parties to perform the Maintenance Services.

(b) Maintenance Deficiency Notice

Notwithstanding any provision of this Agreement to the contrary, the Commonwealth Parties may notify PAS of the Commonwealth Parties' intention to assume control of and to perform the Maintenance Services either itself or through a third party, due to a failure of PAS to adequately perform said Maintenance Services. Such written notice (a "Maintenance Deficiency Notice") shall include the Commonwealth Parties' specific, performance-related reasons for assuming maintenance responsibilities and, if the Commonwealth Parties are reasonably able to identify specific actions that would cause the Commonwealth Parties to allow PAS to retain maintenance responsibilities, shall specify such remedial actions.

(c) Maintenance Remediation Proposal and Implementation

PAS may, within three (3) business days of receipt of such Maintenance Deficiency Notice, respond with a proposal (a "Maintenance Remediation Proposal") describing measures that PAS will implement to address any deficiencies described in the Maintenance Deficiency Notice within thirty (30) days of PAS's receipt of said Maintenance Deficiency Notice. If the Commonwealth Parties accept that the Maintenance Remediation Proposal adequately addresses any prior maintenance deficiencies and, provided further, that PAS implements such measures described in the Maintenance Remediation Proposal, PAS shall retain control of and perform the Maintenance Services. At the end of the thirty (30)-day period described above, the Commonwealth Parties shall notify PAS whether it shall retain control of and perform the Maintenance Services, subject to PAS's continued implementation of the remediation measures described in the Maintenance Remediation Proposal.

(d) Change in Maintenance Service Responsibilities

In the event that the Commonwealth Parties do not allow PAS to retain control of and perform the Maintenance Services, but the Commonwealth Parties are not in a position to provide Maintenance Services on the thirtieth (30th) day after delivery of a Maintenance Deficiency Notice, then PAS shall continue to provide such Maintenance Services at the Commonwealth Parties' sole cost and expense, until such time as the Commonwealth Parties are ready to assume maintenance responsibilities. In the event that the Commonwealth Parties assume control of Maintenance Services pursuant to this Section 4.3, PAS shall contribute the PAS Maintenance Payment set forth in Section 4.2(a)(ii) toward the Maintenance Services.

(e) PAS Right to Challenge Commonwealth Parties' Determination

Notwithstanding anything to the contrary herein, in the event that the Commonwealth Parties determine that a Maintenance Remediation Proposal does not adequately address the maintenance deficiencies identified in a Maintenance Deficiency Notice, or that PAS has failed to implement the measures set forth in an approved Maintenance Remediation Proposal within the 30-day period set forth in Section 4.3(c) above, the Commonwealth Parties or its designee may assume the performance of Maintenance Services as soon as reasonably practicable. PAS

shall have the right to submit the Commonwealth Parties' decision to arbitration by commencing the arbitration procedures set forth in Section 12.4 hereof, provided, however, that at any time while such challenge is pending, the Commonwealth Parties shall have the right to assume control of and perform the Maintenance Services either itself or through a third party. The parties agree that the Arbitrator(s) shall apply a reasonableness standard to the Commonwealth Parties' decision to assume the performance of Maintenance Services. Notwithstanding anything herein to the contrary, any decision of the Arbitrator(s) pursuant to this Section 4.3 shall be final and neither PAS nor the Commonwealth Parties have the right to appeal such decision to a court of law or otherwise. If the Arbitrator(s) rule in PAS's favor, the Commonwealth Parties shall reinstate PAS as the Maintenance Service provider upon not less than thirty (30) days' prior written notice.

4.4 Responsibility for Capital Improvements.

(a) In the event that a condition is identified on the Property that prevents the achievement of the Service Outcomes as set forth in Exhibit B of this Agreement and that can be remedied only by capital maintenance, the Commonwealth Parties shall be responsible for such capital maintenance costs that are required to achieve the Service Outcomes.

(b) The Commonwealth Parties' capital maintenance obligations include, but are not limited to, those set forth in Exhibit B to this Agreement.

(c) PAS, in its sole and absolute discretion, may pay additional amounts towards the improvement of the Property, including capital projects and modifications to proposed capital improvements to be constructed by the Commonwealth Parties, provided, however, that any such PAS-initiated capital projects or modifications to proposed Commonwealth Parties-initiated capital projects shall be subject to the written approval of the Commonwealth Parties, which approval shall not be unreasonably withheld, conditioned or delayed. The Commonwealth Parties shall provide PAS reasonable notification of contemplated Commonwealth Parties-initiated capital projects in order to effectuate the intent of this section.

4.5 PTC.

In the event that positive train control ("PTC") is required on any Rail Operating Property due to the presence of Passenger Service and not solely because of PAS operations, the Commonwealth Parties shall, at their sole cost and expense, provide a PTC system that complies with applicable law and is fully interoperable with the PTC system adopted by the national freight system. In addition, the Commonwealth Parties shall equip at their sole cost and expense up to twenty (20) PAS locomotives with equipment necessary for said locomotives to operate over all PTC equipped Rail Operating Property conforming to the above-referenced national freight system standard.

4.6 Regulatory Approval for Work on Rail Operating Property

The Commonwealth Parties shall have the exclusive right to secure such approvals of regulatory or governmental bodies for such work on the Rail Operating Property as may be necessary, including, without limitation, the FRA and Massachusetts Department of Public Utilities, and no approval of PAS shall be required for the performance of any work on the Rail Operating Rail Property.

SECTION 5. FORCE ACCOUNT WORK

The Commonwealth Parties may, to the extent permitted by applicable law and in their sole discretion, request that PAS perform work not otherwise required by this Agreement (“Force Account Work”) on portions of the Rail Operating Property used solely for Freight Rail Service purposes. All Force Account Work shall be performed pursuant to a Force Account Work Agreement reasonably acceptable to both parties.

SECTION 6. ACCESS, ALTERATIONS AND GOVERNMENTAL APPROVALS

6.1 Installation of Switches and Sidings for Freight Rail Service.

PAS, at its own cost and expense, may install switches and sidings, including any associated signaling to serve new locations on the Rail Operating Property. All such installations shall be subject to the prior written approval of the Commonwealth Parties, which approval shall not be unreasonably withheld, conditioned or delayed. The Commonwealth Parties shall make reasonable efforts to provide any such written approval within forty-five (45) days of the date PAS first requests such approval.

6.2 Capacity Improvements.

Each Party shall have the right to propose the construction of additional improvements on the Property to increase capacity on the Line. The Parties agree to consider and use reasonable efforts to agree upon details related to the construction of such improvements, including the nature of such improvements, whether and how each Party will participate with respect to the construction of such improvements and the proportionate share of costs, if any, to be borne by each Party, and the benefits to be afforded to the Party(s) funding the costs of the construction of such improvements, such agreement not to be unreasonably withheld, conditioned or delayed. If a Party proposes a capacity improvement that the other Party(s) is not willing to help finance, all of the capacity that is associated with said capacity improvement shall be allocated to such Party. For example and as an illustration, if PAS were to propose, and the Commonwealth Parties were to approve but opt not to share in the costs of, construction of improvements on the Property that would increase the capacity on the Line such that an additional Freight Service round-trip train could run on the Line without interfering with the existing rail service schedule on the Property, such additional Freight Service Train shall be added directly to, and become part of, the Freight Service Capacity. No capacity improvement shall unreasonably interfere with the provision of PAS Freight Rail Service, the Freight Service Capacity, the Amtrak Passenger Service or the Commonwealth Passenger Service.

6.3 No PAS Approval.

Except as expressly provided in this Agreement, nothing in this Agreement shall derogate from the Commonwealth Parties' sole right to perform all maintenance, construction, alterations, or improvements of any kinds to the Property that are determined to be necessary or reasonable to the Commonwealth Parties, in their sole discretion, and nothing contained herein shall be construed to grant to PAS a right to approve actions by the Commonwealth Parties affecting the Property including, without limitation, alterations thereto, the relocations, use of air or subsurface rights for development or other purposes, or granting of easements for utilities and crossings provided, however, (1) that all such actions do not unreasonably interfere with the provision of PAS Freight Rail Service or the Freight Service Capacity and (2) do not violate the Clearances requirement set forth in Section 6.5.

6.4 Access to Third Parties.

Subject to and consistent with the other provisions of this Agreement, including PAS's exclusive Freight Easement, in addition to access to third parties required to provide Passenger Service, the Commonwealth Parties may grant access to the Property to third parties, including but not limited to utilities providers, to perform work on such third parties' own behalf. The Commonwealth Parties shall provide at least fourteen (14) days prior written notice (or with respect to emergency services, such lesser notice as is reasonable in the circumstances) to PAS of all such work that will have an impact on PAS operations. To the extent that any such work by third parties is performed on the Rail Operating Property while PAS is responsible for the performance of dispatching services, such work will be performed in accordance with the applicable operational and dispatching rules and regulations of PAS and such third parties shall be obligated to have received or to procure from PAS any railway worker protection training, flagging, employee in charge and other such services as are reasonably and customarily required by PAS and to compensate PAS in accordance with its customary policies and procedures for the provision of such required training, protection and other mandatory services. All such access pursuant to this Section 6.4 shall be at the Commonwealth's sole cost, risk and expense.

6.5 Infrastructure Improvements or Modifications Affecting Dimensional Traffic.

The Commonwealth Parties shall, in coordination with PAS, take reasonable steps to provide no less than existing clearances on the Rail Operating Property and maintain such clearances ("Clearances") to no less than nine (9) feet from the centerline of track horizontally and no less than twenty-three (23) feet from top of rail measured vertically. Notwithstanding the foregoing, it is acknowledged that the Commonwealth Parties intend to construct high level platforms at stations, and such construction will be permissible provided that such high level platforms will be accompanied by a second track that maintains the aforementioned Clearances. In exercising such reasonable steps and to the extent it is permitted to consent or withhold consent, the Commonwealth Parties shall deny its consent to third parties that intend to construct or reconstruct infrastructure impacting the Rail Operating Property in a manner as to impact adversely the Clearances. Notwithstanding the foregoing or anything herein to the contrary, at any time the Commonwealth Parties shall not be required to replace any existing structures on or adjacent to the Property with new structures to meet the dimensional clearance requirements set forth in this Section 6.5 where such clearances do not exist as of the Effective Date of this Agreement.

SECTION 7. MANAGEMENT AND CONTROL; DISPATCHING

7.1 Control and Management

The Commonwealth Parties retain the exclusive right to exercise and to perform, or to delegate or subcontract to another entity the performance of the management, regulatory and operational control of any and all rail service over the Rail Operating Property, including, without limitation, dispatching and control of all trains; provided, however, that commencing on the Effective Date and continuing after the Passenger Service Commencement Date, PAS shall be designated to perform dispatching services on the Rail Operating Property, unless and until the Commonwealth Parties assume such obligation pursuant to Section 7.3. In the exercise of its control over the Rail Operating Property, the party performing dispatching services (which party will initially be PAS, but may be employees, contractors or agents of the Commonwealth Parties as provided for in this Agreement), will make all reasonable efforts to expedite the movement of freight trains, including expediting repairs to lines removing obstructions, and scheduling regular maintenance and repair programs at hours which will not unreasonably interfere with such movement; provided further, that such party providing dispatching services shall give priority to Passenger Service trains over all other train scheduling, dispatching and control, including without limitation PAS Freight Rail Service trains, provided that each such Passenger Service train is within ten (10) minutes earlier or later than its schedule time. For all other train movements, the party performing dispatching services on behalf of the Commonwealth Parties shall prioritize trains and resolve scheduling conflicts using best dispatching practices and in accordance with sound dispatching principles. At any given time, all of the Rail Operating Property will be managed and controlled, including dispatching, by one Party.

7.2 Dispatching Protocol

The Commonwealth Parties or PAS, as applicable, shall, in consultation with the other Party(s), establish a dispatching protocol that (i) will minimize negative impacts on each Party's trains in all time periods, and (ii) will allow reasonable flexibility within the structure described herein in order to accommodate the movement of each other's trains, provided however, that subject to Section 2.2(a), the Commonwealth Parties shall have the exclusive right to schedule Passenger Service trains in consultation with PAS and that in all circumstances a scheduled Passenger Service train shall hold a priority for as long as it maintains its schedule within a period no longer than ten minutes earlier or later than its scheduled time, as described above in Section 7.1.

7.3 Change in Dispatching Responsibility

(a) Dispatching Deficiency Notice

Notwithstanding any provision of this Agreement to the contrary, the Commonwealth Parties may notify PAS of the Commonwealth Parties' intention to assume dispatching control and perform dispatching services either itself or through a third party, due to a failure of PAS to adequately perform said dispatching services. Such written notice (a "Dispatching Deficiency Notice") shall include the Commonwealth Parties' specific, performance-related reasons for

assuming dispatching control and, if the Commonwealth Parties are reasonably able to identify specific actions that would cause the Commonwealth Parties to allow PAS to retain dispatching responsibilities, shall specify such remedial actions.

(b) Remediation Proposal and Implementation

PAS may, within three (3) business days of receipt of such Dispatching Deficiency Notice, respond with a proposal (a "Dispatching Remediation Proposal") describing measures that PAS will implement to address any deficiencies described in the Dispatching Deficiency Notice within thirty (30) days of PAS's receipt of said Dispatching Deficiency Notice. If the Commonwealth Parties accept that the Dispatching Remediation Proposal adequately addresses any prior dispatching deficiencies and, provided further, that PAS implements such measures described in the Dispatching Remediation Proposal, PAS shall retain dispatching control and perform dispatching services. At the end of the thirty (30)-day period described above, the Commonwealth Parties shall notify PAS whether it shall retain dispatching control and perform dispatching services, subject to PAS's continued implementation of the remediation measures described in the Dispatching Remediation Proposal.

(c) Change in Dispatching Control

In the event that the Commonwealth Parties do not allow PAS to retain dispatching control and perform dispatching services, but the Commonwealth Parties are not in a position to provide dispatching services on the thirtieth (30th) day after delivery of a Dispatching Deficiency Notice, then PAS shall continue to provide such dispatching services at the Commonwealth Parties' sole cost and expense, until such time as the Commonwealth Parties are ready to assume dispatching responsibilities. In the event that the Commonwealth Parties assume control of dispatching services pursuant to this Section 7.3, in order to allow for the in order to allow for the transfer of dispatching control to the Commonwealth Parties or a third party on the Rail Operating Property, PAS will provide full cooperation and access in locating and activating switching (transfer) equipment at necessary sites to establish the capability or activation of train control machines controlling the Rail Operating Property at the Commonwealth Parties' dispatching center and deactivation of the train control machines at the PAS dispatching center. PAS shall provide this cooperation within thirty (30) days of direction from the Commonwealth Parties. Such work shall be performed as Force Account Work under this Agreement or by the Commonwealth Parties or third parties engaged by the Commonwealth Parties, at their sole discretion.

(d) PAS Right to Challenge

Notwithstanding anything to the contrary herein, in the event that the Commonwealth Parties determine that a Dispatching Remediation Proposal does not adequately address the dispatching deficiencies identified in a Dispatching Deficiency Notice, or that PAS has failed to implement the measures set forth in an approved Dispatching Remediation Proposal within the 30-day period set forth in Section 7.3(b) above, the Commonwealth Parties or its designee may assume the performance of dispatching services as soon as reasonably practicable. PAS shall have the right to submit the Commonwealth Parties' decision to arbitration by commencing the

arbitration procedures set forth in Section 12.4 hereof, provided, however, that at any time while such challenge is pending, the Commonwealth Parties shall have the right to assume control of and perform the dispatching services either itself or through a third party. The parties agree that the Arbitrator(s) shall apply a reasonableness standard to the Commonwealth Parties' decision to assume the performance of dispatching services. Notwithstanding anything herein to the contrary, any decision of the Arbitrator(s) pursuant to this Section 7.3 shall be final and neither PAS nor the Commonwealth Parties have the right to appeal such decision, to a court of law or otherwise. If the Arbitrator(s) rule in PAS's favor, the Commonwealth Parties shall reinstate PAS as the dispatching service provider upon not less than thirty (30) days' prior written notice.

SECTION 8. TERM

This Agreement shall commence on the Effective Date and shall be for a Term of thirty (30) years, unless terminated earlier pursuant to its terms. Notwithstanding the foregoing, the Parties agree that this Agreement shall remain in full force and effect during any interim period between the end of the Term of this Agreement (or the termination hereof for any reason other than mutual agreement of the Parties) and the execution of a new, revised, or extended operating agreement covering all of the Property. The Parties acknowledge that expiration or termination of this Agreement will not affect the validity, continuation or perpetual nature of the Freight Easement or any other easement rights vested in PAS with regard to the Property.

SECTION 9. INDEMNIFICATION, LIABILITY AND INVESTIGATION

9.1 Applicability.

The following provisions will, from the Effective Date of this Agreement, govern the apportionment of liability and risk of damage between the Parties for incidents which occur on or after such Effective Date of this Agreement. This Section is not intended to relieve any third party from any liability.

9.2 Harm Involving PAS Only

Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, commuter rail customers or other invitees or trespassers), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, only PAS being involved, irrespective of any negligence or fault of Commonwealth Parties or Commonwealth Employees, or howsoever the same shall occur or be caused, then PAS shall assume all liability therefor, and bear all cost and expense in connection therewith, including reasonable attorneys' fees. PAS shall release, indemnify, and hold harmless the Commonwealth Parties and their contractors (other than PAS) from and against any claims, damages, awards, or judgments, including punitive damages, arising from or related to this Section 9.2.

9.3 Harm Involving Commonwealth Parties Only

Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, commuter rail customers or other invitees or trespassers), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, only the Commonwealth Parties being involved, irrespective of any negligence or fault of PAS or PAS Employees, or howsoever the same shall occur or be caused, then the Commonwealth Parties shall assume all liability therefor, and bear all cost and expense in connection therewith, including reasonable attorneys' fees. The Commonwealth Parties shall release, indemnify, and hold harmless PAS and its contractor(s) from and against any and all claims, damages, awards or judgments, including punitive damages, arising from or related to this Section 9.3.

9.4 Harm Involving Both Parties

Whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, commuter rail customers or other invitees), occurs with the trains, locomotives, rail cars or rail equipment of, or in the account of, both the Commonwealth Parties and PAS being involved, irrespective of any negligence or fault of the Parties, or howsoever the same shall occur or be caused, then:

(a) The Commonwealth Parties and PAS shall separately assume and bear all liability, cost and expense for loss of, damage to, or destruction of trains, locomotives, rail cars (including, without limitation, lading), and rail equipment operated by each of them, and shall release, indemnify, and hold harmless the other Party from and against any claims, damages, awards, or judgments, including punitive damages, arising from or related to this Section 9.4(a).

(b) The Commonwealth Parties and PAS shall separately assume and bear all liability, cost and expense for injury to and death of the officers, agents, contractors, and employees employed or engaged by each of them, and shall release, indemnify, and hold harmless the other Party from and against any claims, damages, awards, or judgments, including punitive damages, arising from or related to this Section 9.4(b). It is expressly understood and agreed that PAS Employees furnished to Commonwealth Parties, and PAS Employees who are involved in PAS's provision of services to Commonwealth Parties, will be regarded for purposes of this Section 9.4(b) as employees of PAS, and not of Commonwealth Parties, and that any Commonwealth Employees furnished to PAS, and any such employee who is involved in Commonwealth Parties' provision of services to PAS, will be regarded for purposes of this Section 9.4(b) as employees of the Commonwealth Parties, and not of PAS. It is further agreed that PAS Employees who are also Commonwealth Passengers at the time in question will be treated as Commonwealth Passengers, and not PAS Employees, for purposes of this Section 9.4(b).

(c) The Commonwealth Parties and PAS shall equally assume, bear, and share all liability, cost, and expense for loss of, damage to, or destruction of Rail Operating Property used by both Parties (including, without limitation, rail track and signals).

(d) The Commonwealth Parties shall assume and bear all liability, cost, and expense for injury to or death of any person (including, without limitation, Commonwealth Passengers, other invitees, and trespassers) not referenced in paragraph (b) above, and for loss of, damage to and destruction of all other property not referenced in paragraphs (a) and (c) above, and shall release, indemnify, and hold harmless PAS and its contractors from and against any claims, damages, awards, or judgments, including punitive damages, arising from or related to this Section 9.4(d).

9.5 Derailment or Accident

In the event of any derailment or other accident occurring on the Rail Operating Property wherein cars, motive power, or other equipment of either Party shall fall or encroach upon tracks, bridges or other property being used by the other Party so that said property is blocked or normal operation is impeded, the Party whose property has so fallen or encroached shall expeditiously remove the same and cause all necessary repairs to be made and all tracks and appurtenances restored, at its expense, as may be required for the continued operation of the other Party's railroad activities. Both parties agree to cooperate with each other to expedite the repair and removal of such cars, motive power and other equipment and will make all reasonable efforts to restore the affected line or facility to service.

9.6 Administration of Claims.

(a) Except as provided in Section 9.6(b) below, all claims, injuries, deaths, property damages and losses arising out of or connected with this Agreement shall be investigated, adjusted and defended by the Party bearing the liability, cost and expense therefor under the provisions of this Agreement.

(b) PAS will investigate, adjust and defend all freight loss and damage claims filed with it in accordance with applicable provisions of law, and will investigate, adjust and defend all claims for injury to and death of PAS's Employees for which either PAS or the Commonwealth Parties solely or PAS and the Commonwealth Parties jointly may have any liability under the provisions of this Agreement.

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

(d) In the event a claim or suit is asserted against any Party which is another Party's duty hereunder to investigate, adjust or defend, then, unless otherwise agreed, such other Party shall, upon request, take over the investigation, adjustment and defense of such claim or suit, and the Party relieved of duties in respect of such claim or suit shall

cooperate as requested by the Party investigating, adjusting or defending said claim or suit.

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

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

(g) It is understood that nothing in this Section 9.6 shall modify or waive the conditions, obligations, assumptions, or apportionments provided in Section 9 or elsewhere in this Agreement.

SECTION 10. INSURANCE

10.1 PAS Requirements.

From and after the Effective Date, PAS shall procure and maintain general liability insurance with respect to Freight Rail Service with minimum limits of not less than \$7,500,000 per occurrence and in the aggregate, which insurance will cover PAS's liability under Section 9 above. PAS shall also procure and maintain worker's compensation insurance, employer liability and other insurance as required by law. All insurance herein provided for shall be in such form and written by such companies as may be reasonably approved by the Commonwealth Parties, which approval shall not be unreasonably withheld. PAS will deliver to the Commonwealth Parties certificates of insurance for all policies and name the Commonwealth Parties as additional named insured as required under this Agreement.

10.2 Commonwealth Parties Requirements.

The Commonwealth Parties, at their sole cost and expense, shall procure and maintain liability insurance with a limit of not more than \$75,000,000 (or such other amount required by law) combined single limit for personal injury and property damage per occurrence, which insurance will cover the Commonwealth Parties' liability under Section 9. The self-insured retention of such policy will not exceed the lesser of (i) \$7,500,000 or (ii) the requirements of Section 43 of Chapter 161A of Massachusetts Laws, as the same may be amended or replaced from time to time. The Commonwealth Parties will deliver to PAS certificates of insurance for all policies and name PAS as an additional insured as required under this Agreement.

10.3 Additional PAS Requirements While PAS Providing Dispatching Services and/or Maintenance Services

(a) For so long a time as PAS is providing dispatching services and/or Maintenance Services under this Agreement, PAS will name and maintain the

Commonwealth Parties as additional named insureds on a Commercial General Liability policy for third party liability for \$7.5 million, with a self-insured retention no greater than \$3 million, providing insurance coverage for: (i) any and all liability arising under Section 9.4(d); and (ii) any and all liability for injuries to or death of any Commonwealth Passenger or third party (including, without limitation, other invitees or trespassers) and for loss of, damage to, or destruction of any property of any such Commonwealth Passenger or third party arising under Section 9.3.

(b) If at any time PAS, at its sole discretion, determines that purchase or renewal of insurance pursuant to Section 10.3(a) cannot be obtained at commercially reasonable terms, or if such insurance is terminated, lapses, or otherwise is not in effect, PAS will begin transition of the dispatching services and Maintenance Services to the Commonwealth Parties or their designated contractors, provided that, prior to beginning any transition based on a determination that insurance cannot be obtained at commercially reasonable terms, PAS shall meet with the Commonwealth Parties to discuss its reasons for such determination and possible risk management solutions. Notwithstanding the foregoing, the decision of whether insurance can be obtained at commercially reasonable terms will remain in the sole discretion of PAS. During the transition period, PAS will provide full cooperation and access in locating and activating switching (transfer) equipment at necessary sites to establish the capability or activation of train control machines controlling the Rail Operating Property at the Commonwealth Parties' dispatching center at Cobble Hill and deactivation of the train control machines at the PAS dispatching center. The Commonwealth Parties will provide full cooperation and transition dispatching services and Maintenance Services as soon as reasonably practicable.

(c) If at any time insurance pursuant to Section 10.3(a) is terminated, lapses, or otherwise is not in effect while PAS is providing dispatching services and/or Maintenance Services under this Agreement, PAS will reimburse the Commonwealth Parties for a portion of the annual premiums payable by the Commonwealth Parties for their general liability insurance applicable to the Commonwealth Parties' rail properties, such portion to be Twenty Five Thousand Dollars (\$25,000.00) per month. The first full year's reimbursement (Three Hundred Thousand Dollars (\$300,000.00)) will be due immediately upon any termination, lapse, or other discontinuance of the insurance requirements pursuant to Section 10.3(a). PAS's reimbursement obligation under this Section 10.3(c) will continue until such time as the Commonwealth Parties' dispatching center at Cobble Hill is connected and capable of controlling the Rail Operating Property, at which time the Commonwealth Parties will refund PAS any pre-payments for periods beyond the date of such completed connection. The monthly reimbursement amount applicable under this Section 10.3(c) will be indexed based on an annual adjustment for price level changes, beginning January 1, 2015, based on the relationship of the most recent Fourth Quarter Index (beginning with Fourth Quarter 2014) from the Association of American Railroads Quarterly Indices of Chargeout Prices and Wage Rates (Table C)-East, material prices, wage rates, and supplements combined (excluding fuel), to the Fourth Quarter 2013 index value.

(d) Nothing in this Section 10.3 modifies or waives any of the liability or indemnification conditions, obligations, assumptions, or apportionments provided in Section 9.

10.4 Insurance Certificates.

Each Party shall furnish the other with certificates of insurance (and, upon request, copies of all required insurance policies, including endorsements and declarations) evidencing compliance with the requirements set forth in this Section, and upon the request of the other Party, annually thereafter. The policies shall (1) name the other Party, and its directors, officers, agents and employees, as additional insureds with respect to occurrences relating to the performance of the obligations set forth in this Agreement; (2) provide that such coverage is primary and non-contributory to any insurance or self-insurance procured and maintained by the other Party; (3) provide that any Workers' Compensation policies contain a waiver of subrogation against the other Party; and (4) provide that to the extent reasonably available, all policies shall not contain any terrorism exclusions, or if they so contain such exclusions, shall contain endorsements providing coverage for acts of terrorism, both foreign and domestic, and both certified and non-certified by the Secretary of the Treasury of the United States. Except as otherwise specified in this Agreement, in the event any insurance policy required under this Agreement is cancelled or has its aggregate limits coverage reduced by 25% or more, then the applicable Party shall replace such policy or reinstate the aggregate limits during the notification period referred to above with another policy in like amount and coverage protection.

10.5 Self Insurance.

PAS's and the Commonwealth Parties' self-insurance programs and self-insurance retentions must provide the Parties with at least the same protection from liability and defense of suits as would be afforded by "first dollar" insurance. If a Party fails or refuses to pay any losses for which the Party is responsible hereunder within a permitted self-insured retention, such failure or refusal shall be an Event of Default under this Agreement.

SECTION 11. DEFAULT AND BREACH; TERMINATION

11.1 Default and Breach.

(a) Events of Default

Each of the following shall constitute an "Event of Default" under this Agreement:

(i) Any late payment under the provisions of this Agreement remaining outstanding for more than four (4) months.

(ii) The commencement of any proceeding by or against PAS or by the Commonwealth Parties which might result in any modification of the obligations hereunder under any bankruptcy, insolvency or similar law, unless all of the obligations of such Party shall

have been duly assumed by a trustee or successor to such Party within sixty (60) days after such proceeding shall have commenced;

(iii) The failure to perform any other material covenant or obligation in this Agreement, which failure shall have continued for more than thirty (30) days following the date of written notice thereof.

(b) Remedies

If an Event of Default shall occur, the Party not in default may exercise any or all of the following remedies:

(i) Terminate this Agreement by and upon sixty (60) days' written notice to the defaulting Party; or

(ii) Regardless of whether this Agreement is terminated pursuant to Section 11.1(b)(i), pursue any other remedy at law or in equity in any state or federal court in Massachusetts, subject to the provisions of Section 12.

(c) Equitable Relief

The Parties hereto expressly acknowledge that the nature and purpose of this Agreement is such that damages may not be an adequate remedy for any default or breach so occurring, and that equitable relief, such as injunction, mandatory or otherwise, including specific performance, may be necessary in the event a Party fails to cure a breach or default so occurring; in such case, the aggrieved Party may take such legal action as it deems appropriate and may file immediately any and all pleadings in any state or federal court in Massachusetts to secure an injunction of the action or inaction resulting in such default or breach, pending resolution of the matter pursuant to the dispute resolution procedures set forth in Section 12 below; and that, except with respect to the seeking of such equitable relief, any and all controversies arising out of or connected with any default or breach so occurring shall be resolved exclusively by dispute resolution and arbitration in accordance with the provisions of Section 12 hereof. Nothing contained in this Section 11 shall be construed to limit or restrict the Parties' rights and obligations under Section 11.2.

(d) No Implied Waiver

An Event of Default shall not be waived or satisfied by the failure of a Party to provide written notice thereof to another Party, nor shall a failure to provide written notice be considered a waiver of any other remedies available to any Party under this Agreement or otherwise.

11.2 Termination; Effect of Termination.

(a) Termination

This Agreement may be terminated as provided in Section 11.1 or by mutual agreement of the Parties, upon such terms and conditions as the Parties may mutually agree to. Such

termination shall be effective in accordance with a written agreement by the Parties. Termination under this Section shall not constitute a waiver of the rights of any Party to damages or other remedies related to this Agreement, except to the extent that the mutual agreement terminating this Agreement so specifies. The Parties agree and acknowledge that any termination of this Agreement does not affect the validity, continuation or perpetual nature of the Freight Easement with regard to the Property.

(b) Appropriate Statutory and Regulatory Authority

This Agreement shall terminate with respect to portions of the Property (i) at such time as PAS or the Commonwealth Parties secures and exercises authority, in accordance with Appropriate Statutory and Regulatory Authority, to abandon the common carrier obligations as to such portions of the Property and Freight Rail Service is ceased with regard to said portions of the Property, or (ii) in the event that such authority is not required, at such time as PAS, its successors or assigns, designates in a written notice of termination of this Agreement with respect to such portions of the Property, which written notice shall be given to the Commonwealth Parties at least six (6) months in advance of the date so designated for termination, *provided however*, such portions of the Property shall continue to be subject to applicable law.

(c) Survival of Obligations

Expiration or termination of this Agreement for any reason, in whole or in part, shall not relieve or release any Party from any obligation assumed or from any liability which may have arisen or been incurred by any Party under the terms of this Agreement prior to the expiration or termination hereof. The foregoing provision shall apply whether or not it is so expressly stated elsewhere in this Agreement, including without limitation, where a right of termination, in whole or in part, is expressly accorded either or both of the Parties. All obligations for indemnification and insurance coverage shall survive expiration or termination of this Agreement with respect to events that occur during the term of this Agreement.

SECTION 12. DISPUTE RESOLUTION

12.1 Settlement of Disputes.

The Parties to this Agreement shall make every reasonable effort to settle any dispute concerning the interpretation, application or enforcement of this Agreement by prompt and diligent discussions and negotiations.

12.2 Informal Consideration by the Parties.

Any dispute that cannot be resolved pursuant to Section 12.1 above within thirty (30) business days after it arises (or such other time as the Parties may agree in writing), may be submitted at the written request of any Party to MassDOT's Deputy Rail Administrator, the MBTA's Director of Railroad Operations, and the individual designated by PAS. These individuals shall discuss and attempt to resolve the dispute. In the event that the dispute remains unresolved twenty (20) business days after its submission (or such other time as the Parties may

agree), the matter may be referred in writing by any Party to the MBTA's General Manager, the Secretary of MassDOT, and PAS's President for consideration and resolution. If the dispute still remains unresolved thirty (30) calendar days after its referral to the MBTA's General Manager and PAS's President under this paragraph, the Parties may jointly agree to submit the matter to meditation under Section 12.3, below, or any Party may commence arbitration in accordance with Section 12.4 below.

12.3 Mediation.

(a) Request for Mediation

Either the Commonwealth Parties or PAS may request mediation of any unresolved dispute under this Section 12.3. If a Party elects mediation and any other Party declines to have the dispute resolved by mediation under this Section, or if the Parties undertake mediation and one of the Parties unreasonably delays the expeditious conclusion of same, the aggrieved Party may proceed with other remedies available under this Agreement.

(b) Selection of Mediator

The Commonwealth Parties and PAS shall jointly select an independent mediator within twenty-one (21) calendar days after the submittal of a dispute under this Section 12.3. The independent mediator shall be properly qualified in the areas of surface transportation finance and the surface transportation industry, and have experience in the analysis of transportation operating and capital costs and revenues.

(c) Mediation Scheduling

The mediator shall meet with the Parties within twenty-one (21) days after his or her selection to attempt to mediate and resolve the dispute. If mediation efforts are unsuccessful after sixty (60) calendar days, the mediator shall, after consideration of the Parties' positions and written submissions (if so requested) issue written recommendations for resolution of the dispute. All meetings and proceedings shall be held in Boston, Massachusetts, at a time and location acceptable to both Parties.

(d) Status of Controversy during Mediation Proceedings

During the pendency of such mediation proceedings, the performance by both Parties of this Agreement shall continue in the same manner as before such controversy arose, unless the mediator shall make a preliminary ruling to the contrary.

(e) Share of Costs

Each Party shall share equally the costs and expenses of any mediation conducted pursuant to this Section.

12.4 Arbitration.

It is the desire and intent of the Parties hereto to avoid the expense and delay inherent in litigation; therefore, PAS and the Commonwealth Parties agree that whenever a Party desires to commence the arbitration process it shall provide written notice thereof to the other Parties and the following provisions shall apply:

(a) Rules of Arbitration

Except as is otherwise expressly provided in this Agreement, any dispute (including, without limitation, disputes regarding whether a matter is subject to arbitration under this Agreement) under this Agreement shall be settled exclusively in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award entered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. Arbitration shall be held in Boston, Massachusetts. It is the intent of the Parties hereto that the agreement to arbitrate contained in this Section shall be valid and irrevocable, and shall be specifically enforceable by either of the Parties hereto from and after the date of this Agreement. In interpreting this Agreement and resolving any dispute hereunder, the arbitrator(s) shall apply the laws of the Commonwealth of Massachusetts. In the event of Arbitration, each Party shall pay the compensation, costs, fees and expenses of its own witnesses, exhibits and counsel. The compensation, costs, fees and expenses of the arbitrator(s) and the American Arbitration Association shall be paid equally by the Parties. The arbitrator(s) selected to adjudicate the arbitration must have transportation industry experience.

12.5 Effect of Mediation and Arbitration

The Parties agree that neither the provisions of Section 12.4(a) nor Section 12.3 shall be applicable to, nor shall they be used: (i) to alter, amend, change, modify, add to or subtract from any of the provisions of this Agreement, except to the extent mutually agreed to by the Commonwealth Parties and PAS in the submission of the matter to arbitration or mediation; (ii) to resolve any matter subject to the judgment or discretion of one Party to this Agreement; or (iii) except as is otherwise expressly provided herein, to resolve any matter reserved by this Agreement for the mutual agreement of the Parties.

12.6 Interest.

Where the time period during which interest accrues regarding a matter in dispute is specifically established elsewhere in this Agreement, that time period shall apply for purposes of disputes under this Agreement. For any other dispute under this Agreement, interest shall accrue from the date that payment was due, at the Effective Interest Rate.

SECTION 13. EQUAL EMPLOYMENT OPPORTUNITY

13.1 Fair Employment Practices.

PAS agrees that it will comply with all applicable federal, state, and local laws and regulations relating to fair employment practices and non-discrimination against employees or applicants for employment because of race, religion, creed, color, sex, national origin, disability or sexual orientation.

13.2 Subcontracts.

To the extent such laws or regulations are applicable to any particular subcontractor, PAS shall insert provisions similar to those appearing in Section 13.1 above in each subcontract, except subcontracts for standard commercial supplies, raw materials, or construction.

SECTION 14. DISADVANTAGED BUSINESS ENTERPRISES.

PAS shall comply with all applicable federal laws and regulations relating to Disadvantaged Business Enterprises, including but not limited to regulations issued by the U.S. Department of Transportation (49 C.F.R. Part 23).

SECTION 15. EMPLOYEE WAGES AND BENEFITS

Each Party (or its contractors) shall be solely responsible for the determination of and payment of wages and benefits and other terms and conditions of employment of all such Party's employees; provided, however, that such Party shall comply with any applicable mandatory federal or state prevailing wage rate, safety, or wage/hour laws. Each Party agrees to indemnify and hold harmless the other Party and its parent corporation, subsidiaries and affiliates, and all their respective directors, officers, agents and employees from and against any and all costs and payments, including benefits, allowances and arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of its own employees, pursuant to a collective bargaining agreement. It is the intention of the Parties that each Party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employee arising under its collective bargaining agreements with its employees.

SECTION 16. APPLICABILITY

The Parties agree that this Agreement, on and as of the respective Effective Date hereof, shall supersede all previous agreements between the Parties that relate to all or any portion of the Property described in this Agreement, provided however that the SOA, the Host Agreement and the Construction Agreement shall be superseded by this Agreement only as specified herein.

SECTION 17. GENERAL PROVISIONS

17.1 Additional Properties.

The Parties may by mutual written agreement add additional rail line segments or other trackage to the Property as defined herein (and designate an Effective Date with respect thereto). Provided appropriate regulatory approvals are sought and obtained in advance of any such transactions, the segments of railroad so added shall be subject to all of the rights and obligations set forth in this Agreement, and, to the extent permitted by law, these segments of rail line and/or track shall thereafter cease to be governed by any other agreements (including operating and trackage rights agreements) that previously had been in effect with respect to any such segments of railroad.

17.2 Ownership of Service Equipment.

As used in this Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the Parties hereto such expression means the trains, locomotives, cars or equipment in the possession of or operated by or on behalf of one of the Parties and including such trains, locomotives, cars or equipment which are owned by, leased to, or the responsibility of such Party.

17.3 Compliance with Laws and Operating Rules.

(a) Compliance with Federal, State, and Local Laws, Regulations, and Rules

PAS and the Commonwealth parties shall comply with the provisions of applicable federal, state, and local laws, regulations, and rules respecting the operation, condition, inspection, and safety of the trains, locomotives, cars and equipment it or any affiliate or contractor operates over the Property. PAS and the Commonwealth Parties shall each indemnify, protect, defend, and save the other, and its officers, agents, and employees harmless from all fines and penalties imposed under such laws, rules, and regulations by any governmental or regulatory agency, or court having jurisdiction over the Property, when the imposition of same is related to the failure of such Party to comply with its obligations under this Section 17.3(a). Nothing in this Section 17.3 shall alter, modify or amend Section 9 or Section 10 of this Agreement.

(b) Operating Rules

In its use of the Rail Operating Property, each Party shall comply in all respects with the operating rules and regulations of the Party responsible for dispatching pursuant to Section 7, and the movement of each Party's trains, locomotives, cars, and equipment over the Rail Operating Property shall be subject at all times to the orders of transportation officers of such dispatching Party.

(c) Party Employees

PAS shall provide employees, at its sole cost and expense, for the operation of its trains, locomotives, rail cars and rail equipment over the Property and the Commonwealth Parties shall provide employees, at its sole cost and expense, for the operation of its trains, locomotives, rail cars and rail equipment over the Property. Each PAS Employee and each Commonwealth Parties' Employee who shall operate trains, locomotives, rail cars and rail equipment over the Property shall be qualified by the Commonwealth Parties for operation thereover. PAS shall compensate the Commonwealth Parties for any and all direct costs incurred by the Commonwealth Parties in connection with the qualification of such employees of PAS as well as the cost incurred by the Commonwealth Parties for furnishing pilots, until such time as such employees of PAS are deemed by the appropriate examining officer of the Commonwealth Parties to be properly qualified for operation as herein contemplated, *provided* that the Commonwealth Parties shall not be required to administer more than three (3) qualifying attempts for any such employee. As used in this Section, qualification pertains only to the employee's operation of trains, locomotives, rail cars and rail equipment on the Property in

accordance with the Commonwealth Parties' operating rules and practices. For purposes of this Section, any employee of PAS qualified to operate over the Property on a date prior to the Passenger Service Commencement Date shall be deemed qualified by the MBTA for operation over the Property as herein contemplated as of the Passenger Service Commencement Date. On a date prior to the Passenger Service Commencement Date, PAS shall provide to the Commonwealth Parties a list of the names of all PAS Employees that PAS certifies to be qualified to operate over the Property as of that date.

(d) Investigations or Hearings for Violations

In the event the Commonwealth Parties conduct an investigation or hearing concerning a violation of any operating rule or practice of the Commonwealth Parties by any PAS Employee, except officers, PAS shall be notified in advance of any such investigation or hearing and such investigation or hearing may be attended by any official designated by PAS and shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to said employee or employees.

(e) Exclusion of Violators

The Commonwealth Parties shall have the right to exclude from the Property any PAS Employee, except officers, whom the Commonwealth Parties determines, based on the investigation or hearing described above, to be in violation of the applicable rules, regulations, orders, practices or instructions issued by timetable or otherwise, provided that the Commonwealth Parties may exclude any PAS Employee, except officers, from the Property prior to such determination for alleged violations of the Commonwealth Parties' rules regarding use of intoxicating beverages or drugs, or for alleged insubordination. PAS shall release, indemnify, defend and save harmless the Commonwealth Parties and their officers, agents and employees from and against any and all claims and expenses arising from such exclusion.

17.4 Disabled Trains/Wreck Clearing.

(a) Commonwealth Assistance

If by reason of any mechanical failure or any other cause not resulting from an accident or derailment, a train or locomotive of PAS becomes stalled and unable to proceed under its own power, or fails to maintain the speed required by the Commonwealth Parties on the Rail Operating Property, or if in emergencies crippled or otherwise defective cars are separated from PAS's trains on the Rail Operating Property, the Commonwealth Parties shall have the option of allowing PAS to furnish motive power or such other assistance as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the Rail Operating Property. PAS shall reimburse the Commonwealth Parties for direct costs incurred in rendering any such assistance.

(b) Repairs, Adjustment, Transfer of Lading

If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the Rail Operating Property, such work shall, at the

option of the Commonwealth Parties, be done by PAS or the Commonwealth Parties or by the Parties' respective contractors. PAS shall reimburse the Commonwealth Parties for direct costs incurred in rendering any such assistance.

(c) Wreck Clearing

Each Party shall have full responsibility for rerailling wrecking service or wrecking train service, including without limitation the removal of damaged equipment, repair and restoration of road bed, track, signals, communication systems and all other right of way structures and facilities affected by such wrecks ("Wreck Clearing") during the period in which such Party has the responsibility to maintain such portion of the Property. The liability, cost and expense of the foregoing, including, without limitation, loss of, damage to or destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be allocated and apportioned in accordance with the provisions of Section 9 hereof. All trains, locomotives, rail cars, and rail equipment and salvage from the same so picked up and removed which is owned by PAS shall be promptly delivered to it. Each Party shall perform its services under this Section in an expeditious manner in order to restore rail service on the line.

17.5 Operating Duties in Regard to Safety.

Each Party shall take all reasonable safety precautions and shall provide all reasonable protection to prevent damage, injury, death, or loss to: all employees, passengers, and customers of the other Parties and all tracks, bridges, and other equipment related to the Property. Unless otherwise provided by law, each Party will be responsible to give all notices and comply with all applicable laws, rules, regulations and lawful orders of any public agency or the Commonwealth Parties in connection with its operations under this Agreement bearing on the safety of persons or property or their protection from damage, injury, death or loss. Without limitation, this obligation shall include observance of all safety rules and regulations administered by the Federal Railroad Administration or Massachusetts Department of Public Utilities including, for example: the FRA's regulations at 49 CFR Subtitle B, Chapter II; all applicable regulations regarding the transport of hazardous materials or wastes prescribed by the U.S. Department of Transportation including 49 CFR Parts 171 et seq., and prescribed by the U.S. Environmental Protection Agency, including 40 CFR Part 263; and all applicable safety rules and other operating procedures of general applicability and future effect issued by the Commonwealth Parties and forwarded in writing to PAS. Each Party shall promptly furnish to the other Parties evidence reasonably satisfactory to the other Parties demonstrating compliance with the above. Nothing in this Section 17.5 shall alter, modify or amend Section 9 or Section 10 of this Agreement.

SECTION 18. ASSIGNMENT

18.1 Assignment by PAS.

PAS may assign to any Person, in whole but not in part, all of its rights, interests or obligations under this Agreement, subject to the following conditions: (i) that PAS shall provide to the Commonwealth Parties with sixty (60) days prior written notice of such proposed

assignment, (ii) that any such assignment must be accompanied by an assignment to such Person of all of PAS's rights under the Freight Easement, (iii) that the proposed transfer complies with the transfer provisions of the Deed, including but not limited to the transferee's qualification under the transferee standards set forth in such Deed; and (iv) and the assignee assume, by written agreement reasonably acceptable to the Commonwealth Parties, all of PAS's obligations under this Agreement. No fees or other amounts shall be due or payable under this Agreement with respect to any such assignment of the Freight Easement or this Agreement; provided however that PAS shall have no right to partially assign its rights to perform Freight Rail Service on any portion of the Property such that PAS and such assignee both are performing Freight Rail Service. In the event of an assignment of this Agreement by PAS to an affiliate of PAS, PAS shall unconditionally guarantee to the Commonwealth Parties the performance of all obligations of PAS under this Agreement by any such affiliate. Nothing in this Section 18 shall prevent or impede PAS from transferring the Freight Easement in accordance with its terms and generally applicable law.

18.2 Release and Discharge.

Except as is otherwise provided in Section 18.1 of this Agreement, any assignment of this Agreement, in whole or in part, by PAS, its successors or assigns, shall release and discharge PAS: (i) from the performance of its obligations and covenants under this Agreement, or with respect to the part hereof so assigned, as the case may be, from and after the date of such assignment, and (ii) from any liability, cost and expense arising out of or connected with this Agreement, or with respect to the part thereof so assigned, as the case may be, from and after the date of such assignment.

18.3 Assignment by Commonwealth Parties.

The Commonwealth Parties may assign, in whole or in part, any of its rights, interests or obligations under this Agreement, *provided however*, that the Commonwealth Parties shall provide to PAS sixty (60) days prior written notice of such proposed assignment, and *provided further*, that such assignment does not impair or adversely affect any rights of PAS hereunder or as required by law. Notwithstanding the foregoing, the Commonwealth Parties shall not partially assign its rights to operate Passenger Rail Services over the Rail Operating Property.

18.4 Survival of Liability.

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

SECTION 19. FORCE MAJEURE

Each Party will be excused from performance of any of its obligations to the other under this Agreement other than those set forth in Section 10, where such non-performance is occasioned by any event beyond the non-performing Party's control which shall include, without

limitation, any applicable order, rule, or regulation of any Federal, State (other than any such rule or regulation (i) which is enacted solely by the Commonwealths Parties and (ii) which is not enacted pursuant to State legislation), or local government body, agent, or instrumentality; work stoppage; natural disaster; terrorist act or threatened act of terrorism; or civil disorder; provided, however, that the Party excused hereunder shall use all reasonable efforts to minimize its non-performance and to overcome, remedy, or remove such event in the shortest practical time. The obligations set forth in Section 10 are not excused hereunder.

SECTION 20. MISCELLANEOUS.

20.1 Applicable Law.

This Agreement, and the transactions to which it relates, will be governed by and construed and enforced in accordance with the law of the Commonwealth of Massachusetts. Any claim or legal action by one Party against the other that is not submitted to mediation or arbitration pursuant to Section 12 shall be commenced and maintained in any state or federal court located in Massachusetts and both Parties hereby submit to the jurisdiction and venue of any such court.

20.2 Entire Agreement.

This Agreement, including the Exhibits hereto, represents the entire agreement between the Parties hereto with respect to the Property from and after the Effective Date with respect to the Property, and this Agreement supersedes any and all prior discussions, proposals and communications between the Commonwealth Parties and PAS with respect to the Property.

20.3 Notices.

All notices pursuant to this Agreement shall be in writing and shall be deemed effective: (i) on the date given if delivered by hand or transmitted by facsimile on a weekday, or on the next succeeding weekday if not given on a weekday, (ii) one weekday after delivery to a reputable overnight courier service, and (iii) five (5) days after having been deposited with the U.S. Postal Service, postage prepaid.

Notices to MassDOT shall be addressed to:

Massachusetts Department of Transportation
10 Park Plaza
Boston, MA 02116
Attention: Deputy Rail Administrator

with a copy to:

Massachusetts Department of Transportation
10 Park Plaza
Boston, MA 02116
Attention: General Counsel

Notices to the MBTA shall be addressed to:

Massachusetts Bay Transportation Authority
45 High Street, 9th Floor
Boston, MA 02110
Attention: Director of Railroad Operations

with a copy to:

Massachusetts Bay Transportation Authority
10 Park Plaza
Boston, MA 02116
Attention: General Counsel

with an additional copy to:

Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110-3333
Attention: Peter Kochansky, Esq.

Notices to PAS shall be addressed to:

General Manager
Pan Am Southern LLC
1700 Iron Horse Park
North Billerica, MA 01862

with a copy to:

Law Department
Pan Am Southern LLC
1700 Iron Horse Park
North Billerica, MA 01862

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

20.4 No Waiver.

No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies of the Parties provided herein are cumulative and not exclusive of any remedies provided for by law.

20.5 Survival of Indemnification and Insurance Obligations.

The indemnification obligations of PAS and the Commonwealth Parties hereunder (and all other obligations) that arise but which are not satisfied during the Term of this Agreement shall survive the termination of this Agreement.

20.6 Headings.

The section headings appearing herein are intended solely for convenience of reference and shall not be construed as affecting the interpretation of any provision hereof.

20.7 Successors and Assigns.

This Agreement shall be binding upon, and inure to the benefit of the respective successors and assigns of the Parties.

20.8 No Benefit to Third Parties.

Nothing in this Agreement shall be deemed to create any right in any Person not a party hereto other than permitted successors and assigns of the Parties, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

20.9 Representations and Warranties.

The Parties represent and warrant to each other that, except with respect to a challenge by any union representing any the Commonwealth Employees or PAS Employees, (i) the Parties have the power and authority to enter into this Agreement and to carry out their respective obligations hereunder; (ii) the Parties have taken all legal action necessary to authorize them to enter into and perform their respective obligations hereunder; (iii) entering into and performing this Agreement does not violate any statute, rule, regulation, order, writ, injunction, or decree of any court, administrative agency or governmental body, or violate any contract or agreement by which any Party hereto is bound; (iv) there is no known litigation or proceeding pending or threatened against a Party, or any other action, which could materially or adversely affect the performance of this Agreement; and (v) the Parties have obtained all approvals as may be required to permit their respective performance of the obligations of this Agreement. Except as expressly provided herein, the Parties make no representations or warranties and waive no rights or remedies.

20.10 No Personal Recourse.

No recourse shall be had by any Party for any claim against any officer, director, stockholder, employee or agent of any other Party alleging personal liability on the part of such Person with respect to performance of the Commonwealth Parties' or PAS's obligations under this Agreement.

20.11 Record Keeping.

PAS shall maintain appropriate operating and accounting records which record the locomotives, cars, weight and mileage of same moved by PAS over the Property. The Commonwealth Parties shall have the right, upon reasonable notice, to inspect, examine and audit during normal business hours all operating and accounting records and supporting documents of PAS including, without limitation, dispatching records, and all other books and records that relate to the performance of this Agreement. Nothing in this Agreement shall be construed as obligating PAS to retain books or records beyond the period specified in regulations of the STB, of the former Interstate Commerce Commission or of the Federal Railroad Administration.

20.12 Waivability of Time Limits.

Any time limits specified under a provision of this Agreement may be suspended by mutual written agreement of the Parties.

20.13 Operations during Dispute.

During the pendency of any dispute between the Parties, the business and the operations to be conducted under this Agreement, to the extent that they are the subject of any such dispute, shall continue to be transacted and used in the manner and form existing prior to the arising of any such controversy.

20.14 Controlling Agreement.

In the event of any conflict between the text of this Agreement and that of any Exhibit hereto, the text of this Agreement shall control except to the extent that this Agreement makes specific reference to a provision of any Exhibit as defining the obligations of a Party hereunder.

20.15 Severability.

In the event that any provision of this Agreement is found to be invalid or unenforceable in any respect, the remaining provisions shall nevertheless be binding with the same effect as if the invalid or unenforceable provision was originally deleted.

20.16 Amendment.

This Agreement and the Exhibits hereto and thereto may be amended from time to time during the Term of this Agreement. The Commonwealth Parties or PAS may request in writing such amendments or modifications. However, no such amendments or modification shall be

effective unless evidenced by a written amendment to this Agreement executed by duly authorized representatives of all Parties hereto.

20.17 No Joint Enterprise.

This Agreement shall in no way be considered as establishing either a joint facility or a joint enterprise between the Commonwealth Parties and PAS.

20.18 Status of Work under Agreement.

In the performance of work under this Agreement the Parties shall be deemed to be independent contractors and no Party shall be deemed to be an agent of any other Party. Notwithstanding the foregoing, for purposes of Section 9 no Party shall be deemed to be a “contractor” of any other Party.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed as of the date first written above, in duplicate, each of which shall be considered an original.

APPROVAL AS TO FORM

**MASSACHUSETTS DEPARTMENT
OF TRANSPORTATION**

By: _____
Paige Scott Reed
General Counsel,
Massachusetts Department
of Transportation

By: _____
Richard A. Davey
Secretary & Chief Executive Officer

APPROVAL AS TO FORM

**MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY**

By: _____
Paige Scott Reed
General Counsel,
Massachusetts Bay
Transportation Authority

By: _____
Beverly A. Scott, Ph.d
General Manager

PAN AM SOUTHERN LLC

By: _____
Name:
Title:

**SPRINGFIELD TERMINAL RAILWAY
COMPANY**

By: _____
Name:
Title:

EXHIBIT A

[To be attached]

Exhibit B

Service Outcomes

Upon completion of the Project, the Service Outcomes identified in Table I below shall be achieved for each intercity passenger train operating between CPR I and East Northfield, MA (milepost 49.67 on the Connecticut River Line, herein referred to as “East Northfield”):

Table 1: Service Outcomes

Phase No.	Description (Upon Completion of Listed Project(s))	Minimum Amtrak Train Round Trips per Day Permitted by Commonwealth Parties	Public Scheduled Amtrak Train Maximum Average Trip Time between CPR 1 and East Northfield*	Delay Ceiling (Maximum Average Commonwealth Parties-Responsible Delay Minutes per One Way Amtrak Trip between CPR 1 and East Northfield)
1	<i>Baseline – Current Service</i>	0	N/A	N/A
2	Future Service – Completion of Project (as defined in SOA)	1	71 minutes	4.4

**Shown as an average scheduled running time of the southbound and northbound trains. The Public Scheduled Amtrak Train Maximum Average Trip Time assumes a preliminary Pure Running Time (“PRT”) of 61 minutes, and 2 minutes of station dwell time at each of Greenfield and Northampton. Following completion of the Project (as defined in the SOA), the Parties, in consultation with Amtrak, conduct a joint field study to determine the actual PRT. Should the actual PRT be found to be different from the preliminary PRT, the Public Scheduled Amtrak Train Maximum Average Trip Time shall be adjusted according to the difference between the preliminary PRT and the actual PRT, except to the extent that the actual PRT is shorter due to the difference between Class III and actual speeds, in which case the PRT will be adjusted without a corresponding adjustment to the Public Scheduled Amtrak Train Maximum Average Trip Time.*

- a. “Commonwealth Parties-Responsible Delay Minutes” shall be measured using Amtrak's Conductor Delay

Reports as the sum of the following delay categories: Freight Train Interference (FTI), Passenger Train Interference (PTI), Commuter Train Interference (CTI), Routing (RTE), Slow Orders (DSR), Signals (DCS), Maintenance of Way (DMW), Debris (DBS), and Detour (DTR).

- b. “Delay Ceiling” shall be the maximum allowable Commonwealth Parties-Responsible Delay Minutes per one-way Amtrak train trip. Commonwealth Parties’ compliance with the Delay Ceiling will be determined by comparing the

Delay Ceiling to the Quarterly Actual Average Commonwealth Parties-Responsible Delay Minutes per trip for each Amtrak Train, which shall be calculated quarterly for each Amtrak Train as the total Commonwealth Parties-Responsible Delay Minutes for each calendar quarter divided by the number of Amtrak Train trips operated during that calendar quarter. Temporary adjustments to the Delay Ceiling may be negotiated by the Parties due to track maintenance projects and/or force majeure events.

2. If, in any calendar quarter, the actual average trip time of Amtrak trains between CPR 1 and East Northfield (measured as the average elapsed time between CPR 1 and East Northfield, for all operations in the calendar quarter) exceeds the Public Scheduled Amtrak Train Maximum Average Trip Time, and the Quarterly Actual Average Commonwealth Parties-Responsible Delay Minutes per trip, calculated in accordance with Paragraph 1 (b) of this Exhibit B, on any Amtrak Train operating between CPR 1 and East Northfield exceeds the Delay Ceiling, the Commonwealth Parties shall, at the Commonwealth Parties' sole expense subject to Section 5 of the SOA, reduce the Quarterly Actual Average Commonwealth Parties-Responsible Delay Minutes per trip on each Amtrak Train to or below the Delay Ceiling within two calendar quarters.
3. Should additional funding become available for subsequent improvements on the Knowledge Corridor, the Parties shall, by mutual agreement with Amtrak, amend the SOA to add the additional projects and corresponding Service Outcomes to the Table above as supported by modeling and empirical analysis, and taking into account the improvement included under the SOA.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35863

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF PAN AM SOUTHERN LLC

MOTION TO DISMISS

EXHIBIT H

**MAINTENANCE AND SERVICE OUTCOME AGREEMENT FOR RAIL LINE
IMPROVEMENTS
BETWEEN SPRINGFIELD, MASSACHUSETTS AND EAST NORTHFIELD,
MASSACHUSETTS**

THIS AGREEMENT, executed in triplicate originals, is entered into as of the 27th day of June, 2011 (the "Effective Date"), by and among the National Railroad Passenger Corporation (hereinafter referred to as "Amtrak"), Pan Am Southern LLC (hereinafter "PAS"), and the Massachusetts Department of Transportation (hereinafter referred to as "MassDOT"), (collectively the "Parties").

WHEREAS, MassDOT seeks to restore the existing Amtrak *Vermont* service to the Connecticut River Main Line between CPR 1 Milepost 0.3 in Springfield, Massachusetts and Milepost 49.67 in East Northfield, Massachusetts (also known as the "Knowledge Corridor"), (collectively hereinafter referred to as "the Project"); and

WHEREAS, the primary purpose of the Project will be to benefit intercity passenger rail service; and

WHEREAS, the Parties have reached agreement concerning the benefits that will be realized upon completion of the Project as well as a methodology for measuring Service Outcomes (as defined below) and ensuring that Service Outcomes are met; and

WHEREAS, the Knowledge Corridor is owned and controlled by PAS; and

WHEREAS, the Massachusetts Bay Transportation Authority ("MBTA") and PAS will concurrently execute a Construction Agreement concerning the work necessary to restore the existing Amtrak *Vermont* service to the Knowledge Corridor (the "Construction Agreement"); and

WHEREAS, Amtrak operates, or will in the future operate, state funded intercity passenger rail service along the Knowledge Corridor pursuant to an Operating Agreement between PAS and Amtrak, also known as the Amtrak-Host Agreement; and

WHEREAS, the Federal Railroad Administration ("FRA") has notified MassDOT of a proposed award of a grant for the Project to be funded through the American Recovery and Reinvestment Act of 2009, Pub L No. 111-5 ("ARRA") and the Passenger Rail Investment and Improvement Act of 2008 ("PRIIA"); and

WHEREAS, MassDOT, as Grantee to the above referenced FRA grant, will designate the MBTA to oversee the final design and construction of the Project pursuant to a Memorandum of Understanding Between MassDOT and the MBTA for Rail Line Improvements Between East Northfield, Massachusetts and Springfield, Massachusetts – the Knowledge Corridor/Restore Vermont Project; and

WHEREAS, the Project is designed to accommodate both the existing freight and Amtrak intercity passenger rail operations and future freight and Amtrak intercity passenger rail operations or a Permitted Amtrak Successor as defined in Section 12 below, that will result from the Project; and

WHEREAS, the Parties are all authorized by applicable law to enter into this Agreement on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement, the Parties agree to incorporate the above recitals into this Agreement by this reference and further contract, promise and agree as follows:

1. Project. The Project shall be completed in accordance with the Construction Agreement as may be amended.
2. Service Outcomes Resulting from the Project. The Service Outcomes to be realized upon completion of the Project are described in Exhibit 1 ("Service Outcomes"). In order to meet those Service Outcomes, sufficient portions of the Knowledge Corridor shall be maintained to a FRA Class IV condition so as to permit intercity passenger trains to operate on the Knowledge Corridor and achieve the Service Outcomes. To the extent that there is a conflict between this Agreement and the Amtrak-Host Agreement, this Agreement shall control.
3. Compliance with ARRA Requirements. Each of the Parties shall comply with grant requirements applicable to the Project which are mandated by ARRA, including the requirement that authorized representatives of the FRA, U.S Department of Transportation and the Comptroller General shall, until seven (7) years after completion of the Project have access to and the right to examine, audit and copy any Project information controlled by MBTA, MassDOT, Amtrak, PAS, and/or their respective contractors.
4. Document Retention. PAS and Amtrak shall retain, for a period not less than seven (7) years after final and uncontested payment has been received by PAS, all accounts, papers, maps, photographs or other documentary materials in their respective possession that were made or received by PAS in connection with this Project and this Agreement. PAS shall require a similar commitment from all outside contractors.
5. Maintenance Obligations and Failure to Maintain the Rail Line.
 - (a) PAS. PAS shall maintain sufficient portions of the Knowledge Corridor to a FRA Class IV condition so as to permit Amtrak intercity passenger rail trains or an Amtrak Successor to achieve the Service Outcomes as set forth in Exhibit 1 to this Agreement. PAS shall be obligated to pay a minimum of \$250,000 annually towards such maintenance ("PAS Maintenance Payment"). PAS's maintenance obligations include, but are not limited to, those set forth in Exhibit 2 to this Agreement. PAS, in its sole and absolute discretion, may pay additional amounts towards the maintenance or improvement of the Knowledge Corridor as well as capital projects. The PAS Maintenance Payment shall be adjusted annually for price level changes, beginning January 1, 2012, based on the relationship of the most recent Fourth

Quarter Index (beginning with Fourth Quarter 2010) from the Association of American Railroads ("AAR") Quarterly Indices of Chargeout Prices and Wage Rates (Table C)-East, material prices, wage rates and supplements combined (excluding fuel), to the Fourth Quarter 2009 index value. The PAS Maintenance Payment represents the maintenance costs to maintain the Knowledge Corridor to FRA Class I conditions, given a freight volume of 5,000 carloads annually. At any time that freight volume increases by at least 10,000 carloads or decreases by at least 1,000 carloads, then Amtrak and PAS shall increase or decrease, as appropriate, the PAS Maintenance Payment.

- (b) Amtrak. Amtrak shall reimburse PAS in accordance with the Amtrak-Host Agreement for any incremental operating maintenance costs specifically identified in that agreement, or such incremental operating maintenance costs as may be agreed upon by Amtrak and PAS (collectively the "PAS Incremental Cost Reimbursement").

If Amtrak fails to meet its obligations pursuant to this Subsection 5(b), and such lack of funding alone prevents PAS from achieving the Service Outcomes, or if Amtrak and PAS cannot agree upon such incremental operating maintenance costs above, then subject to prior notice to FRA and MassDOT the Parties shall make reasonable temporary adjustments to the Service Outcomes to accommodate conditions resulting solely and directly from the lack of funding and Amtrak shall submit to FRA a plan to remedy the conditions. MassDOT, through its agreement with the Vermont Agency of Transportation (VAOT), will work with VAOT to resolve any funding shortfalls with respect to maintenance.

- (c) MassDOT. In the event that a condition is identified along the Knowledge Corridor that prevents the achievement of the Service Outcomes and that can be remedied only by capital maintenance, MassDOT shall be responsible for such capital maintenance costs that are required to achieve the Service Outcomes (the "Capital Maintenance Payment"). MassDOT's Capital Maintenance Payment obligations include, but are not limited to, those set forth in Exhibit 2 to this Agreement. In addition, the Parties acknowledge that Capital Maintenance Payments will be necessary on the Knowledge Corridor to maintain the line to a FRA Class IV condition over time and to meet the Service Outcomes. As such conditions are identified, PAS shall promptly submit a proposal, including a scope of work, to MassDOT for review and approval. The agreed upon scope of work shall be performed pursuant to a written agreement.
- (d) If PAS and Amtrak meet their obligations pursuant to 5(a) and (b) herein, but MassDOT fails to meet its obligations pursuant to Subsection 5(c), and such lack of funding prevents PAS from achieving the Service Outcomes or if MassDOT and PAS cannot agree upon a scope of work pursuant to 5(c) above, then subject to prior notice to FRA and Amtrak either:

1. MassDOT may supplement the funding described in 5(a) and 5(b) above until such time as additional Capital Maintenance Payment funding is available; or

2. The Parties shall make reasonable temporary adjustments to the Service Outcomes to accommodate conditions resulting directly from the lack of funding and MassDOT shall submit to FRA a plan to remedy the conditions preventing achievement of the Service Outcomes.

(e) If the condition triggering Subsection 5(d) above occurs and MassDOT fails to implement the measures identified in 5(c) and (d) above, and/or if Amtrak fails to meet its obligations identified in 5(b) above, then neither MassDOT nor Amtrak shall have the right to claim that a failure to meet the Service Outcomes is the result of PAS Responsible Delay Minutes (as defined in Exhibit 1) to the extent such PAS Responsible Delay Minutes result solely and directly from such failure by MassDOT and/or Amtrak until such time that MassDOT and/or Amtrak takes action necessary to meet their respective obligations.

6. Initially the Parties agree that one (1) round trip intercity passenger train trip per day shall be permitted at speeds of up to 79 miles per hour according to an agreed upon schedule, as may be adjusted through agreement by Amtrak and PAS. PAS agrees to permit operation of up to two (2) additional intercity passenger train round trips over the Knowledge Corridor at speeds up to 79 miles per hour, with no additional capital investment, provided that: (i) PAS and Amtrak reach agreement on the schedules for each additional round trip; and (ii) the schedules do not result in scheduled meets between Amtrak trains on the Knowledge Corridor that would require additional capacity; and (iii) that the additional trains would not impair unreasonably freight transportation of PAS. The Service Outcomes shall apply to the two (2) additional intercity passenger train round trips. If Amtrak requests to operate additional revenue trains beyond the two (2) additional round trips, Amtrak and PAS shall confer regarding, at a minimum, what, if any, additional capacity and/or other infrastructure may be required to accommodate such additional trips. Deadhead moves shall not be considered as trips under this Section 6 and shall not be counted for purposes of the Service Outcomes, however, deadhead moves shall be considered Amtrak Trains for purposes of computing incremental operating maintenance costs under the Amtrak-Host Agreement.

7. Discontinuance of Service, Resumption of Service. If all intercity passenger rail service on the Knowledge Corridor is discontinued, PAS shall continue its PAS Maintenance Payment in accordance with Subsection 5(a) to this Agreement, unless PAS discontinues or abandons its freight operations on the Knowledge Corridor, at which time PAS shall have no further maintenance obligation. MassDOT agrees that for not less than one year following such discontinuance of intercity passenger rail service that, along with the PAS Maintenance Payment, it will maintain the Project at its expense in an operable condition that will allow resumption of service at the same level of utility as when the service was discontinued. In the event that service is restored after one year's discontinuance, MassDOT will work to procure such funding as is necessary to restore the service, including any rehabilitation costs.

8. Insurance Requirements. PAS shall maintain throughout the terms of this Agreement, including any extensions thereof, all insurance required under this Section.

(a) Commercial General Liability insurance for personal injury, bodily injury and property damage, with limits not less than \$1,000,000 per occurrence and \$1,000,000 annual.

aggregate, covering all work and services performed under the contract. Such insurance shall include all operations of the insured, blanket contractual liability, and products and completed operations.

- (b) Automobile Liability Insurance covering the use of all vehicles, owned, leased, hired, non-owned, with limits not less than \$1,000,000 combined single limit.
- (c) Excess Liability Insurance with limits not less than \$10,000,000 per occurrence and annual aggregate.

Unless otherwise specified, all insurance policies shall: (i) be on an occurrence basis; (ii) name the MBTA, MassDOT and Amtrak as additional insureds at no additional cost; and (iii) provide the MBTA, MassDOT and Amtrak with thirty (30) days prior written notice in the event of any cancellation or materially adverse change in coverage.

9. Indemnification. PAS agrees to indemnify and hold harmless the MBTA and MassDOT and their respective officers, agents and employees against any and all suits, claims or liability arising out of or in consequence of negligent acts, errors or omissions of PAS, its associates, employees or subcontractors in the performance of the work covered by this Agreement and/or by failure to comply with the terms and conditions of this Agreement.

10. Dispute Resolution/Remedies. In the event of a dispute involving the obligations under this Agreement, the Parties shall first attempt to resolve the dispute informally and through a collaborative process. In the event the Parties fail to reach agreement through such a process, then each Party shall have the right to pursue the remedies available under applicable law. Subject to the provisions of Section 5 of this Agreement, MassDOT and Amtrak shall have the right to specific performance of the agreed-upon Service Outcomes. MassDOT's or Amtrak's failure to seek specific performance of any provision of this Agreement shall not waive, affect, or diminish any subsequent effort to seek specific performance, nor any right to demand strict compliance and performance with regard to any provision hereof.

11. Governing Law. This Agreement (including exhibits) shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

12. Successors and Assigns. No party may assign this Agreement without the express written approval of the other Parties. The obligations under this Agreement shall apply to and be binding upon the successors, assigns, subsidiaries, agents and affiliates of the Parties hereto to the extent permitted by law, and any person acting under, through, or for the Parties, whether or not expressly assumed by such successors and assigns. This Agreement shall only inure to the benefit of a Permitted Amtrak Successor or Assignee. A Permitted Amtrak Successor or Assignee is any other operator of intercity passenger rail service (i) that operates intercity passenger trains in the Knowledge Corridor; (ii) that is selected, designated or otherwise approved by MassDOT; (iii) that is approved by PAS in its discretion, which shall not be unreasonably withheld; (iv) that has entered into an agreement with PAS to operate such service in the overall Project area containing substantially similar terms and conditions but which shall be no less favorable to PAS than the Amtrak-Host Agreement then in effect, including but not limited to terms of service, compensation, liability and indemnification and operations, maintenance of liability insurance at least equal to the

statutory limit on passenger liability; and (v) that is legally capable of entering into and fulfilling such obligations.

In the event the Knowledge Corridor is sold all of PAS's rights and obligations herein shall be assigned and assumed by the purchaser.

13. Rights. Nothing in this Agreement shall waive or derogate any of the Parties' rights or responsibilities under law or statute.

14. Notice. Any notice, request or other communication to any Party by any other as provided for herein shall be given in writing, sent by first-class mail, return receipt request or by overnight courier, and shall be deemed given upon actual receipt by the addressee. Notices shall be addressed as follows:

If to Amtrak: National Railroad Passenger Corporation
30th & Market Street
Philadelphia, Pennsylvania 19104
Attention: Senior Director - Host Railroads

If to PAS: Pan Am Southern LLC
Iron Horse Park
North Billerica, MA 01862
Attention: Vice President--Transportation

If to MassDOT: Massachusetts Department of Transportation
10 Park Plaza
Boston, Massachusetts 02116
Attention: Rail and Transit Administrator

15. Term. This Agreement shall remain in effect for a period of twenty (20) years beginning October 31, 2013, which date may be extended by mutual written agreement of the Parties.

16. Right of Review and Audit. Any payment to Amtrak or PAS, in connection with this Project and Agreement, shall be subject to an audit. The scope of such audit shall be limited to the Parties' obligations under this Agreement.

17. Contingency.

This Agreement is subject to, and is not effective until, the following have occurred:

- (a) FRA's determination, prior to MBTA's issuance to PAS of a notice to proceed, that this Agreement may be used in connection with an ARRA grant for the Project.
- (b) MBTA's issuance of a notice to proceed to PAS, pursuant to the Construction Agreement.
- (c) The execution of the Amtrak-Host Agreement.

18. Force Majeure. Each party will be excused from performance from any of its obligations to the other under this Agreement, where such non performance is occasioned by any event beyond the non-performing Party's control, which shall include, without limitation a work stoppage; natural disaster; terrorist act or threatened act of terrorism; or civil disorder, provided, however, that the Party excused hereunder shall use all reasonable efforts to minimize its non-performance and to overcome, remedy, or remove such event in the shortest practical time

IN WITNESS WHEREOF, the Parties attest that they are authorized to execute this Agreement and have caused this Agreement to be executed by their duly authorized representatives as of the day and year first hereinabove written.

John Berke
Witness (MassDOT)
Stet Cupp
Witness (PAS)
Valerie Samuel
Witness (Amtrak)

By [Signature]
By David G. Smith
By [Signature] for Joe [Signature]

**Exhibit 1
Service Outcomes**

1. Upon completion of the Project, PAS commits that the Service Outcomes identified in Table 1 below shall be achieved for each intercity passenger train operating on PAS between CPR 1 and East Northfield, MA (milepost 49.67 on PAS Connecticut River Line, herein referred to as "East Northfield"):

Table 1: Service Outcomes

Phase No.	Description (Upon Completion of Listed Project(s))	Minimum Amtrak Train Round Trips per Day Permitted by PAS	Public Scheduled Amtrak Train Maximum Average Trip Time Between CPR 1 and East Northfield*	Delay Ceiling (Maximum Average PAS-Responsible Delay Minutes per One Way Amtrak Trip between CPR 1 and East Northfield)
<i>1</i>	<i>Baseline – Current Service</i>	<i>0</i>	<i>N/A</i>	<i>N/A</i>
<i>2</i>	<i>Future Service – Completion of Project</i>	<i>1</i>	<i>71 minutes</i>	<i>4.4</i>

**Shown as an average scheduled running time of the southbound and northbound trains. The Public Scheduled Amtrak Train Maximum Average Trip Time assumes a preliminary Pure Running Time ("PRT") of 61 minutes, and 2 minutes of station dwell time at each of Greenfield and Northampton. Following completion of the Project, PAS and Amtrak shall, in consultation with MassDOT, conduct a joint field study to determine the actual PRT. Should the actual PRT be found to be different from the preliminary PRT, the Public Scheduled Amtrak Train Maximum Average Trip Time shall be adjusted according to the difference between the preliminary PRT and the actual PRT, except to the extent that the actual PRT is shorter due to the difference between Class III and actual speeds, in which case the PRT will be adjusted without a corresponding adjustment to the Public Scheduled Amtrak Train Maximum Average Trip Time.*

- a. "PAS-Responsible Delay Minutes" shall be measured using Amtrak's Conductor Delay Reports as the sum of the following delay categories: Freight Train Interference (FTI), Passenger Train Interference (PTI), Commuter Train Interference (CTI), Routing (RTE), Slow Orders (DSR), Signals (DCS), Maintenance of Way (DMW), Debris (DBS), and Detour (DTR).
- b. "Delay Ceiling" shall be the maximum allowable PAS-Responsible Delay Minutes per one-way Amtrak train trip. PAS's compliance with the Delay Ceiling will be determined by comparing the Delay Ceiling to the Quarterly Actual Average PAS-Responsible

Delay Minutes per trip for each Amtrak Train, which shall be calculated quarterly for each Amtrak Train as the total PAS-Responsible Delay Minutes for each calendar quarter divided by the number of Amtrak Train trips operated during that calendar quarter. Temporary adjustments to the Delay Ceiling may be negotiated by the Parties due to track maintenance projects and/or force majeure events.

2. If, in any calendar quarter, the actual average trip time of Amtrak trains between CPR 1 and East Northfield (measured as the average elapsed time between CPR 1 and East Northfield, for all operations in the calendar quarter) exceeds the Public Scheduled Amtrak Train Maximum Average Trip Time, and the Quarterly Actual Average PAS-Responsible Delay Minutes per trip, calculated in accordance with Paragraph 1(b) of this Exhibit 1, on any Amtrak Train operating between CPR 1 and East Northfield exceeds the Delay Ceiling, PAS shall, at PAS's sole expense subject to Section 5 of this Agreement, reduce the Quarterly Actual Average PAS-Responsible Delay Minutes per trip on each Amtrak Train to or below the Delay Ceiling within two calendar quarters:
3. Should additional funding become available for subsequent improvements on the Knowledge Corridor, the Parties shall, by mutual agreement, amend this Agreement to add the additional projects and corresponding Service Outcomes to the Table above as supported by modeling and empirical analysis, and taking into account the improvement included under this Agreement.

Exhibit 2

OPERATING MAINTENANCE

For purposes of this Agreement, if a PAS maintenance activity keeps an asset on the Knowledge Corridor in working condition, it shall be considered an operating maintenance activity.

The list below is meant to describe, by example only, the work elements that shall be defined as operating maintenance activities for purposes of this Agreement. The list is not to be considered exhaustive.

1. Right of way inspections and signal testing
2. Basic troubleshooting
3. Adjustments of failed (or failing) components
4. Preparation, review, and retention of appropriate inspection documentation.
5. Reactive maintenance activity involving situations that require immediate attention such as broken or loose join bars
6. Detection of washouts beginning to undermine the track structure
7. Special Inspections - during and after severe storms, fires, floods, earthquakes or other occurrences, which might have damaged the track structure
8. Repairing minor derailment damage
9. Replacing defective rails, excluding worn-out rail to the extent material is provided and the work can be completed with existing forces and equipment
10. Pointing and resetting culvert headwalls
11. Removing debris from culverts
12. Snow removal
13. Removal of a fallen tree from the right of way
14. Replacing broken or missing joint bars, bolts, tie plates and anchors
15. Annual track geometry car inspections
16. Ultrasonic inspections of rail as required under 49 CFR Section 213.237
17. Brush cutting
18. Herbicide applications, which will be performed by a state certified and licensed applicator
19. Ditch Cleaning limited to not more than \$10,000 annually
20. Environmental: Continuing operation of hazardous material and waste storage facilities, spill prevention systems, waste water treatment facilities

Some operating maintenance activities may be performed daily, while other operating maintenance activities may be programmed for a less frequent response. However, the Parties agree that the deferral of operating maintenance activities shall not justify the classification of an operating maintenance activity or cost as a capital maintenance activity or cost.

Pursuant to Paragraphs 5(a) and 5(b) of this Agreement, operating maintenance activities shall be funded via the PAS Maintenance Payment and the PAS Incremental Cost Reimbursement.

CAPITAL MAINTENANCE

For purposes of this Agreement, if a PAS maintenance activity replaces/renews complete asset systems on the Knowledge Corridor, resulting from wear or obsolescence as opposed to the replacement individual failed components, it shall be considered a capital maintenance activity.

The list below is meant to describe, by example only, the work elements that shall be defined as capital maintenance activities for purposes of this Agreement. The list is not to be considered exhaustive.

1. Major bridge superstructure work
2. Culvert replacements
3. Out of face replacement of worn out rail
4. Out of face replacement of ties due to deterioration in excess of 400 per mile
5. Railroad work in support of bridge replacement
6. Grade crossing replacement
7. Station reconstruction
8. Large-scale emergency repairs, including but not limited to washouts and clearing multiple trees from the right of way
9. Rail grinding

Pursuant to Paragraph 5(c) of this Agreement, capital maintenance activities shall be funded via the Capital Maintenance Payment.

Capital Expansion

Funding of any future work funded by MassDOT, MBTA, or Amtrak to upgrade improve, or expand the Knowledge Corridor beyond the level of utility initially created by the Project shall be the subject of a separate agreement.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35863

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF PAN AM SOUTHERN LLC

MOTION TO DISMISS

EXHIBIT I

**THIS INSTRUMENT HAS BEEN PREPARED IN
THREE (3) COUNTERPARTS FOR SIMULTANEOUS
RECORDING IN THREE (3) REGISTRIES OF DEEDS**

This instrument prepared by
or under the direction of:

QUITCLAIM DEED

THIS QUITCLAIM DEED, made this ___ day of _____, 2014, between PAN AM SOUTHERN LLC, a Delaware limited liability company, having an address of 1700 Iron Horse Park, Billerica, Massachusetts, hereinafter called "**Grantor**", and the MASSACHUSETTS DEPARTMENT OF TRANSPORTATION, whose mailing address is 10 Park Plaza, Boston, Massachusetts 02116, hereinafter called "**Grantee**,"

(Wherever used herein, the terms "Grantor" and "Grantee" may be construed in the singular or plural as the context may require or admit, and for purposes of exceptions,

reservations and/or covenants, shall include the heirs, legal representatives and assigns of individuals or the successors and assigns of corporations or state agencies.)

WITNESSETH:

WHEREAS, Grantor has interests in a line of railroad over which rail freight service is presently conducted, consisting of the Connecticut River Main Line between CPR 1 Milepost 0.3 in Springfield, Massachusetts and Milepost 49.67 in East Northfield, Massachusetts and certain adjoining property; and

WHEREAS, pursuant to a certain Purchase and Sale Contract dated as of May 25, 2012, between Grantee and Grantor, as amended by that certain Reinstatement and First Amendment to Purchase and Sale Contract dated as of _____, 2014 (as so amended, the "**Purchase Contract**"), Grantee agreed to acquire Grantor's interests in such properties and such line of railroad (as hereinafter more particularly described) for the purposes of accommodating public demand for passenger rail service, roadways and other public purposes including the continued provision of rail freight service by Grantor, intercity rail passenger service and commuter rail service; and

WHEREAS, the parties desire that Grantee acquire Grantor's interest in such properties and line of railroad and that Grantor retain, and not transfer to the Grantee, a perpetual easement in gross over a portion of such properties and line of railroad, limited for the purpose of the exclusive provision of rail freight service subject to the terms and conditions set forth herein;

WHEREAS, Grantor and the National Railroad Passenger Corporation ("**Amtrak**"), are Parties to that Certain Host Railroad Agreement dated May 1, 2012, and all supplements thereto, (collectively, the "**Amtrak Agreement**"); [and pursuant to that certain Assignment and Assumption Agreement among the Grantor, and Grantee dated as of the date hereof, Grantor has assigned its rights and obligations to Grantee, and Grantee has assumed such rights and obligations]. **NOTE: Transfer of Amtrak Host Agreement to be discussed]**

WHEREAS, it being the intention of the parties that Grantor remain, and the Grantee not become, the rail carrier subject to the Interstate Commerce Act, as revised, the Railway Labor Act, as revised, or any other federal law relating to the provision of railroad transportation on such properties;

NOW THEREFORE, that Grantor, in consideration of the sum of Seventeen Million Dollars (\$17,000,000.00) paid, does hereby quitclaim and grant to Grantee all right, title and interest of Grantor in and to those certain tracts or parcels of land situate, lying and being in Hampden County, Hampshire County, and Franklin County, Massachusetts, more particularly described in **Exhibit A** attached hereto and incorporated herein (the "**Land**") and all right, title, and interest of Grantor in and to Grantor's Passenger Operating Rights;

BUT EXCLUDING and excepting unto Grantor those rights and interests listed or shown on **Exhibit B** attached hereto and incorporated herein, as well as all privileges, hereditaments and appurtenances appertaining to any such rights and interests, and the rights and interests related to the Retained Freight Easement (as hereinafter defined) (the "**Excluded Property**");

TOGETHER WITH all tracks, rails, ties, switches, crossings, bridges, trestles, culverts, buildings, structures, facilities, signals, crossing protection devices, communication lines, poles, radio masts and other fixtures and improvements which are affixed as of the date hereof to the Land (other than

any such property included within the Excluded Property) as well as all privileges, hereditaments and appurtenances appertaining to the Land or any of the foregoing (other than the Excluded Property) (the "Ancillary Property" and together with the Land and Grantor's Passenger Operating Rights, the "Property").

THE PROPERTY IS CONVEYED EXPRESSLY SUBJECT TO: (a) those rights, interests, contracts, agreements, leases, licenses and easements which are listed or described on Exhibit C attached hereto and incorporated hereof; (b) the rights of Amtrak under the Amtrak Agreement; and (c) the Retained Freight Easement (as hereinafter defined).

RESERVING unto Grantor, its successors and assigns, an EASEMENT IN GROSS (the "Retained Freight Easement") IN PERPETUITY (as hereinafter defined) FOR RAILROAD PURPOSES (as hereinafter defined) in, over or on the Property within the Land; including, but not limited to, the use of all the tracks or Trackage (as hereinafter defined) within the Property; but SUBJECT TO:

1. The terms, conditions and limitations of that certain Operating Agreement dated effective _____, 2014, between Grantor, Grantee and the Massachusetts Bay Transportation Authority, an independent authority within the jurisdiction of Grantee ("MBTA"), recorded with the Hampden County Registry of Deeds, the Hampshire County Registry of Deeds, and the Franklin County Registry of Deeds herewith (the "Operating Agreement").

2. Grantor and Grantee each agree to reasonably consider any requests by the other Party to execute and record any instrument necessary to properly reflect any changes in location or area that are not presently reflected in Exhibit A or to reflect any full or partial release of any rights or property hereunder.

3. Grantor and Grantee agree that the Retained Freight Easement is not retained to the exclusion of the use of the Property by Grantee and its assigns, except that Grantor shall be the exclusive provider of Rail Freight Service (as hereinafter defined), and as otherwise set forth in said Operating Agreement.

4. Grantor and Grantee agree that use of the Property by Grantee and its assigns will not be to the exclusion of Grantor's exercise of the Retained Freight Easement, as more specifically set forth in said Operating Agreement.

5. Transfer of the Retained Freight Easement shall be governed by the provisions of Exhibit D and Exhibit E attached hereto.

6. The terms, conditions and limitations of the Amtrak Agreement. In the event that Grantee or the MBTA enters into a separate agreement with Amtrak at or after the Closing (as defined in the Purchase Contract) pursuant to which Grantee or the MBTA provides to Amtrak substantially the same service as Grantor is now providing to Amtrak under the Amtrak Agreement in connection with the railroad lines located on the Property, Grantor shall no longer have any rights or obligations (except as may be required by law) to use the Retained Freight Easement to provide any services to Amtrak. Grantee or the MBTA, in their sole discretion, reserve the right to negotiate an agreement with Amtrak for all purposes for which Amtrak is authorized to operate in connection with the Property; provided, however, that such agreement shall: (i) comply with all applicable laws; (ii) not alter, amend or modify the liability or indemnity obligations of Amtrak and Grantor towards one another under the Amtrak

Agreement; (iii) not cause Grantor to be in violation of Grantor's obligations under the Amtrak Agreement as it applies to the Property; and (iv) be subject to the Retained Freight Easement and Grantor's rights under the Operating Agreement.

7. Definitions of Retained Freight Easement Terms:

(a) Perpetuity: Until this Retained Freight Easement is abandoned or terminated, as may be provided in the Operating Agreement herein referenced. In the event of abandonment or termination of any portion of this Retained Freight Easement as may be provided in the Operating Agreement, such portion thereof shall automatically be extinguished.

(b) Trackage: The railway tracks now or hereafter located on, in or below the Property, and all supporting materials, facilities and structures appurtenant thereto (rails, ties, tie plates, ballast, drainage structures), together with existing or future control devices, signals, switches, communication lines and poles necessary for the safe operation of rail freight; whether main, spur, siding or sidetrack(s); those existing items being the items hereinabove conveyed to Grantee.

(c) Railroad Purposes: The right to use all Trackage on the Property for the exclusive provision of Rail Freight Service, together with the right of ingress and egress over the Property and any adjacent property owned by Grantee to and from said Trackage and facilities located within the Property, provided, however, Grantee or the MBTA or its assignees may use said Trackage for its own freight needs, being the transport of railroad materials, equipment, ballast, rails and the like owned by Grantee or the MBTA, but not common or contract carriage of freight.

(d) Rail Freight Service: The transportation by rail of property and movable articles of every kind, character and description over the Property, including but not limited to rail freight transportation service to current and future industries, customers and facilities located along the Property, and supporting activities, over the Property.

GRANTEE HEREBY ACKNOWLEDGES THAT THE SUBJECT PROPERTY IS TRANSFERRED AS IS, WHERE IS AND WITH ALL FAULTS, DEFECTS AND CONDITIONS OF ANY KIND, NATURE OR DESCRIPTION AS OF THE DATE HEREOF, AND THAT, EXCEPT AS SET FORTH IN THE PURCHASE CONTRACT, THERE HAVE BEEN NO REPRESENTATIONS, WARRANTIES, GUARANTEES, STATEMENTS OR INFORMATION, EXPRESSED OR IMPLIED, PERTAINING TO SUCH PROPERTY, TITLE THERETO, THE VALUE, DESIGN OR CONDITION THEREOF, ITS MERCHANTABILITY OR SUITABILITY FOR ANY USE OR PURPOSE OR ANY OTHER MATTER WHATSOEVER, MADE TO OR FURNISHED TO GRANTEE BY GRANTOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES.

In the event of a conflict between the provisions of this Deed, the Purchase Contract and/or the Operating Agreement, the provisions of the Operating Agreement shall control over the provisions of either this Deed or the Purchase Contract, and the provisions of this Deed shall control over the Purchase Contract. The Operating Agreement and the Purchase Contract are retained at the offices of the Grantee.

By the recording of this deed, Grantee agrees that the covenants of Grantee herein shall run with title to the Property conveyed, and bind Grantee, Grantee's successors and assigns, and anyone claiming title to or holding Property through Grantee, for the continuing benefit of, and remaining enforceable by, Grantor, its successors and assigns.

Plans prepared for Grantee are referred to in the Exhibits to this Deed (the "Plans"). Notwithstanding such reference, Grantor has not reviewed and is not obligated to review the Plans, Grantor does not and shall not warrant the accuracy, correctness, or legal sufficiency of the Plans, nor shall reference to the Plans create any covenant or warranty of title with respect to the property shown thereon.

No deed excise stamps are affixed hereto as none are required by law.

This conveyance does not constitute the sale or transfer of all or substantially all of the assets of the Grantor in Massachusetts.

[signature page to follow]

IN WITNESS WHEREOF, PAN AM SOUTHERN LLC, pursuant to due limited liability company authority, has caused its name to be executed under seal by its officers hereunto duly authorized.

PAN AM SOUTHERN LLC

By: _____
Name:
Title:

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

On this ____ day of _____, 2014, before me, the undersigned Notary Public, personally appeared the above-named _____ proved to me by satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image; oath or affirmation of a credible witness known to me who knows the above signatory; or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him as his free act and deed, voluntarily for its stated purpose, as [_____] of Pan Am Southern LLC.

Notary Public (print name)
My Commission Expires: _____
Qualified in the Commonwealth of Massachusetts

EXHIBIT A
Description of Land

The "Property" is comprised of whatever right, title and interest that Grantor has in the property described below, whether a fee title interest, an easement interest, or otherwise, and, to the extent Grantor's interest consists of an easement interest, this Quitclaim Deed shall serve as a grant and assignment of that interest by Grantor to Grantee.

Hampden County

All that certain property situated in the Cities of Springfield, Chicopee and Holyoke, Hampden County, Commonwealth of Massachusetts, and being a portion of the line of railroad known as the Connecticut River Main Line extending from Station -2+25, more or less, said station shown on Valuation Section Map V42.1M/1, thence in a northerly direction to Station 756+84, more or less, as shown on Valuation Section Map V42.1M/15. Said last station being a point on the common line of Hampden and Hampshire County, Massachusetts. Said line of railroad being substantially as shown on the reduced copy of the plans entitled "Right of Way and Track Map, Connecticut River R. R. Co. Operated by the Boston and Maine R. R." and "Station Map-Lands, Connecticut River R. R. Co. Operated by the Boston and Maine R. R.", Railroad Valuation Maps Section Map V42.1M/1 through Section Map V42.1M/15, attached to the Hampden Deed (as defined below).

Hampshire County

All that certain property situated in the City of Northampton and the Towns of Easthampton and Hatfield, Hampshire County, Commonwealth of Massachusetts, and being a portion of the line of railroad known as the Connecticut River Main Line extending from Station 756+84, more or less, said station shown on Valuation Section Map V42.1M/15, thence in a northerly direction to Station 1256+00, more or less, as shown on Valuation Section Map V42.1M/25. Said last station being a point on the common line of Hampshire and Franklin County, Massachusetts. Said line of railroad being substantially as shown on the reduced copy of the plans entitled "Right of Way and Track Map, Connecticut River R. R. Co. Operated by the Boston and Maine R. R.," and "Station Map-Lands, Connecticut River R. R. Co. Operated by the Boston and Maine R. R.", Railroad Valuation Maps Section Map V42.1M/15 through Section Map V42.1M/25 attached to the Hampshire Deed (as defined below).

Franklin County

All that certain property situated in the Towns of Whately, Deerfield, Greenfield, Bernardston and Northfield, Franklin County, Commonwealth of Massachusetts, and being a portion of the line of railroad known as the Connecticut River Main Line extending from Station 1256+00, more or less, said station shown on Valuation Section Map V42.M/25, thence in a northerly direction to Station 2613+66.85, more or less, as shown on Valuation Section Map V42.1M/51. Said last station being a point on the common line of Franklin County, Massachusetts and Vernon, Vermont, as shown on the reduced copy of the plans entitled Right of Way and Track Map, Connecticut River R. R. Co. Operated by the Boston and Maine R. R" and "Station Map-Lands, Connecticut River R. R. Co. Operated by the Boston and Maine R. R.", Railroad Valuation Maps Section Map V42.1M/25 through Section Map V42.1M/51, attached to the Franklin Deed (as defined below).

TITLE REFERENCES:

1. Deed from Boston and Maine Corporation to Pan Am Southern LLC, dated April 9, 2009, recorded in Hampden County Registry of Deeds in Book 17766, Page 47 (the "Hampden Deed").
2. Deed from Boston and Maine Corporation to Pan Am Southern LLC, dated April 9, 2009, recorded in Hampshire County Registry of Deeds in Book 9791, Page 163 (the "Hampshire Deed").
3. Deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC, dated April 9, 2009, recorded in Franklin County Registry of Deeds in Book 5665, Page 1 (the "Franklin Deed").
4. Deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated December 3, 2012, recorded in Franklin County Registry of Deeds in Book 6295, Page 254.

EXHIBIT B
Excluded Property Description

1. The Retained Freight Easement (as defined in the deed to which this exhibit is attached).

The Operating Agreement (as defined in the deed to which this exhibit is attached).

EXHIBIT C

List of Title Exceptions

The Property is conveyed subject to, and, as the case may be, with the benefit of, the following matters to the extent in force and effect and applicable to the Property:

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/1:

1. Subject to a right of way as set forth in a deed from Charles Emery to Northampton and Springfield Rail Road Corporation dated August, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 293.
2. Subject to the obligation to erect and maintain fences, a cattle guard and crossing, and to keep a drain open as set forth in a deed from Festus Stebbins to Northampton and Springfield Rail Road Corporation dated September 9, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 399.
3. Subject to the obligation to erect and maintain fences as set forth in a deed from George W. Callender, et als to Northampton and Springfield Rail Road Corporation dated September 14, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 401.
4. Subject to the obligation to erect and maintain fences as set forth in a deed from Horatio Sargent to Northampton and Springfield Rail Road Corporation dated September 9, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 402.
5. Subject to the obligation to erect and maintain fences as set forth in a deed from Samuel Colby to Northampton and Springfield Rail Road Corporation dated September 12, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 404.
6. Subject to the obligation to erect and maintain fences as set forth in a deed from Walter Stebbins, et als to Northampton and Springfield Rail Road Corporation dated September 14, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 405.
7. Subject to the obligation to erect and maintain fences as set forth in a deed from George W. Callender, et als to Northampton and Springfield Rail Road Corporation dated September 14, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 407.
8. Subject to the obligation to erect and maintain fences as set forth in a deed from George Stebbins to Northampton and Springfield Rail Road Corporation dated September 24, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 408.
9. Subject to the obligation to build, keep up and maintain fences and to keep ditches open as set forth in a deed from William Pynchon, et als to Northampton and Springfield Rail Road Corporation dated December 12, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 521.
10. Unrecorded Agreement between Western R. R. Co. and N. & S. R. R. Co. regarding Junction and Station rights W. R. R. and H. & S. R. R, dated February 13, 1845.

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11. Subject to the obligation to erect and maintain fences as set forth in a deed from Hiram King, et al to Connecticut River Rail Road Company dated May 2, 1846 recorded in Hampden County Registry of Deeds in Book 132, Page 123.
12. Subject to the provision that the railroad make and establish a passageway and to construct and maintain crossing and cattle guards, and build a stone bridge across the brook as set forth in a deed from Festus Stebbins to Connecticut River Rail Road Corporation dated June 28, 1848 recorded in Hampden County Registry of Deeds in Book 144, Page 359.
13. Agreement by and between the Hampden County Agricultural Society and the Connecticut River Rail Road Company regarding a railroad crossing dated February 6, 1860 recorded in Hampden County Registry of Deeds in Book 201, Page 11, as affected by Agreement dated August 28, 1860 recorded in Hampden County Registry of Deeds in Book 204, Page 383.
14. Subject to and with the benefit of a right of way and the obligations to rearrange fences and gates, construct and maintain a bridge under the railroad tracks, secure a road from the end of Clinton Street through the bridge to the park, to keep free flow of the brook, and the right to enter conveyed premises to repair culvert and embankment as set forth in a deed from Hampden County Agricultural Society of Massachusetts to Connecticut River Rail Road Company dated January 4, 1864 recorded in Hampden County Registry of Deeds in Book 223, Page 459.
15. Subject to the provision that the City of Springfield has the right to maintain a sewer, keep a strip free from buildings, and have a convenient way to the river for fire purposes as set forth in a deed from The Trustees of the School Fund to Connecticut River Rail Road Company dated December 20, 1864 recorded in Hampden County Registry of Deeds in Book 226, Page 274.
16. Subject to and together with the benefit of a right to build a slope, the obligation to give the grantor a right to keep and maintain fences, and the agreement to relocate existing fences, tankhouse and reservoir, as set forth in Indenture deed between the Hampden County Agricultural Society and Connecticut River Rail Road Company dated July 5, 1866 recorded in Hampden County Registry of Deeds in Book 244, Page 82.
17. The benefit of a right to build the westerly slope of the embankment and the right to erect and maintain fences as set forth in Indenture deed between the Hampden County Agricultural Society and Connecticut River Rail Road Company dated November 5, 1867 recorded in Hampden County Registry of Deeds in Book 254, Page 192.
18. The benefit of the right to extend the slope of any bank or fill when changing Fulton Street as set forth in a deed from Julia M. Pynchon, et als to Connecticut River Railroad Company dated March 14, 1890 recorded in Hampden County Registry of Deeds in Book 461, Page 298.
19. Easement in a grant from the Boston and Maine Railroad to the City of Springfield of the right to construct and maintain a sewer upon condition that the railroad be allowed to enter from its premises abutting Fulton and Clinton Streets without cost dated July 19, 1898 recorded in Hampden County Registry of Deeds in Book 589, Page 168, so far as now in force and applicable.
20. Easement in a grant from Connecticut River Railroad Company and Boston and Maine Railroad

to the City of Springfield of the right to widen Plainfield Street dated May 31, 1902 recorded in Hampden County Registry of Deeds in Book 655, Page 208.

21. Agreement by Connecticut River Railroad Company, Boston and Maine Railroad Company and the City of Springfield regarding the alteration in crossing of highway and railroad at Clinton Street dated November 9, 1907 recorded in Hampden County Registry of Deeds in Book 733, Page 573.
22. Easement in a grant from Connecticut River Railroad Company to the City of Springfield of a right to maintain slope, footings and buttress for a retaining wall dated January 23, 1914 recorded in Hampden County Registry of Deeds in Book 886, Page 197.
23. Taking by the City of Springfield of an easement for a drain dated January 10, 1938 recorded in Hampden County Registry of Deeds in Book 1651, Page 521.
24. Subject to and with the benefit of rights restrictions, covenants and agreements, including rights in a driveway to be used in common, as set forth in Indenture deed from Boston and Maine Railroad to Equipment Service Company, Inc., dated March 8, 1944 recorded in Hampden County Registry of Deeds in Book 1777, Page 43, as affected by Agreement to relocate the driveway dated January 28, 1964 recorded in Hampden County Registry of Deeds in Book 3013, Page 372.
25. With the benefit of grantee's obligation to build and maintain fences, covenants and agreements as set forth in a deed from Boston and Maine Railroad to the City of Springfield dated August 8, 1949 recorded in Hampden County Registry of Deeds in Book 2004, Page 235, as confirmed by deed dated July 11, 1950 recorded in Hampden County Registry of Deeds in Book 2064, Page 220.
26. With the benefit of release from damages and grantee's obligation to build and maintain fences as set forth in a deed from Boston and Maine Railroad to The Woolsby Corp., dated October 3, 1949 recorded in Hampden County Registry of Deeds in Book 2014, Page 279.
27. Subject to and with the benefit of provisions regarding a sidetrack and to exceptions, reservations, restrictions, covenants and agreements as set forth in Indenture deed from Boston and Maine Railroad to The Republican Publishing Company dated May 8, 1953 recorded in Hampden County Registry of Deeds in Book 2239, Page 586.
28. Subject to and with the benefit of easements granted and exceptions, reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Western Massachusetts Electric Company dated December 31, 1963 recorded in Hampden County Registry of Deeds in Book 3007, Page 195.
29. Layout No. 5652 by the Commonwealth of Massachusetts, Department of Public Works, of drainage easements, easements for highway purposes, and fee takings for highway purposes dated February 8, 1967 recorded in Hampden County Registry of Deeds in Book 3242, Page 137.
30. Layout No. 5670 by the Commonwealth of Massachusetts, Department of Public Works of easements for highway purposes dated April 18, 1967 recorded in Hampden County Registry of Deeds in Book 3253, Page 226.

31. Order of the City of Springfield for the laying out of a sanitary sewer outlet in Cypress Street at Columbus Avenue dated September 3, 1968 recorded in Hampden County Registry of Deeds in Book 3371, Page 62, as amended by Order dated March 3, 1969 recorded in Hampden County Registry of Deeds in Book 3406, Page 155.
32. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
33. Subject to and with the benefit of restrictions, exceptions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Western Massachusetts Electric Company dated October 29, 1985 recorded in Hampden County Registry of Deeds in Book 5937, Page 383.
34. Fiber Optic Easement Agreement by and between Lightnet and Boston and Maine Corporation dated July 17, 1986 recorded in Hampden County Registry of Deeds in Book 6246, Page 379.
35. Order of Conditions, DEQE File No. 294-169, issued by Springfield Conservation Commission dated November 13, 1986 recorded in Hampden County Registry of Deeds in Book 6332, Page 471.
36. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Fargo Enterprises, Inc., dated June 29, 1989 recorded in Hampden County Registry of Deeds in Book 7208, Page 220.
37. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
38. Subject to and with the benefit of reservations, conditions, covenants, agreements and exceptions as set forth in a Release Deed from Boston and Maine Corporation to Peter L. Picknelly, d/b/a Picknelly Properties, dated December 20, 1990 recorded in Hampden County Registry of Deeds in Book 7628, Page 404.
39. Unrecorded Agreement between Sprint Communications Company L. P. and Boston and Maine Corporation dated November 1, 1990 granting to Sprint the right to construct, install, operate, maintain, modify, repair, replace and remove a Communications Transmission System mentioned in a Notice of Right of Way Occupancy Agreement dated June 18, 1993 recorded in Hampden County Registry of Deeds in Book 8486, Page 491.
40. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/2:

1. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Daniel Hitchcock to Northampton and Springfield Rail Road Corporation dated August 20, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 299.

2. Subject to the obligation to erect and maintain fences and a crossing on each lot as set forth in a deed from Samuel Osgood to Northampton and Springfield Rail Road Corporation dated August 2, 1844 recorded in Hampden County Registry of Deeds in Book 125, Page 359.
3. Subject to the obligation to erect and maintain fences as set forth in a deed from John Lombard, et als to Northampton and Springfield Rail Road Corporation dated July 31, 1844 recorded in Hampden County Registry of Deeds in Book 125, Page 393.
4. Subject to the obligation to erect and maintain fences as set forth in a deed from Hiram King, et als to Connecticut River Rail Road Company dated May 22, 1846 recorded in Hampden County Registry of Deeds in Book 132, Page 123.
5. Subject to the reservation of the provisions in deed recorded in Hampden County Registry of Deeds in Book 125, Page 400, as set forth in a deed from Jane W. Hooker, Executrix, to Connecticut River Railroad Company dated May 19, 1888 recorded in Hampden County Registry of Deeds in Book 445, Page 345.
6. Subject to any claim other parties may have to keep a way open as set forth in a deed from William Pynchon, et als to Connecticut River Railroad Company dated January 16, 1889 recorded in Hampden County Registry of Deeds in Book 453, Page 52.
7. Subject to the provisions regarding Wason Avenue as set forth in a deed from George C. Fish, et al to Connecticut River Railroad Company dated November 25, 1891 recorded in Hampden County Registry of Deeds in Book 488, Page 62.
8. Easement taken by the City of Springfield to lay down, carry and maintain pipes dated July 7, 1909 recorded in Hampden County Registry of Deeds in Book 761, Page 292.
9. Easement in a grant from Connecticut River Railroad Company to the City of Springfield of a right to build a retaining wall dated January 25, 1914 recorded in Hampden County Registry of Deeds in Book 886, Page 197.
10. Easement taken by the City of Springfield for sewer purposes dated November 20, 1940 recorded in Hampden County Registry of Deeds in Book 1704, Page 230.
11. Subject to and with the benefit of reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Fox Realty Co., Inc., dated January 31, 1948 recorded in Hampden County Registry of Deeds in Book 1920, Page 379.
12. Agreement To Switch To And From Sidetrack by and between Boston and Maine Railroad and The Woolsby Corp. dated January 31, 1949 recorded in Hampden County Registry of Deeds in Book 1982, Page 217.
13. Sidetrack Agreement by and between Boston and Maine Railroad and B. H. Spinney Co. dated January 31, 1948 recorded in Hampden County Registry of Deeds in Book 1982, Page 221.
14. Taking of an easement by the City of Springfield, Board of Water Commissioners, for water pipe crossing dated November 19, 1954 recorded in Hampden County Registry of Deeds in Book 2351, Page 183, as affected by perpetual right and easement granted by Boston and Maine

Railroad to the City of Springfield dated October 17, 1956 recorded in Hampden County Registry of Deeds in Book 2508, Page 581.

15. Subject to and with the benefit of reservations, exceptions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to the Great Atlantic & Pacific Tea Company, Inc., dated February 9, 1961 recorded in Hampden County Registry of Deeds in Book 2797, Page 315.
16. Order of Taking by the Commonwealth of Massachusetts, Department of Public Works of a drainage easement dated April 5, 1967 recorded in Hampden County Registry of Deeds in Book 3251, Page 92.
17. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
18. Subject to and with the benefit of exceptions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Elwell Iron Works, Inc., dated May 27, 1986 recorded in Hampden County Registry of Deeds in Book 6104, Page 74.
19. Fiber Optic Easement Agreement by and between Lightnet and Boston and Maine Corporation dated July 17, 1986 recorded in Hampden County Registry of Deeds in Book 6246, Page 379, as affected by Order of Conditions, DEQE File No. 294-169 issued by Springfield Conservation Commission dated November 13, 1986 recorded in Hampden County Registry of Deeds in Book 6332, Page 471.
20. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
21. Subject to and with the benefit of reservations, restrictions exceptions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Northerledge/Wason Development Corporation dated November 7, 1988 recorded in Hampden County Registry of Deeds in Book 7019, Page 13.
22. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Northerledge/Wason Development Corporation dated May 30, 1990 recorded in Hampden County Registry of Deeds in Book 7468, Page 580.
23. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Elwell Iron Works, Inc., dated May 30, 1990 recorded in Hampden County Registry of Deeds in Book 7473, Page 48.
24. Unrecorded Agreement between Sprint Communications Company L. P. and Boston and Maine Corporation dated November 1, 1990 granting to Sprint the right to construct, install, operate, maintain, modify, repair, replace and remove a Communications Transmission System mentioned in a Notice of Right of Way Occupancy Agreement dated June 18, 1993 recorded in Hampden County Registry of Deeds in Book 8486, Page 491.

25. Taking in fee by the Commonwealth of Massachusetts, Department of Environmental Protection dated May 2, 1994 recorded in Hampden County Registry of Deeds in Book 8819, Page 510.
26. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to George H. Roy, Jr., dated March 2, 1995 recorded in Hampden County Registry of Deeds in Book 9194, Page 253.
27. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to 88-90 Birnie Ave. Realty Trust dated July 17, 2000 recorded in Hampden County Registry of Deeds in Book 11275, Page 361.
28. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Richard Crowley, et als, Trustees of 88-90 Birnie Ave. Realty Trust, dated September 4, 2001 recorded in Hampden County Registry of Deeds in Book 11861, Page 81.
29. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/3:

1. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Daniel Hitchcock to Northampton and Springfield Rail Road Corporation dated August 20, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 299.
2. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Seth Stebbins to Northampton and Springfield Rail Road Corporation dated August 22, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 305.
3. Subject to the obligation to erect and maintain fences and allow grantor to take flood wood on beach, and subject to the rights of the public in Cabotville Road as set forth in a deed from Josiah Stephens to Northampton and Springfield Rail Road Corporation dated August 23, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 309.
4. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Eli Burt, et als to Northampton and Springfield Rail Road Corporation dated October 24, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 445.
5. Subject to the obligation to erect and maintain fences as set forth in a deed from Justin Murphy to Northampton and Springfield Rail Road Corporation dated July 24, 1844 recorded in Hampden County Registry of Deeds in Book 125, Page 356.
6. Subject to the obligation to erect and maintain fences as set forth in a deed from Alonzo Wait to Northampton and Springfield Rail Road Corporation dated July 27, 1844 recorded in Hampden County Registry of Deeds in Book 125, Page 406.
7. Subject to the obligation to erect a fence and the provision that a strip of land be used as a public highway with the right to excavate as set forth in a deed from Peter Gillighan to Connecticut

River Rail Road Company dated October 6, 1865 recorded in Hampden County Registry of Deeds in Book 235, Page 360.

8. License No. 1479 issued by the Commonwealth of Massachusetts, through the Board of Harbor and Land Commissioners to the Connecticut River Railroad Company to build a rip-rapped embankment, or to build a wall and fill solid, in and over the waters of the Connecticut River dated June 23, 1892 recorded in Hampden County Registry of Deeds in Book 493, Page 230.
9. Easement to connect, construct and maintain a dike wall as set forth in a grant from the Boston and Maine Railroad to the City of Chicopee dated February 8, 1940 recorded in Hampden County Registry of Deeds in Book 1689, Page 388.
10. With the benefit of a release from claims and grantee's obligation to build and maintain a fence as set forth in a deed from Boston and Maine Railroad to Michael Realty Corp. dated November 26, 1951 recorded in Hampden County Registry of Deeds in Book 2208, Page 423.
11. With the benefit of a release from claims and grantee's obligation to build and maintain a fence as set forth in a deed from Boston and Maine Railroad to Van Norman Company dated April 30, 1953 recorded in Hampden County Registry of Deeds in Book 2238, Page 368.
12. Layout No. 5570 by the Commonwealth of Massachusetts, Department of Public Works, of an easement taken for the layout of Interstate Route 91 dated March 30, 1966 recorded in Hampden County Registry of Deeds in Book 3182, Page 97.
13. Subject to covenants, agreements, reservations and exceptions as set forth in a grant of easement from the Boston and Maine Corporation to American Bosch Arma Corporation dated December 12, 1966 recorded in Hampden County Registry of Deeds in Book 3234, Page 105.
14. Layout No. 5704 by the Commonwealth of Massachusetts, Department of Public Works, of a fee interest and an easement for the layout of Interstate Route 391 dated September 13, 1967 recorded in Hampden County Registry of Deeds in Book 3289, Page 164.
15. Layout No. 5773 by the Commonwealth of Massachusetts, Department of Public Works, for the layout of Interstate Route 391 dated September 4, 1968 recorded in Hampden County Registry of Deeds in Book 3364, Page 594.
16. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
17. Fiber Optic Easement Agreement by and between Lightnet and Boston and Maine Corporation dated July 17, 1986 recorded in Hampden County Registry of Deeds in Book 6246, Page 379.
18. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
19. Unrecorded Agreement between Sprint Communications Company L. P. and Boston and Maine

Corporation dated November 1, 1990 granting to Sprint the right to construct, install, operate, maintain, modify, repair, replace and remove a Communications Transmission System mentioned in a Notice of Right of Way Occupancy Agreement dated June 18, 1993 recorded in Hampden County Registry of Deeds in Book 8486, Page 491.

20. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.
21. Order of Conditions, Mass DEP File No. 133-0311, issued by the Chicopee Conservation Commission to Patrick Keough, Lamar Advertising, Applicant, and Pan Am Southern, Property Owner, regarding land on Center Street, Chicopee, dated September 18, 2013 recorded in Hampden County Registry of Deeds in Book 20042, Page 500.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/4:

1. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from George Miller to Northampton and Springfield Rail Road Corporation dated August 13, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 307.
2. Subject to the obligation to erect and maintain fences and allow grantor to take flood wood on beach, and subject to the rights of the public in Cabotville Road as set forth in a deed from Josiah Stephens to Northampton and Springfield Rail Road Corporation dated August 23, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 309.
3. Subject to conditions and reservations regarding the open passage and that the premises only be held as a right to construct the railroad across the said premises as set forth in a deed from Charles McClellan, et al to Northampton and Springfield Rail Road Corporation dated August 31, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 398.
4. Subject to the obligation to make and maintain a crossing and subject to the right of the grantor to take wood as set forth in a deed from Seth Whiting to Northampton and Springfield Rail Road Corporation dated October 31, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 452.
5. Subject to the obligation to erect and maintain a fence and crossing as set forth in a deed from Seth Whiting to Northampton and Springfield Rail Road Corporation dated December 10, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 520.
6. The benefit of the liberty to dig sand and earth on west side of gore towards Connecticut River and subject to the provisions that the bed of land be left in good shape as set forth in a deed from George Miller to Northampton and Springfield Rail Road Corporation dated March 12, 1845 recorded in Hampden County Registry of Deeds in Book 128, Page 40.
7. Subject to the condition that grantee is to have and hold the premises so long as the railroad is located and maintained where it now is as set forth in a deed from William Chapin to Connecticut River Rail Road Company dated August 6, 1845 recorded in Hampden County Registry of Deeds in Book 128, Page 285.

8. Subject to rights of the public in Depot Road and covenants, agreements and the condition that if the real estate shall at any time not be used for the purposes connected with the railroad, then the grants shall be utterly null and void, as set forth in Indenture by and between Springfield Canal Company, The Dwight Manufacturing Company and the Connecticut River Rail Road Company dated July 1, 1846 recorded in Hampden County Registry of Deeds in Book 132, Page 430.
9. Subject to the right of way to cross the railroad as set forth in a deed from Connecticut River Rail Road Company to The Dwight Manufacturing Company dated May 10, 1856 recorded in Hampden County Registry of Deeds in Book 185, Page 138.
10. Subject to the condition to erect fences as set forth in a deed from Connecticut River Rail Road Company to Franklin H. Wyman dated July 9, 1864 recorded in Hampden County Registry of Deeds in Book 226, Page 149.
11. Subject to the condition that a passageway be kept open from Emerald Street to the line of railroad as set forth in a deed from Chester W. Chapin to Connecticut River Railroad Company dated July 10, 1871 recorded in Hampden County Registry of Deeds in Book 281, Page 424.
12. Subject to the condition that no building, fencing or improvement be constructed as to obstruct the view from grantor's dwelling house as set forth in a deed from Abner B. Abbey to Connecticut River Rail Road Company dated October 5, 1871 recorded in Hampden County Registry of Deeds in Book 285, Page 429.
13. Subject to the rights of the public in Dublin Street as set forth in a deed from Sarah E. Collard to Connecticut River Rail Road Company dated January 11, 1886 recorded in Hampden County Registry of Deeds in Book 420, Page 94.
14. Subject to the reservation of taking water from a spring on the premises as set forth and referred to in a deed from John B. Wood, Administrator of the Estate of Hannah Boland, to Connecticut River Railroad Company dated October 30, 1889 recorded in Hampden County Registry of Deeds in Book 458, Page 498.
15. License No. 1479 issued by the Commonwealth of Massachusetts, through the Board of Harbor and Land Commissioners, to the Connecticut River Railroad Company to build a rip-rapped embankment, or to build a wall and fill solid, in and over the waters of the Connecticut River dated June 23, 1892 recorded in Hampden County Registry of Deeds in Book 493, Page 230.
16. Subject to an Indenture by Boston and Maine Railroad, Turners Falls Power & Electric Company, Moore Drop Forging Company, Page-Storms Drop Forge Company and Dwight Manufacturing Company regarding the abandonment of crossings and rights to construct and use under and across the railroad premises a bridge or underpass dated April 23, 1920 recorded in Hampden County Registry of Deeds in Book 1053, Page 212.
17. The benefit of reservations, covenants and agreements, including a slope easement, as set forth in a deed from Boston and Maine Railroad to A. G. Spalding & Bros. dated September 26, 1924 recorded in Hampden County Registry of Deeds in Book 1246, Page 91.
18. Taking by eminent domain by the City of Chicopee for the Connecticut River Flood Protection Project dated April 21, 1939 recorded in Hampden County Registry of Deeds in Book 1673, Page

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19. Indenture by and between the Boston and Maine Railroad and the City of Chicopee granting the right and easement to construct, maintain and operate a stop-log structure and earth dike on and across the premises of the Boston and Maine Railroad dated June 7, 1939 recorded in Hampden County Registry of Deeds in Book 1686, Page 431.
20. Grant of an easement from the Boston and Maine Railroad to the City of Chicopee of the right to construct and maintain a dike and dike wall dated October 8, 1940 recorded in Hampden County Registry of Deeds in Book 1702, Page 3.
21. Grant of an easement from the Boston and Maine Railroad to the City of Chicopee of the right to construct and maintain a dike wall dated February 13, 1941 recorded in Hampden County Registry of Deeds in Book 1708, Page 503.
22. Grant of an easement from the Boston and Maine Railroad to the City of Chicopee of the right to flow and fill and the right to use for a pumping station dated October 15, 1941 recorded in Hampden County Registry of Deeds in Book 1725, Page 361.
23. Grant of an easement from the Boston and Maine Railroad to the City of Chicopee of the right to construct and maintain a drain, manhole and concrete dike wall dated March 24, 1942 recorded in Hampden County Registry of Deeds in Book 1736, Page 341.
24. The benefit of exceptions, reservations, licenses, restrictions and covenants as set forth in an Indenture by and between Boston and Maine Railroad and Albert J. Fober dated May 6, 1959 recorded in Hampden County Registry of Deeds in Book 2675, Page 180.
25. Layout No. 5704 by the Commonwealth of Massachusetts, Department of Public Works, of a fee interest for the layout of Interstate Route 391 dated September 13, 1967 recorded in Hampden County Registry of Deeds in Book 3289, Page 164.
26. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
27. Order of Taking by the Commonwealth of Massachusetts, Department of Public Works, for the purpose of constructing and maintaining a portion of a proposed State Highway (Interstate Route 391) and/or a city way or ways in connection therewith dated May 17, 1978 recorded in Hampden County Registry of Deeds in Book 4599, Page 85.
28. Layout No. 6261, Order of Taking by the Commonwealth of Massachusetts, Department of Public Works, for a portion of Interstate Route 391 crossing the railroad and the Massachusetts Turnpike dated November 8, 1978 recorded in Hampden County Registry of Deeds in Book 4696, Page 225.
29. Order of Taking by the Commonwealth of Massachusetts of perpetual rights and easements to install, erect, construct, reconstruct, repair, replace, maintain, operate and patrol towers and poles for the transmission of high and low voltage electric current dated April 9, 1980 recorded in Hampden County Registry of Deeds in Book 4932, Page 279.

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30. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
31. Unrecorded Agreement between Sprint Communications Company L. P. and Boston and Maine Corporation dated November 1, 1990 granting to Sprint the right to construct, install, operate, maintain, modify, repair, replace and remove a Communications Transmission System mentioned in a Notice of Right of Way Occupancy Agreement dated June 18, 1993 recorded in Hampden County Registry of Deeds in Book 8486, Page 491.
32. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/5:

1. Subject to the obligation to erect and maintain fences and a crossing and rights reserved for the public to cross the road as set forth in a deed from Levi Stedman to Northampton and Springfield Rail Road Corporation dated November 12, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 468.
2. Subject to the obligation to erect and maintain fences and a crossing and to permit grantor to repair aqueduct as set forth in a deed from Eben Wright to Northampton and Springfield Rail Road Corporation dated November 7, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 476.
3. Subject to the obligation to erect and maintain fences and a crossing and to keep open all drains to make a culvert for the brook as set forth in a deed from Frederick Chapin to Northampton and Springfield Rail Road Corporation dated November 20, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 492.
4. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Giles S. Chapin to Northampton and Springfield Rail Road Corporation dated December 26, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 529.
5. Subject to agreement to the release of the road to grantor as set forth in a deed from Henry Woods to Connecticut River Rail Road Corporation dated August 20, 1845 recorded in Hampden County Registry of Deeds in Book 128, Page 299.
6. Subject to the obligation to erect fences as set forth in a deed from Levi Stedman and Sophia Stedman to Connecticut River Rail Road Company dated September 29, 1845 recorded in Hampden County Registry of Deeds in Book 128, Page 339.
7. Subject to and with the benefit of the guarantee by grantor against any claims to an ancient right of way on the condition that the grantee maintain all fences and maintain under and over crossings as presently established as set forth in a deed from Chester W. Chapin to Connecticut River Rail Road Company dated May 17, 1847 recorded in Hampden County Registry of Deeds in Book 139, Page 223.

8. Subject to and with the benefit of the right to have adjoining land kept free from obstructions as set forth in a deed from Eli A. Stoddard to Connecticut River Rail Road Company dated January 29, 1872 recorded in Hampden County Registry of Deeds in Book 290, Page 122.
9. Abolition of Grade Crossing by the City of Chicopee dated November 1, 1898 recorded in Hampden County Registry of Deeds in Book 599, Page 105.
10. Order of Taking No. 9 by the Massachusetts Turnpike Authority for easements for highway purposes dated January 13, 1955 recorded in Hampden County Registry of Deeds in Book 2364, Page 98, as affected by deed from the Boston and Maine Railroad to the Massachusetts Turnpike Authority dated May 18, 1957 recorded in Hampden County Registry of Deeds in Book 2568, Page 542.
11. Order of Taking No. 35 by the Massachusetts Turnpike Authority of a fee interest for highway purposes dated April 14, 1955 recorded in Hampden County Registry of Deeds in Book 2383, Page 23, as affected by deed from the Boston and Maine Railroad to the Massachusetts Turnpike Authority dated May 18, 1957 recorded in Hampden County Registry of Deeds in Book 2568, Page 542.
12. Order of Taking by the City of Chicopee for the taking of a drainage easement dated January 5, 1965 recorded in Hampden County Registry of Deeds in Book 3090, Page 224.
13. Order of Taking by the City of Chicopee of sewer easements dated January 26, 1965 recorded in Hampden County Registry of Deeds in Book 3090, Page 282.
14. Layout No. 5897 by the Commonwealth of Massachusetts, Department of Public Works, for the relocation of Chicopee Street (Route 116) for the taking of a fee and easement interests dated September 2, 1970 recorded in Hampden County Registry of Deeds in Book 3536, Page 585.
15. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
16. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
17. Unrecorded Agreement between Sprint Communications Company L. P. and Boston and Maine Corporation dated November 1, 1990 granting to Sprint the right to construct, install, operate, maintain, modify, repair, replace and remove a Communications Transmission System mentioned in a Notice of Right of Way Occupancy Agreement dated June 18, 1993 recorded in Hampden County Registry of Deeds in Book 8486, Page 491.
18. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Gerard J. LaCasse, et al, Trustees of East Meadow Realty Trust, dated September 12, 1996 recorded in Hampden County Registry of Deeds in Book 9634, Page 449.

19. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Kane Scrap Iron & Metal, Inc. dated February 4, 2005 recorded in Hampden County Registry of Deeds in Book 14890, Page 422.
20. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.
21. Order of Taking of a Permanent Land Taking by the City of Chicopee from Pan Am Southern LLC of a parcel of land containing 1,506 square feet of land on Broadcast Center in Chicopee dated January 14, 2014 recorded in Hampden County Registry of Deeds in Book 20189, Page 59 and shown on plan recorded in Hampden County Registry of Deeds in Plan Book 368, Page 78.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/6:

1. Subject to the obligation to erect and maintain fences and a crossing and rights reserved for the public to cross the road as set forth in a deed from Levi Stedman to Northampton and Springfield Rail Road Corporation dated November 12, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 468.
2. Subject to the obligation to erect and maintain fences and a crossing, drainage obligations, aqueduct rights, and the restriction that said premises are being conveyed for the purpose of constructing a railroad and for no other use, as set forth in a deed from Orange Chapin to Northampton and Springfield Rail Road Corporation dated November 7, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 469.
3. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Austin Chapin to Northampton and Springfield Rail Road Corporation dated November 9, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 470.
4. Subject to the obligation to erect and maintain fences and a crossing, rights to pass over the railroad and brook, and to the obligation that drains are to be kept open as set forth in a deed from Joseph Griswold, et als to Northampton and Springfield Rail Road Corporation dated November 13, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 475.
5. Subject to the obligation to erect and maintain fences and a crossing and to keep open the drains, and restriction that said premises are being conveyed for the purpose of constructing a railroad and for no other use, as set forth in a deed from Otis Skeelee to Northampton and Springfield Rail Road Corporation dated November 16, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 486.
6. Subject to the obligation to erect and maintain fences and a crossing and to make and maintain bars through said crossing, and subject to brook rights and obligation for drains to be kept open as set forth in a deed from Sumner Chapin to Northampton and Springfield Rail Road Corporation dated November 21, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 490.
7. Subject to the obligation to erect and maintain fences and a crossing, to keep open the drains and to make a culvert for the brook as set forth in a deed from Frederick Chapin to Northampton and

Springfield Rail Road Corporation dated November 20, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 492.

8. The benefit of a right to change the course of Powder Mill Brook as set forth in a grant from Lucius B. Chapin to Connecticut River Rail Road Company dated March 14, 1864 recorded in Hampden County Registry of Deeds in Book 224, Page 129.
9. The benefit of the right to divert Powder Mill Brook and to maintain said river channel forever as set forth in a grant from Sumner Chapin to Connecticut River Railroad Company dated July 2, 1872 recorded in Hampden County Registry of Deeds in Book 298, Page 121.
10. Abolition of Grade Crossing by the City of Chicopee dated November 1, 1898 recorded in Hampden County Registry of Deeds in Book 599, Page 105.
11. The benefit of covenants and restrictions as set forth in a deed from Boston and Maine Railroad to The Palmer Steel Company dated October 14, 1929 recorded in Hampden County Registry of Deeds in Book 1438, Page 185.
12. The benefit of restrictions as set forth in a deed from Boston and Maine Railroad to The Palmer Steel Company dated October 26, 1932 recorded in Hampden County Registry of Deeds in Book 1512, Page 74.
13. Order of Taking by the City of Chicopee for the taking of a drainage easement dated January 5, 1965 recorded in Hampden County Registry of Deeds in Book 3090, Page 224.
14. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
15. Grant from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, to the Commonwealth of Massachusetts, acting through its Department of Public Works, of McKinsty Avenue Bridge and related easement rights dated May 28, 1975 recorded in Hampden County Registry of Deeds in Book 4153, Page 203.
16. Order of Taking by the Commonwealth of Massachusetts, Department of Public Works, of an easement for highway purposes dated May 17, 1978 recorded in Hampden County Registry of Deeds in Book 4599, Page 85.
17. Order of Taking by the Commonwealth of Massachusetts, Department of Public Works, of an easement for construction and use of drainage structures and to drain dated April 9, 1980 recorded in Hampden County Registry of Deeds in Book 4932, Page 274.
18. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
19. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/7:

1. Subject to the obligation to erect and maintain fences and a crossing, to keep open the drains and permit grantor to repair any aqueduct over the railroad as set forth in a deed from Orange Chapin to Northampton and Springfield Rail Road Corporation dated November 7, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 469.
2. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Dormer Chapin to Northampton and Springfield Rail Road Corporation dated November 19, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 474.
3. Subject to the obligation to erect and maintain fences and a crossing, to keep drains open, and the reservation of grantor of a right to pass over the railroad and brook to afford water to the mowing lot as set forth in a deed from Joseph Griswold, et als to Northampton and Springfield Rail Road Corporation dated November 13, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 475.
4. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Sylvester Taylor, et al to Northampton and Springfield Rail Road Corporation dated November 15, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 477.
5. Subject to the obligation to erect and maintain fences, to keep open the drains and to the restriction that the premises shall be used for the purposes of a railroad and no other use, as set forth in a deed from Otis Skeelee to Northampton and Springfield Rail Road Corporation dated November 16, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 486.
6. Subject to the obligation to erect and maintain fences and two crossings and to keep open the drains as set forth in a deed from Theodocia Chapin, individually and as Guardian, to Northampton and Springfield Rail Road Corporation dated November 20, 1844 recorded in Hampden County Registry of Deeds in Book 123, Page 489.
7. Subject to the obligation to erect and maintain fences as set forth in a deed from Clossen Pendleton to Connecticut River Rail Road Company dated March 10, 1846 recorded in Hampden County Registry of Deeds in Book 132, Page 50.
8. Abolition of Grade Crossings by the City of Chicopee dated November 1, 1898 recorded in Hampden County Registry of Deeds in Book 599, Page 105.
9. License No. 249 issued by the Commonwealth of Massachusetts Commission on Waterways and Public Lands to Boston and Maine Railroad for Bridge No. 10 over the Connecticut River dated April 2, 1919 recorded in Hampden County Registry of Deeds in Book 1043, Page 542, as affected by Approval of Location and Plans of Bridge from the United States of America to Boston and Maine Railroad dated March 23, 1920 recorded in Hampden County Registry of Deeds in Book 1043, Page 572.
10. Subject to and with the benefit of reservations of slope easements as set forth in Indenture by and between the Boston and Maine Railroad and Prew Coal Company dated July 1, 1924 recorded in

Hampden County Registry of Deeds in Book 1221, Page 555.

11. Subject to and with the benefit of exceptions, reservations, covenants and agreements as set forth in a deed from the Boston and Maine Railroad to Esso Standard Oil Company dated April 29, 1954 recorded in Hampden County Registry of Deeds in Book 2308, Page 57.
12. Taking by the City of Chicopee of an easement for highway purposes at the corner of Chicopee Street and Prospect Street dated June 11, 1954 recorded in Hampden County Registry of Deeds in Book 2316, Page 1.
13. Subject to and with the benefit of exceptions, reservations and agreements as set forth in a deed from the Boston and Maine Railroad to Alchro Corporation dated January 24, 1963 recorded in Hampden County Registry of Deeds in Book 2934, Page 570.
14. Subject to and with the benefit of exceptions, reservations and agreements as set forth in a deed from the Boston and Maine Railroad to Springfield Facing Corporation dated January 24, 1963 recorded in Hampden County Registry of Deeds in Book 2934, Page 574.
15. Order of Taking by the City of Chicopee for sewer easement dated May 30, 1974 recorded in Hampden County Registry of Deeds in Book 3977, Page 142.
16. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
17. Order of Taking by the Commonwealth of Massachusetts, Department of Public Works, of an easement dated May 17, 1978 recorded in Hampden County Registry of Deeds in Book 4599, Page 85.
18. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
19. Subject to reservations, exceptions, covenants, agreements and restrictions as set forth in a deed from Boston and Maine Corporation to Joseph F. Dowd, et al dated March 26, 1990 recorded in Hampden County Registry of Deeds in Book 7489, Page 533.
20. Declaration of Easements and Restrictions regarding sign easements by and between Boston and Maine Corporation and Lamar Central Outdoor, LLC dated October 5, 2006 recorded in Hampden County Registry of Deeds in Book 16274, Page 35.
21. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/8, 8A, 8B, 8C:

1. Subject to the obligation to erect and maintain a fence and crossing and to allow the grantor to

convey water by a lead pipe under the railroad as set forth in a deed from Warren Chapin to Northampton and Springfield Rail Road Corporation dated May 16, 1845 recorded in Hampden County Registry of Deeds in Book 128, Page 148, first parcel therein.

2. Subject to the provision and obligation to make a culvert under the tracks as set forth in a deed from Proprietors of Locks & Canals on Connecticut River to Connecticut River Rail Road Corporation dated May 3, 1847 recorded in Hampden County Registry of Deeds in Book 133, Page 380.
3. Subject to a right of way reserved as set forth in a deed from Holyoke Water Power Company to Connecticut River Railroad Company dated July 1, 1875 recorded in Hampden County Registry of Deeds in Book 328, Page 213.
4. Agreement by and between the Holyoke Water Power Company and the Connecticut River Rail Road Company regarding the construction of passageways for carriages and teams dated December 1, 1882 recorded in Hampden County Registry of Deeds in Book 392, Page 355.
5. Subject to passageway rights as set forth in a grant from Connecticut River Railroad Company to Merrick Lumber Company dated April 3, 1889 recorded in Hampden County Registry of Deeds in Book 454, Page 388.
6. Subject to rights and provisions regarding a 16 foot strip of land as set forth in a deed from Connecticut River Railroad Corporation to Holyoke Water Power Company dated July 8, 1890 recorded in Hampden County Registry of Deeds in Book 468, Page 146.
7. Subject to rights of way over Appleton Street as set forth in a grant from Connecticut River Railroad Company to Holyoke Water Power Company dated May 3, 1892 recorded in Hampden County Registry of Deeds in Book 487, Page 590.
8. Subject to and with the benefit of rights to erect a passenger depot and subject to the reservation of grantor as set forth in a grant from Holyoke Water Power Company to Connecticut River Railroad Company dated July 8, 1892 recorded in Hampden County Registry of Deeds in Book 493, Page 300.
9. Subject to rights and provisions regarding a 16 foot strip of land as set forth in a deed from Connecticut River Railroad Corporation to Parsons Paper Company Number Two dated November 15, 1892 recorded in Hampden County Registry of Deeds in Book 501, Page 286.
10. License No. 249 issued by the Commonwealth of Massachusetts Commission on Waterways and Public Lands to Boston and Maine Railroad for Bridge No. 10 over the Connecticut River dated April 2, 1919 recorded in Hampden County Registry of Deeds in Book 1043, Page 542, as affected by Approval of Location and Plans of Bridge from the United States of America to Boston and Maine Railroad dated March 23, 1920 recorded in Hampden County Registry of Deeds in Book 1043, Page 572.
11. The benefit of the reservation by the grantor in the tracks and the right to enter the premises to maintain, repair, relay, use and remove the same as set forth in a deed from Boston and Maine Railroad to American Tissue Mills dated January 4, 1922 recorded in Hampden County Registry of Deeds in Book 1121, Page 452.

12. The benefit of the reservation by the grantor to construct, maintain and use pipes and drains under and across the premises and the right to enter upon said premises from time to time to repair, relay and renew the same as set forth in a deed from Boston and Maine Railroad to William Brooks, et al dated November 24, 1923 recorded in Hampden County Registry of Deeds in Book 1206, Page 196.
13. Subject to and with the benefit of conditions, reservations and limitations regarding rights to construct a bridge, maintain poles and use tracks as set forth in an Indenture by and between Holyoke Water Power Company and Boston and Maine Railroad dated October 24, 1928 recorded in Hampden County Registry of Deeds in Book 1431, Page 123.
14. Subject to and with the benefit of rights to construct pipe conduit, erect pipes and lay wires as set forth in an Indenture by and between Boston and Maine Railroad and Holyoke Water Power Company dated October 24, 1928 recorded in Hampden County Registry of Deeds in Book 1431, Page 129.
15. Subject to and with the benefit of a fence agreement as set forth in a deed from Boston and Maine Railroad to National Blank Book Company dated October 14, 1929 recorded in Hampden County Registry of Deeds in Book 1438, Page 183.
16. Subject to and with the benefit of reservations and conditions as set forth in a deed from Holyoke Water Power Company to Boston and Maine Railroad dated September 25, 1937 recorded in Hampden County Registry of Deeds in Book 1644, Page 397.
17. Subject to the following leases from the Boston and Maine Railroad to Holyoke Water Power Company of rights to lay water pipes, as affected by Assignment from the Holyoke Water Power company to the City of Holyoke, Gas & Electric Department dated February 4, 1982 recorded in Hampden County Registry of Deeds in Book 5218, Page 164, so far as same may now be in force and applicable:
 - a. Dated September 28, 1937 recorded in Hampden County Registry of Deeds in Book 1644, Page 454,
 - b. Dated June 10, 1940 recorded in Hampden County Registry of Deeds in Book 1734, Page 388,
 - c. Dated March 17, 1942 recorded in Hampden County Registry of Deeds in Book 1734, Page 390, and
 - d. Dated October 1, 1946 recorded in Hampden County Registry of Deeds in Book 1839, Page 138.
18. Subject to rights and easements for flood protective purposes as set forth in an Indenture by and between the Boston and Maine Railroad and the City of Holyoke dated May 8, 1947 recorded in Hampden County Registry of Deeds in Book 1871, Page 318.
19. Subject to and with the benefit of reservations, covenants and agreements and the right to maintain and use the overhead bridge as set forth in an Indenture by and between Boston and Maine Railroad and National Blank Book Company dated June 11, 1951 recorded in Hampden County Registry of Deeds in Book 2119, Page 134.

20. Subject to and with the benefit of exceptions, reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Holyoke Machine Company dated February 16, 1959 recorded in Hampden County Registry of Deeds in Book 2661, Page 124.
21. The benefit of covenants as set forth in a deed from Boston and Maine Railroad to Paul Mannos, et al, Trustees of The Hampshire Trust, dated February 25, 1960 recorded in Hampden County Registry of Deeds in Book 2758, Page 105, as affected by Release dated July 14, 1960 recorded in Hampden County Registry of Deeds in Book 2758, Page 114.
22. Easement to renew, remove, repair and maintain an overhead roof as set forth in a grant from Boston and Maine Railroad to Nonotuck Investment and Development Corporation dated November 28, 1960 recorded in Hampden County Registry of Deeds in Book 2781, Page 467.
23. Subject to and with the benefit of exceptions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Downing & Downing, Inc., dated August 14, 1964 recorded in Hampden County Registry of Deeds in Book 3062, Page 528.
24. The benefit of an easement for ingress and egress, on foot and with vehicles, to and from Canal Street as set forth in a grant from Holyoke Water Power Company to Boston and Maine Corporation dated June 12, 1968 recorded in Hampden County Registry of Deeds in Book 3353, Page 55.
25. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Springfield Photo Mount Company dated July 19, 1968 recorded in Hampden County Registry of Deeds in Book 3353, Page 62.
26. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
27. Order of City of Holyoke for taking of permanent easements for sewer in the vicinity of Crescent and Canal Streets dated August 8, 1977 recorded in Hampden County Registry of Deeds in Book 4466, Page 141.
28. Pipe Agreement by and between Boston and Maine Corporation and Holyoke Water Power Company dated November 17, 1966 recorded on February 8, 1982 in Hampden County Registry of Deeds in Book 5218, Page 139, as affected by Assignment from the Holyoke Water Power Company to the City of Holyoke, Gas & Electric Department dated February 4, 1982 recorded in Hampden County Registry of Deeds in Book 5218, Page 164.
29. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
30. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to John E. Borowski dated October 24, 1990 recorded in Hampden County Registry of Deeds in Book 7577, Page 509.

31. The benefit of reservations, conditions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Pioneer Valley Railroad, Inc., of the "Chemical Union Track" dated September 1, 1993 recorded in Hampden County Registry of Deeds in Book 8565, Page 149.
32. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Sullivan Realty Trust dated December 27, 1995 recorded in Hampden County Registry of Deeds in Book 9352, Page 176.
33. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Sullivan Realty Trust dated March 25, 2004 recorded in Hampden County Registry of Deeds in Book 14109, Page 204.
34. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Sullivan Realty Trust dated March 19, 2008 recorded in Hampden County Registry of Deeds in Book 17259, Page 363.
35. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to City of Holyoke Gas & Electric Department dated June 23, 2008 recorded in Hampden County Registry of Deeds in Book 17453, Page 494.
36. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/9:

1. Subject to the obligation to erect and maintain a fence and crossing as set forth in a deed from Warren Chapin to Northampton and Springfield Rail Road Corporation dated May 16, 1845 recorded in Hampden County Registry of Deeds in Book 128, Page 148.
2. Subject to the rights reserved for the Hadley Falls Company to flow on the banks of the river as set forth and reserved in a deed from Jube Day to Connecticut River Rail Road Company dated September 17, 1845 recorded in Hampden County Registry of Deeds in Book 128, Page 322.
3. Subject to the rights reserved by the grantor for flowage, rights to use viaduct, rights to lay gas pipes at street crossings and other gas and water pipes, crossing rights and rights to construct and maintain structures connecting canals as set forth in a deed from the Holyoke Water Power Company to the Connecticut River Railroad Company dated July 1, 1875 recorded in Hampden County Registry of Deeds in Book 328, Page 211.
4. Side Track Agreement by and between Union Coal & Wood Company and Boston and Maine Railroad dated October 6, 1925 recorded in Hampden County Registry of Deeds in Book 1287, Page 25.
5. Subject to rights and easements for flood protective purposes as set forth in an Indenture by and between the Boston and Maine Railroad and the City of Holyoke dated May 8, 1947 recorded in Hampden County Registry of Deeds in Book 1871, Page 318.

6. Layout No. 4484 Order of Taking of easements by the Commonwealth of Massachusetts, Department of Public Works, for the relocation of Route 202 dated September 25, 1954 recorded in Hampden County Registry of Deeds in Book 2499, Page 517.
7. Notice to Prevent Easement by the Holyoke Water Power Company dated May 22, 1958 recorded in Hampden County Registry of Deeds in Book 2612, Page 306.
8. Agreement by and between the Holyoke Water Power Company, the Connecticut River Valley Company, Inc., and the Boston and Maine Railroad dated November 26, 1958 recorded in Hampden County Registry of Deeds in Book 2646, Page 47, as affected by Letter of Guarantee and agreement from The Boston and Maine Railroad regarding obligations of Connecticut River Valley Company, Inc., dated November 26, 1958 recorded in Hampden County Registry of Deeds in Book 2646, Page 73.
9. Agreement by and between Connecticut River Valley Company, Inc., and the Boston and Maine Railroad dated November 26, 1958 recorded in Hampden County Registry of Deeds in Book 2646, Page 76.
10. Indenture by and between the Boston and Maine Railroad and the Holyoke Water Power Company dated November 26, 1958 recorded in Hampden County Registry of Deeds in Book 2646, Page 98.
11. The benefit of covenants and agreements as set forth in a deed from the Boston and Maine Railroad to Daniel O'Connell's Sons, Inc., dated February 24, 1960 recorded in Hampden County Registry of Deeds in Book 2731, Page 450.
12. Layout No. 5433 Order of Taking by the Commonwealth of Massachusetts, Department of Public Works, of drainage easements in the layout of Route 91 dated April 7, 1965 recorded in Hampden County Registry of Deeds in Book 3103, Page 216.
13. Subject to rights, easements, agreements, restrictions, covenants, exceptions and reservations as set forth in a deed from the Boston and Maine Corporation to the Holyoke Water Power Company dated August 15, 1966 recorded in Hampden County Registry of Deeds in Book 3208, Page 23.
14. Order of Taking by the City of Holyoke for sewer purposes dated May 7, 1968 recorded in Hampden County Registry of Deeds in Book 3343, Page 548.
15. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
16. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
17. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book

17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/10:

1. Subject to crossing rights as set forth in a deed from Warren Chapin to Northampton and Springfield Rail Road Corporation dated May 16, 1845 recorded in Hampden County Registry of Deeds in Book 128, Page 148.
2. Subject to the obligation to erect and maintain fences and make and maintain a crossing as set forth in a deed from Pliny Jones, et al to Northampton and Springfield Rail Road Corporation dated June 3, 1845 recorded in Hampden County Registry of Deeds in Book 128, Page 186.
3. Subject to the obligation to make and maintain fences as set forth in a deed from Aaron B. Street, et als, heirs of Joshua Street, to Connecticut River Rail Road Company dated January 26, 1846 recorded in Hampshire County Registry of Deeds in Book 111, Page 497.
4. Subject to the release of all claims for flowage damages as set forth in release from Connecticut River Rail Road Corporation to William Dwight dated May 12, 1847 recorded in Hampden County Registry of Deeds in Book 150, Page 75.
5. Subject to the rights reserved by the grantor for flowage, viaduct, rights to lay gas pipes at street crossings and other gas and water pipes, crossing rights and rights to construct and maintain structures connecting canals as set forth in a deed from the Holyoke Water Power Company to the Connecticut River Railroad Company dated July 1, 1875 recorded in Hampden County Registry of Deeds in Book 328, Page 211.
6. Notice to Prevent Easement by the Holyoke Water Power Company dated May 22, 1958 recorded in Hampden County Registry of Deeds in Book 2612, Page 306.
7. Agreement dated November 26, 1958 by the Holyoke Water Power Company, the Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 47, as affected by Letter of Guarantee from The Boston and Maine Railroad regarding obligations of Connecticut River Valley Company, Inc., dated November 26, 1958 recorded in Hampden County Registry of Deeds in Book 2646, Page 73.
8. Agreement dated November 26, 1958 by and between Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 76.
9. Indenture dated November 26, 1958 by and between the Boston and Maine Railroad and the Holyoke Water Power Company recorded in Hampden County Registry of Deeds in Book 2646, Page 98.
10. The benefit of covenants and agreements as set forth in a deed from the Boston and Maine Railroad to Daniel O'Connell's Sons, Inc., dated February 24, 1960 recorded in Hampden County Registry of Deeds in Book 2731, Page 450.
11. Subject to rights, easements, agreements, restrictions, covenants, exceptions and reservations as set forth in a deed from the Boston and Maine Corporation to the Holyoke Water Power

Company dated August 15, 1966 recorded in Hampden County Registry of Deeds in Book 3208, Page 23.

12. Order of Taking by the City of Holyoke for sewer purposes dated May 7, 1968 recorded in Hampden County Registry of Deeds in Book 3343, Page 541.
13. Order of Taking by the City of Holyoke for sewer purposes dated May 7, 1968 recorded in Hampden County Registry of Deeds in Book 3343, Page 551.
14. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
15. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
16. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/11:

1. Subject to the obligation to make and sustain a fence and subject to any road or pathway legally existing as set forth in a deed from Whiting Street to Northampton & Springfield Rail Road Corporation dated June 6, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 104.
2. The benefit of the agreement by the grantor to make and sustain a fence and the benefit of an easement over the adjoining quarry as set forth in a deed from Polly Street and Sally Street to Northampton & Springfield Rail Road Corporation dated June 6, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 111.
3. Subject to the obligation to make and sustain fences and provide crossings as set forth in a deed from Lysander Allen and Whiting Street to Northampton & Springfield Rail Road Corporation dated June 6, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 112.
4. Subject to the obligation to make and sustain fences and subject to the rights of others in quarry stone as set forth in a deed from Jesse B. Street to Connecticut River Rail Road Company dated August 22, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 133, as affected by Release of quarry rights by Alpheus Street to the Connecticut River Rail Road Company dated August 22, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 135.
5. Subject to the obligation to make and maintain fences and crossings as set forth in a deed from Sherlock D. Thorp to Connecticut River Rail Road Company dated August 16, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 136.

6. Subject to the obligation to make and maintain fences and provide a crossing as set forth in a deed from Enoch Chapin and Lydia Chapin to Connecticut River Rail Road Company dated October 10, 1845 recorded in Hampshire County Registry of Deeds in Book 110, Page 1.
7. Subject to the obligation to furnish a crossing as set forth in deed from Connecticut River Rail Road Company to Whiting Street dated December 9, 1845 recorded in Hampshire County Registry of Deeds in Book 110, Page 400.
8. Subject to the obligation to make and maintain fences as set forth in a deed from Aaron B. Street, et al, heirs of Joshua Street to Connecticut River Rail Road Company dated January 26, 1846 recorded in Hampshire County Registry of Deeds in Book 111, Page 497.
9. Subject to the reservation of a right of way to the river and a right over the railroad at two crossings reserved by grantor in a deed from Polly Hastings to the Connecticut River Railroad Company dated December 30, 1867 recorded in Hampshire County Registry of Deeds in Book 250, Page 205.
10. Subject to the reservation of a right of way over the railroad and crossing reserved by grantor in a deed from S. D. Thorp and John C. Thorp to the Connecticut River Railroad Company dated January 1, 1868 recorded in Hampshire County Registry of Deeds in Book 250, Page 206.
11. Subject to the right to use a way for pedestrians six feet wide across the location of the Boston & Maine Railroad as shown on Land Court Plan 8174A filed in Hampden County Registered Land Division as appurtenant to land described in Certificate of Title No. 987.
12. With the benefit of the release from damages and grantee's obligation to build and maintain a fence as set forth in a deed from the Boston and Maine Railroad to the City of Holyoke dated December 29, 1943 recorded in Hampden County Registry of Deeds in Book 1774, Page 302.
13. Notice to Prevent Easement by the Holyoke Water Power Company dated May 22, 1958 recorded in Hampden County Registry of Deeds in Book 2612, Page 306.
14. Agreement dated November 26, 1958 by the Holyoke Water Power Company, the Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 47, as affected by Letter of Guarantee from The Boston and Maine Railroad regarding obligations of Connecticut River Valley Company, Inc., dated November 26, 1958 recorded in Hampden County Registry of Deeds in Book 2646, Page 73.
15. Agreement dated November 26, 1958 by and between Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 76.
16. Indenture dated November 26, 1958, by and between the Boston and Maine Railroad and the Holyoke Water Power Company recorded in Hampden County Registry of Deeds in Book 2646, Page 98.
17. Subject to grantee's right to cross land of grantor to repair transmission line and grantee's right to use railroad ties on adjacent land as set forth in a deed from the Boston and Maine Corporation to the Holyoke Water Power Company dated August 15, 1966 recorded in Hampden County

Registry of Deeds in Book 3208, Page 23.

18. Order of Taking by the City of Holyoke for a sewer easement dated May 7, 1968 recorded in Hampden County Registry of Deeds in Book 3343, Page 544.
19. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
20. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
21. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/12:

1. The benefit of the obligation of grantor to make and sustain fences as set forth in a deed from David Smith to Northampton & Springfield Rail Road Corporation dated June 6, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 110.
2. Subject to the obligation to make and maintain fences and crossings as set forth in deed from Martha H. Bates to the Connecticut River Rail Road Company dated October 25, 1845 recorded in Hampshire County Registry of Deeds in Book 110, Page 82.
3. Subject to a culvert under the railroad as mentioned in a deed from William Houston and Joseph E. Houston to the Connecticut River Railroad Company dated November 8, 1873 recorded in Hampshire County Registry of Deeds in Book 307, Page 9.
4. Crossing Agreement dated November 26, 1958 by the Holyoke Water Power Company, the Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 47 at Page 51.
5. Crossing Agreement dated November 26, 1958 by and between Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 76.
6. Transmission line agreement dated November 26, 1958 by and between the Boston and Maine Railroad and the Holyoke Water Power Company recorded in Hampden County Registry of Deeds in Book 2646, Page 98, as affected by grant of easement from the Boston and Maine Corporation to the Holyoke Water Power Company dated August 15, 1966 recorded in Hampden County Registry of Deeds in Book 3208, Page 23.
7. Subject to rights, easements, agreements, restrictions, covenants, exceptions and reservations as set forth in a deed from the Boston and Maine Corporation to the Holyoke Water Power Company dated August 15, 1966 recorded in Hampden County Registry of Deeds in Book 3208,

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8. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
9. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
10. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/13:

1. The benefit of the agreement by the grantor to make and sustain a fence as set forth in a deed from Hervey Smith to the Northampton & Springfield Rail Road Corporation dated June 6, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 106.
2. Subject to the obligation to provide a fence as set forth in a deed from Chester Smith to Northampton & Springfield Rail Road Corporation dated June 6, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 108.
3. The benefit of the agreement of the grantor to make and sustain a fence as set forth in a deed from David Smith to the Northampton & Springfield Rail Road Corporation dated June 6, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 110.
4. Subject to the obligation to erect and maintain fences and subject to a right of way in Ferry Lane as set forth in a deed from Hervey Smith to the Connecticut River Rail Road Company dated December 4, 1845 recorded in Hampshire County Registry of Deeds in Book 110, Page 387.
5. Subject to the obligation to erect and maintain fences and crossings as set forth in a deed from David Smith to the Connecticut River Rail Road Company dated February 4, 1846 recorded in Hampshire County Registry of Deeds in Book 111, Page 498.
6. Subject to the obligation to maintain fences as set forth in a deed from Hervey Smith to the Connecticut River Rail Road Company dated November 12, 1846 recorded in Hampshire County Registry of Deeds in Book 115, Page 416.
7. The benefit of a right of way as set forth in a deed from Solon H. Gould to the Connecticut River Railroad Company dated March 17, 1871 recorded in Hampshire County Registry of Deeds in Book 289, Page 35.
8. The benefit of a Release of farm crossing by Geo. H. Sinclair to the Boston and Maine Railroad dated May 3, 1917 recorded in Hampden County Registry of Deeds in Book 994, Page 370.
9. Subject to a Taking by the Commonwealth of Massachusetts, Department of Public Works, for

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the alteration of Holyoke-Northampton Road, also known as Smith's Ferry Road, dated November 18, 1924 recorded in Hampden County Registry of Deeds in Book 1245, Page 518.

10. Subject to and with the benefit of reservations and restrictions, as set forth in a deed from the Boston and Maine Railroad to Florus W. Carrier dated December 14, 1926 recorded in Hampden County Registry of Deeds in Book 1340, Page 219.
11. Subject to and with the benefit of driveway rights, covenants, agreements and restrictions as set forth in a deed from the Boston and Maine Railroad to Bob-Bee Realty Corp., dated January 29, 1947 recorded in Hampden County Registry of Deeds in Book 1849, Page 285.
12. Subject to a Taking by the Commonwealth of Massachusetts, Department of Public Utilities, on behalf of the City of Holyoke for the alteration of the Ferry Street grade crossing dated September 3, 1952 recorded in Hampden County Registry of Deeds in Book 2196, Page 355, as shown on a plan recorded in Hampden County Registry of Deeds in Plan Book 37, Page 87.
13. Notice to Prevent Easement by the Holyoke Water Power Company dated May 22, 1958 recorded in Hampden County Registry of Deeds in Book 2612, Page 306.
14. Agreement dated November 26, 1958 by the Holyoke Water Power Company, the Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 47, as affected by Letter of Guarantee from The Boston and Maine Railroad regarding obligations of Connecticut River Valley Company, Inc., dated November 26, 1958 recorded in Hampden County Registry of Deeds in Book 2646, Page 73.
15. Agreement dated November 26, 1958 by and between Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 76.
16. Indenture dated November 26, 1958 by and between the Boston and Maine Railroad and the Holyoke Water Power Company recorded in Hampden County Registry of Deeds in Book 2646, Page 98.
17. Taking of drainage easements by the Commonwealth of Massachusetts dated May 19, 1965 recorded in Hampden County Registry of Deeds in Book 3113, Page 65, as shown on a plan recorded in Hampden County Registry of Deeds in Plan Book 99, Page 27, and re-recorded in Hampden County Registry of Deeds in Book 3116, Page 320, as shown on a plan recorded in Hampden County Registry of Deeds in Plan Book 99, Page 44.
18. Subject to rights, easements, agreements, restrictions, covenants, exceptions and reservations as set forth in a deed from the Boston and Maine Corporation to the Holyoke Water Power Company dated August 15, 1966 recorded in Hampden County Registry of Deeds in Book 3208, Page 23.
19. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
20. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston

and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.

21. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/14:

1. The benefit of the agreement of the grantor to make and sustain a fence as set forth in a deed from Asahel Lyman to the Northampton & Springfield Rail Road Corporation dated June 6, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 107.
2. Subject to the easement in a county road (Northampton Street) as set forth in a deed from Justin Wait, et al to the Connecticut River Rail Road Company dated August 16, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 137.
3. Subject to the easement in a county road (Northampton Street), the obligation to make and maintain fences and complete, make, maintain and sustain crossings and subject also to the reservations regarding the right to continue an aqueduct by lead pipes as set forth in a deed from Asahel Lyman to the Connecticut River Rail Road Company dated September 17, 1845 recorded in Hampshire County Registry of Deeds in Book 110, Page 2.
4. Subject to the obligation to sustain and make fences as set forth in a deed from Justin Wait to Connecticut River Rail Road Company dated November 21, 1845 recorded in Hampshire County Registry of Deeds in Book 110, Page 381.
5. Subject to the obligation to sustain and make fences and make and maintain a crossing as set forth in a deed from Ebenezer W. Day to the Connecticut River Rail Road Company dated November 21, 1845 recorded in Hampshire County Registry of Deeds in Book 110, Page 385.
6. Subject to the obligation to erect and maintain fences and maintain crossings as set forth in a deed from Chester Smith to Connecticut River Rail Road Company dated January 5, 1846 recorded in Hampshire County Registry of Deeds in Book 111, Page 95.
7. Subject to the obligation to erect and make fences and maintain crossings as set forth in a deed from David Smith to Connecticut River Rail Road Company dated February 4, 1846 recorded in Hampshire County Registry of Deeds in Book 111, Page 498.
8. Subject to the provisions regarding grading and the obligation to place a fence as set forth in a deed from Orzo C. Wright, et al to Connecticut River Railroad Company dated July 10, 1873 recorded in Hampshire County Registry of Deeds in Book 304, Page 449.
9. Abolition of Grade Crossings at Mount Tom dated June 26, 1900 recorded in Hampshire County Registry of Deeds in Book 536, Page 401.
10. Subject to covenants as set forth in a deed from the Boston and Maine Railroad to Holyoke Water Power Company dated August 16, 1955 recorded in Hampden County Registry of Deeds in Book

2409, Page 495, as affected by a Release dated November 12, 1955 recorded in Hampden County Registry of Deeds in Book 2433, Page 116.

11. Notice to Prevent Easement by the Holyoke Water Power Company dated May 22, 1958 recorded in Hampden County Registry of Deeds in Book 2612, Page 306.
12. Agreement dated November 26, 1958 by the Holyoke Water Power Company, the Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 47, as affected by Letter of Guarantee from The Boston and Maine Railroad regarding obligations of Connecticut River Valley Company, Inc., dated November 26, 1958 recorded in Hampden County Registry of Deeds in Book 2646, Page 73.
13. Agreement dated November 26, 1958 by and between Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 76.
14. Indenture dated November 26, 1958, by and between the Boston and Maine Railroad and the Holyoke Water Power Company recorded in Hampden County Registry of Deeds in Book 2646, Page 98.
15. Subject to rights, easements, agreements, restrictions, covenants, exceptions and reservations as set forth in a deed from the Boston and Maine Corporation to the Holyoke Water Power Company dated August 15, 1966 recorded in Hampden County Registry of Deeds in Book 3208, Page 23.
16. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampden County Registry of Deeds in Book 4116, Page 165.
17. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampden County Registry of Deeds in Book 7241, Page 204.
18. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/15:

1. Subject to the obligation to make and maintain all necessary fences and suitable crossing as set forth in deed from Thaddeus Parsons to the Northampton and Springfield Rail Road Corporation dated July 1, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 115.
2. Subject to the obligation to establish and maintain all necessary fences and suitable crossing and grantor's right to use a lead pipe aqueduct as set forth in a deed from Horace A. Collins, et ux to Northampton and Springfield Rail Road Corporation dated July 1, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 117.

3. Subject to the obligation to erect and maintain a fence and a crossing as set forth in deed from Edmund Parsons, et als to the Connecticut River Rail Road Company dated August 27, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 129.
4. Subject to the obligation to maintain fences and a crossing as set forth in a deed from Sarah Parsons, et als to Connecticut River Rail Road Company dated September 8, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 138.
5. Subject to the obligation to maintain fences as set forth in a deed from Lois Clark, et als, as heirs of Philip Clark, to Connecticut River Rail Road Company dated January 3, 1846 recorded in Hampshire County Registry of Deeds in Book 111, Page 117.
6. Subject to rights to quarry and reversion rights, together with right to lay a water pipe as set forth in a deed from Joseph Parsons to Connecticut River Rail Road Company dated December 31, 1867 recorded in Hampshire County Registry of Deeds in Book 249, Page 4.
7. Abolition of Grade Crossings dated June 26, 1900 recorded in Hampshire County Registry of Deeds in Book 536, Page 401.
8. Taking by the Commonwealth of Massachusetts for a state highway dated July 21, 1913 recorded in Hampshire County Registry of Deeds in Book 693, Page 509 and shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 2, Plan 67.
9. Layout No. 2528 by the Commonwealth of Massachusetts, Department of Public Works, for Mt. Tom Road, Easthampton dated September 11, 1928 recorded in Hampshire County Registry of Deeds in Book 849, Page 492.
10. Easement granted by the Boston and Maine Railroad to the Commonwealth of Massachusetts to maintain a jetty on the Connecticut River near Mount Tom Junction dated November 17, 1937 recorded in Hampshire County Registry of Deeds in Book 929, Page 458.
11. Subject to covenants, easements and restrictions as set forth in a deed from the Boston and Maine Railroad to Holyoke Water Power Company dated August 16, 1955 recorded in Hampshire County Registry of Deeds in Book 1206, Page 1, and recorded in Hampden County Registry of Deeds in Book 2409, Page 495, as affected by a Release dated November 12, 1955 recorded in Hampshire County Registry of Deeds in Book 1212, Page 269 and recorded in Hampden County Registry of Deeds in Book 2433, Page 116.
12. Subject to and with the benefit of exceptions and reservations as set forth in a deed from the Boston and Maine Railroad Company to the Town of Easthampton dated September 23, 1957 recorded in Hampshire County Registry of Deeds in Book 1258, Page 74.
13. Notice to Prevent Easement by the Holyoke Water Power Company dated May 22, 1958 recorded in Hampden County Registry of Deeds in Book 2612, Page 306.
14. The benefit of exceptions and reservations as set forth in a deed from the Boston and Maine Railroad Company to John H. N. Dorman dated June 9, 1958 recorded in Hampshire County Registry of Deeds in Book 1289, Page 71.

15. Agreement dated November 26, 1958 by the Holyoke Water Power Company, the Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 47, as affected by Letter of Guarantee from the Boston and Maine Railroad regarding obligations of Connecticut River Valley Company, Inc., dated November 26, 1958 recorded in Hampden County Registry of Deeds in Book 2646, Page 73.
16. Agreement dated November 26, 1958 by and between Connecticut River Valley Company, Inc., and the Boston and Maine Railroad recorded in Hampden County Registry of Deeds in Book 2646, Page 76.
17. Indenture dated November 26, 1958, by and between the Boston and Maine Railroad and the Holyoke Water Power Company recorded in Hampden County Registry of Deeds in Book 2646, Page 98.
18. Sewer easement granted by the Boston and Maine Railroad to the Town of Easthampton dated March 20, 1959 recorded in Hampshire County Registry of Deeds in Book 1296, Page 250.
19. Easement for transmission lines and reservation of rights as set forth in a deed from the Boston and Maine Railroad to Western Massachusetts Electric Company dated June 4, 1962 recorded in Hampshire County Registry of Deeds in Book 1386, Page 1.
20. Subject to rights, easements, agreements, restrictions, covenants, exceptions and reservations as set forth in a deed from the Boston and Maine Corporation to the Holyoke Water Power Company dated August 15, 1966 recorded in Hampden County Registry of Deeds in Book 3208, Page 23.
21. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
22. Taking in fee simple by the Town of Easthampton for the purposes of laying, operating and forever maintaining an underground public or common sewer and the building of a sewer plant dated October 28, 1970 recorded in Hampshire County Registry of Deeds in Book 1584, Page 331, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 75, Page 91.
23. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1 and in Hampden County Registry of Deeds in Book 4116, Page 165.
24. Layout No. 6222 by the Commonwealth of Massachusetts Department of Public Works for the layout of Mt. Tom Road (Route 5) dated June 28, 1978 recorded in Hampshire County Registry of Deeds in Book 2037, Page 43, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 108, Plan 43.
25. Order of Taking by the Commonwealth of Massachusetts, Department of Public Works, for a slope easement on Northampton Road, Route 5, dated June 28, 1978 recorded in Hampden County Registry of Deeds in Book 4624, Page 78, as shown on a plan recorded in Hampden County Registry of Deeds in Plan Book 179, in Page 31.

26. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1 and in Hampden County Registry of Deeds in Book 7241, Page 204.
27. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a deed from The Boston and Maine Corporation to James J. Kennedy dated April 30, 1993 recorded in Hampshire County Registry of Deeds in Book 6266, Page 324.
28. Declaration of Easements and Restrictions between Boston and Maine Corporation and Lamar Central Outdoor LLC regarding billboard signs dated October 5, 2006 recorded in Hampshire County Registry of Deeds in Book 8919, Page 328.
29. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.
30. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampden County Registry of Deeds in Book 17766, Page 47.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/16:

1. Farm Crossing over land described in a deed from Spencer Cook to the Northampton and Springfield Rail Road Corporation dated May 30, 1845 recorded in Hampshire County Registry of Deeds in Book 109, Page 103, as shown on Valuation Map 42.1M/16.
2. Passage rights as set forth in a deed from Nathaniel Clark to the Connecticut River Rail Road Company dated December 5, 1845 recorded in Hampshire County Registry of Deeds in Book 110, Page 389, as affected by release of the passage rights and the agreement by the Rail Road to build two (2) good crossings as set forth in release from Charles and Nathaniel Clark to the Connecticut River Rail Road Company dated September 19, 1862 recorded in Hampshire County Registry of Deeds in Book 208, Page 183.
3. Abolition of Grade Crossings dated June 26, 1900 recorded in Hampshire County Registry of Deeds in Book 536, Page 401.
4. Agreement between the Boston and Maine Railroad and Mount Tom Sulphite Pulp Company dated December 16, 1920 recorded in Hampshire County Registry of Deeds in Book 765, Page 309 regarding sidetracks, so far as in force and applicable.
5. Taking of drainage easements by the Commonwealth of Massachusetts, Department of Public Works dated April 14, 1964 recorded in Hampshire County Registry of Deeds in Book 1438, Page 252, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 65, Plan 59.
6. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.

7. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1.
8. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1.
9. Reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/17:

1. Rights of passage as set forth in a deed from Elisha Strong to Connecticut River Rail Road Company dated January 10, 1846 recorded in Hampshire County Registry of Deeds in Book 111, Page 114.
2. Right of Way and crossings to be maintained by the railroad as set forth in a deed from Connecticut River Rail Road Company to Samuel S. Hinckley dated June 29, 1847 recorded in Hampshire County Registry of Deeds in Book 119, Page 334.
3. Right of Way and crossings to be maintained by the railroad as set forth in a deed from Connecticut River Rail Road Company to Samuel Parsons dated June 29, 1847 recorded in Hampshire County Registry of Deeds in Book 120, Page 135.
4. The benefit of a reservation of the privilege of maintaining the farm crossing as set forth in a deed from the Connecticut River Rail Road Company to Seth Hunt dated August 28, 1856 recorded in Hampshire County Registry of Deeds in Book 167, Page 469.
5. Layout No. 5262 Order of Taking by the Commonwealth of Massachusetts, Department of Public Works for Route 91 of an easement over land of the Boston and Maine Railroad dated October 9, 1962 recorded in Hampshire County Registry of Deeds in Book 1394, Page 197, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 63, Plan 8.
6. Taking of drainage easements by the Commonwealth of Massachusetts, Department of Public Works dated April 14, 1964 recorded in Hampshire County Registry of Deeds in Book 1438, Page 252, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 65, Plan 59.
7. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
8. Subject to and with the benefit of restrictions and exceptions as set forth in a deed from the Boston and Maine Corporation to Mary F. and Conrad J. Krajewski dated September 11, 1968 recorded in Hampshire County Registry of Deeds in Book 1540, Page 13, as confirmed by deed dated October 30, 1968 recorded in Hampshire County Registry of Deeds in Book 1542, Page 278.

9. Order of Taking by the Commonwealth of Massachusetts, Department of Public Works of a drainage easement dated July 14, 1971 recorded in Hampshire County Registry of Deeds in Book 1600, Page 557, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 78, Plan 2.
10. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1.
11. Order of Taking by the City of Northampton of a permanent easement for sewer purposes dated April 1, 1981 recorded in Hampshire County Registry of Deeds in Book 2217, Page 84, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 114, Plan 88.
12. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1.
13. Subject to and with the benefit of reservations and exceptions as set forth in a Release Deed from the Boston and Maine Corporation to Matthew M. Pitoniak, Tr. of Quickbeam Realty Trust dated January 19, 1990 recorded in Hampshire County Registry of Deeds in Book 3510, Page 208.
14. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/18:

1. The benefit of the right to lay a track on the road as reserved in a deed from the Connecticut River Rail Road Company to Daniel Collins dated April 1, 1846 recorded in Hampshire County Registry of Deeds in Book 114, Page 294.
2. Subject to the obligation to maintain a fence as set forth in a deed from Josiah D. Whitney, et als to the Connecticut River Rail Road Company dated August 8, 1846. recorded in Hampshire County Registry of Deeds in Book 114, Page 401.
3. The benefit of the obligation of the grantor to maintain a fence as set forth in a deed from Charles Walker to the Connecticut River Rail Road Company dated September 18, 1846 recorded in Hampshire County Registry of Deeds in Book 116, Page 166.
4. Subject to the obligation to maintain a fence as set forth in a deed from Polly Pomeroy, et als to the Connecticut River Rail Road Company dated October 1, 1846 recorded in Hampshire County Registry of Deeds in Book 116, Page 498.
5. Subject to the obligation to maintain a fence and the reservation of a crossing as set forth in a deed from Henry Strong, et al to the Connecticut River Rail Road Company dated May 1, 1847 recorded in Hampshire County Registry of Deeds in Book 118, Page 254.
6. Subject to the obligation to maintain a fence as set forth in a deed from Adolphus E. Watson to

the Connecticut River Rail Road Company dated May 13, 1847 recorded in Hampshire County Registry of Deeds in Book 118, Page 433.

7. Subject to the obligation to maintain a fence as set forth in a deed from Erastus Hopkins to the Connecticut River Rail Road Company dated June 28, 1847 recorded in Hampshire County Registry of Deeds in Book 119, Page 319.
8. The benefit of the obligation of the grantor to maintain a fence and the reservation to access a brook as set forth in a deed from Rufus Sackett to the Connecticut River Rail Road Company dated July 10, 1847 recorded in Hampshire County Registry of Deeds in Book 119, Page 329.
9. Subject to the obligation to maintain a substantial close board fence and to open and maintain a ditch for drainage as set forth in a deed from Josiah D. Whitney to the Connecticut River Rail Road Company dated August 30, 1847 recorded in Hampshire County Registry of Deeds in Book 120, Page 142.
10. Subject to the obligation to maintain a fence and reserved rights of access to water from the brook as set forth in a deed from Daniel Kingsley to the Connecticut River Rail Road Company dated November 15, 1847 recorded in Hampshire County Registry of Deeds in Book 121, Page 383.
11. Subject to a building restriction within 35 feet of the corner of Main and Market Streets as set forth in a deed from Samuel L. Hinckley to the Connecticut River Rail Road Company dated August 5, 1848 recorded in Hampshire County Registry of Deeds in Book 125, Page 188.
12. Subject to the obligation to grade the premises and covenants as set forth in a deed from the Connecticut River Rail Road Company to Samuel L. Hinckley dated September 15, 1848 recorded in Hampshire County Registry of Deeds in Book 125, Page 190.
13. Subject to passage rights over a way 60 feet in length and rights reserved to remove tracks and pumps as set forth in a deed from the Connecticut River Rail Road Company to James C. Arms and Carlos Bardwell dated July 15, 1862 recorded in Hampshire County Registry of Deeds in Book 207, Page 238, insofar as the same is now in force and applicable.
14. Subject to any rights of way if any exist as set forth in a deed from John Fennessey to the Connecticut River Railroad Company dated March 5, 1872 recorded in Hampshire County Registry of Deeds in Book 290, Page 381.
15. Rights of Way to Hawley Street as reserved in a deed from J. C. Arms, et als to the Connecticut River Railroad Company dated November 27, 1872 recorded in Hampshire County Registry of Deeds in Book 299, Page 71.
16. Subject to the obligation to build a culvert of stone and brick over the brook as set forth in a deed from Ames and Bardwell Manufacturing Company to the Connecticut River Railroad Company dated December 2, 1872 recorded in Hampshire County Registry of Deeds in Book 299, Page 75.
17. The benefit of a slope easement and subject to the reservation of a right to discharge a drain in the brook as set forth in a deed from Mary C. Washburn et al to the Connecticut River Railroad Company dated October 7, 1876 recorded in Hampshire County Registry of Deeds in Book 329, Page 47.

18. The benefit of the right to encroach with a slope of earth for grading and the maintaining of the division fence as set forth in a deed from Helen M. Apthorp to Connecticut River Railroad Company dated October 10, 1876 recorded in Hampshire County Registry of Deeds in Book 329, Page 121.
19. Subject to the obligation to maintain a fence as set forth in a deed from Martha H. Sleuman to the Connecticut River Railroad Company dated November 14, 1887 recorded in Book 413, Page 518.
20. Plan accompanying an unrecorded Report of the County Commissioners showing a side track running from Bridge Street to Pleasant Street dated June 26, 1895 recorded in Hampshire County Registry of Deeds in Book 478, Page 110.
21. Taking in fee by the City of Northampton for storm sewer purposes dated April 4, 1940 recorded in Hampshire County Registry of Deeds in Book 948, Page 401.
22. Agreement Governing Use of Railroad Owned Land and Sidetrack by and between the Boston and Maine Railroad and Chardan Poultry, Inc., dated January 12, 1954 recorded in Hampshire County Registry of Deeds in Book 1162, Page 280.
23. Subject to and with the benefit of restrictions and exceptions as set forth in a deed from the Boston and Maine Railroad to Walter J. Zawacki, et al dated June 30, 1959 recorded in Hampshire County Registry of Deeds in Book 1303, Page 372, as affected by Release of Covenant dated September 26, 1966 recorded in Hampshire County Registry of Deeds in Book 1494, Page 627.
24. Subject to and with the benefit of exceptions and covenants as set forth in a deed from the Boston and Maine Railroad to Paul Mannos, et al, Trustees of The Falls Trust dated May 16, 1960 recorded in Hampshire County Registry of Deeds in Book 1350, Page 374.
25. Subject to and with the benefit of exceptions, restrictions and covenants as set forth in a deed from the Boston and Maine Railroad to Chardan Poultry, Inc. dated June 25, 1963 recorded in Hampshire County Registry of Deeds in Book 1412, Page 102.
26. Subject to and with the benefit of exceptions, restrictions and covenants as set forth in a deed from the Boston and Maine Corporation to Walter J. Zawacki, et al, dated September 7, 1966 recorded in Hampshire County Registry of Deeds in Book 1494, Page 634.
27. Subject to and with the benefit of exceptions, restrictions and covenants as set forth in a deed from the Boston and Maine Corporation to Charles J. Paquette, et al, dated August 26, 1966 recorded in Hampshire County Registry of Deeds in Book 1494, Page 680.
28. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
29. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1.
30. Subject to and with the benefit of exceptions, restrictions and covenants as set forth in a deed

from Robert. W. Meserve, et al, Trustees of the Property of the Boston and Maine Corporation, Debtor to Hampshire Building Materials, Inc. dated July 15, 1975 recorded in Hampshire County Registry of Deeds in Book 1844, Page 267.

31. Subject to and with the benefit of exceptions, restrictions and covenants as set forth in a deed from Boston and Maine Corporation to John J. Smith dated July 27, 1986 recorded in Hampshire County Registry of Deeds in Book 2788, Page 127.
32. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1.
33. Subject to and with the benefit of exceptions, restrictions and covenants and a reserved right of way as set forth in a deed from Boston and Maine Corporation to Park Homes, Inc. dated September 15, 2003 recorded in Hampshire County Registry of Deeds in Book 7471, Page 106, as affected by Decision of the Northampton Planning Board dated January 29, 2004 recorded in Hampshire County Registry of Deeds in Book 8324, Page 69.
34. Subject to and with the benefit of exceptions, restrictions and covenants as set forth in a Release Deed from Boston and Maine Corporation to Marketplace Associates, Limited Partnership dated November 20, 2003 recorded in Hampshire County Registry of Deeds in Book 7623, Page 44, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 198, Plan 67.
35. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.
36. Subject to an Easement Agreement by and between Pan Am Southern, LLC, grantor, and Matthew M. Pitoniak, Trustee of the Union Square Realty Trust, grantee, permitting an encroachment of the building located on 125A Pleasant Street, Northampton onto grantor's land, dated November 14, 2013 recorded in Hampshire County Registry of Deeds in Book 11522, Page 14.
37. Subject to and with the benefit of an Easement Agreement by and between Mathew M. Pitoniak, Trustee of the Union Square Realty Trust, grantor, and Pan Am Southern, LLC, grantee, dated November 14, 2013 recorded in Hampshire County Registry of Deeds in Book 11522, Page 28.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/19:

1. Subject to the obligation to make and maintain a fence as set forth in a deed from Samuel L. Hinckley to the Connecticut River Rail Road Company dated April 22, 1846 recorded in Hampshire County Registry of Deeds in Book 112, Page 437.
2. Subject to the obligation to erect and maintain a fence and provide a crossing as set forth in a deed from Ruth B. Dickinson to the Connecticut River Rail Road Company dated November 20, 1846 recorded in Hampshire County Registry of Deeds in Book 116, Page 2.
3. Subject to the obligation to make and maintain a fence as set forth in a deed from Adolphus E.

Watson to the Connecticut River Rail Road Company dated May 13, 1847 recorded in Hampshire County Registry of Deeds in Book 118, Page 433.

4. Subject to the obligation to maintain a fence and provide crossings as set forth in a deed from Chester W. Chapin to the Connecticut River Rail Road Company dated May 17, 1847 recorded in Hampshire County Registry of Deeds in Book 119, Page 136.
5. Subject to the obligation to make and maintain a fence as set forth in a deed from Eliphalet Williams to the Connecticut River Rail Road Company dated January 1, 1848 recorded in Hampshire County Registry of Deeds in Book 121, Page 393.
6. Subject to the obligation to maintain a fence as set forth in a deed from Cephas Strong to the Connecticut River Rail Road Company dated December 30, 1847 recorded in Hampshire County Registry of Deeds in Book 121, Page 415.
7. The benefit of rights and privileges of laying down, repairing and maintaining a water pipe from King Street to the Connecticut River Rail Road granted in an easement from Daniel L. Harris to the Connecticut River Rail Road Company dated December 13, 1866 recorded in Hampshire County Registry of Deeds in Book 240, Page 10.
8. Subject to the obligation to change the brook by making a new channel with suitable slopes to the embankment as set forth in a deed from Edward B. Strong to the Connecticut River Rail Road Company dated November 9, 1887 recorded in Hampshire County Registry of Deeds in Book 413, Page 467.
9. Subject to the obligation to construct and maintain a fence as set forth in a deed from Martha H. Sleuman to the Connecticut River Railroad Company dated November 14, 1887 recorded in Hampshire County Registry of Deeds in Book 413, Page 518.
10. Subject to the obligation to erect a fence as set forth in a deed from Mary J. Strong to the Connecticut River Railroad Company dated November 12, 1887 recorded in Hampshire County Registry of Deeds in Book 413, Page 519.
11. Subject to the obligation to construct and maintain a fence as set forth in a deed from Mary C. Wade, et al to the Connecticut River Railroad Company dated November 12, 1887 recorded in Hampshire County Registry of Deeds in Book 413, Page 520.
12. Subject to the obligation to construct and maintain a fence and make a ditch for drainage as set forth in a deed from Mary T. Dickinson to the Connecticut River Railroad Company dated November 16, 1887 recorded in Hampshire County Registry of Deeds in Book 414, Page 3.
13. Subject to the obligation to construct and maintain a fence as set forth in a deed from William Allen to the Connecticut River Railroad Company dated November 15, 1887 recorded in Hampshire County Registry of Deeds in Book 414, Page 5.
14. Subject to exception of rights of the Connecticut River Railroad Company as set forth in a deed from Edward W. Chapin to the Boston and Maine Railroad dated June 9, 1894 recorded in Hampshire County Registry of Deeds in Book 472, Page 132.

15. Plan accompanying an unrecorded Report of the County Commissioners showing a side track running from North Street across King Street dated June 26, 1895 recorded in Hampshire County Registry of Deeds in Book 478, Page 108.
16. Subject to and with the benefit of a right of way over the Connecticut River Railroad as set forth in a deed from Joseph Murray to the Boston and Maine Railroad dated January 29, 1896 recorded in Hampshire County Registry of Deeds in Book 483, Page 233.
17. Subject to and with the benefit of a right of way over the Connecticut River Railroad as set forth in a deed from Harriet B. Fisk to the Boston and Maine Railroad dated January 8, 1896 recorded in Hampshire County Registry of Deeds in Book 483, Page 301.
18. The benefit of all rights of way appurtenant to the land conveyed by deed from Jerry Hayes to the Boston and Maine Railroad dated January 29, 1896 recorded in Hampshire County Registry of Deeds in Book 484, Page 123.
19. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to John R. Szawlowski dated February 1, 1940 recorded in Hampshire County Registry of Deeds in Book 947, Page 443.
20. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Henry Kugler dated June 21, 1946 recorded in Hampshire County Registry of Deeds in Book 1005, Page 521.
21. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Kollmorgen Realty Corporation dated December 1, 1950 recorded in Hampshire County Registry of Deeds in Book 1083, Page 421.
22. Subject to and with the benefit of reservations, restrictions, covenants and agreements and with a right of way in common with the railroad in a driveway as set forth in a deed from Boston and Maine Railroad to Northampton Electric Lighting Company dated October 2, 1951 recorded in Hampshire County Registry of Deeds in Book 1106, Page 429.
23. Subject to and with the benefit of exceptions regarding a water pipe, reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Bill Willard, Incorporated dated February 19, 1953 recorded in Hampshire County Registry of Deeds in Book 1138, Page 238.
24. Subject to and with the benefit of exceptions, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Cesco Container Company dated April 7, 1953 recorded in Hampshire County Registry of Deeds in Book 1140, Page 261.
25. Subject to and with the benefit of sidetrack rights, restrictions, covenants and agreements and reserved drainage rights as set forth in a deed from Boston and Maine Railroad to Eastern States Farmers' Exchange, Incorporated dated May 8, 1953 recorded in Hampshire County Registry of Deeds in Book 1142, Page 185.
26. Subject to and with the benefit of reservations, restrictions, covenants, agreements and a right of first refusal as set forth in a deed from Boston and Maine Railroad to Stanley R. Shermeta dated

June 5, 1953 recorded in Hampshire County Registry of Deeds in Book 1144, Page 367, as affected by Release of right of first refusal recorded in Hampshire County Registry of Deeds in Book 6789, Page 1 and Waiver of right of first refusal recorded in Hampshire County Registry of Deeds in Book 8571, Page 191.

27. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Bill Willard, Incorporated dated April 24, 1956 recorded in Hampshire County Registry of Deeds in Book 1220, Page 336.
28. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Bill Willard, Incorporated dated May 11, 1959 recorded in Hampshire County Registry of Deeds in Book 1299, Page 368.
29. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Paul Mannos, et al, Trustees of The Hampshire Trust dated August 22, 1960 recorded in Hampshire County Registry of Deeds in Book 1333, Page 409, as affected by releases recorded in Hampshire County Registry of Deeds in Book 1343, Page 244, Book 1467, Page 702 and Book 1495, Page 619.
30. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Cella Realty Corporation dated February 1, 1962 recorded in Hampshire County Registry of Deeds in Book 1373, Page 284.
31. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Paul Mannos, et al, Trustees of The Hampshire Trust dated March 5, 1964 recorded in Hampshire County Registry of Deeds in Book 1434, Page 52.
32. Order of the Hampshire County Commissioners for the reconstruction or alteration of Damon Road at its crossing at grade of the Connecticut River Division of the Boston and Maine Corporation dated July 29, 1966 recorded in Hampshire County Registry of Deeds in Book 1494, Page 750.
33. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
34. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Anthony J. Blyda dated March 22, 1967 recorded in Hampshire County Registry of Deeds in Book 1504, Page 249.
35. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Cella Realty Corporation dated November 26, 1969 recorded in Hampshire County Registry of Deeds in Book 1564, Page 157.
36. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1.
37. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston

and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1.

38. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Agway, Inc. dated December 20, 1990 recorded in Hampshire County Registry of Deeds in Book 3666, Page 298.
39. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Sandra A. Glass, Trustee of Hill & Dale Nominee Trust dated December 20, 1996 recorded in Hampshire County Registry of Deeds in Book 5036, Page 91.
40. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to 293 King Street, Inc. dated June 18, 2002 recorded in Hampshire County Registry of Deeds in Book 6680, Page 97.
41. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Timothy P. Banister, et al dated July 15, 2003 recorded in Hampshire County Registry of Deeds in Book 7359, Page 38.
42. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Coolidge Northampton, LLC dated April 25, 2006 recorded in Hampshire County Registry of Deeds in Book 8706, Page 42.
43. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/20:

1. Subject to an easement for a highway from Northampton to Hatfield and the obligation to make and maintain fences and crossings as set forth in a deed from Samuel L. Hinckley to the Connecticut River Rail Road Company dated June 29, 1846 recorded in Hampshire County Registry of Deeds in Book 114, Page 164, as affected by Release of crossing rights by Samuel L. Hinckley dated September 13, 1847 recorded in Hampshire County Registry of Deeds in Book 120, Page 179.
2. Subject to the obligation to provide a crossing and drainage as set forth in a deed from John Chester Lyman to the Connecticut River Rail Road Company dated July 21, 1846 recorded in Hampshire County Registry of Deeds in Book 114, Page 293, as affected by:
 - a. Release of crossing rights and the reservation to construct the crossing at any time by John C. Lyman dated November 13, 1847 recorded in Hampshire County Registry of Deeds in Book 121, Page 82;
 - b. Release of Samuel L. Hinckley and John Hanly dated September 16, 1850 recorded in Hampshire County Registry of Deeds in Book 135, Page 183; and

- c. Release of Patrick Hayes dated September 17, 1850 recorded in Hampshire County Registry of Deeds in Book 135, Page 186.
3. Subject to the obligation to maintain fences and a crossing as set forth in a deed from Alpheus Lyman to the Connecticut River Rail Road Company dated May 22, 1847 recorded in Hampshire County Registry of Deeds in Book 118, Page 381, as affected by Indenture by and between the Boston and Maine Railroad and Howes Brick Company dated January 16, 1925 recorded in Hampshire County Registry of Deeds in Book 811, Page 503.
4. Subject to the obligation to make and maintain fences and a crossing as set forth in a deed from Jacob Parsons to the Connecticut River Rail Road Company dated September 13, 1847 recorded in Hampshire County Registry of Deeds in Book 120, Page 241.
5. The benefit of a right of way as appurtenant to land described in deed from John L. Draper to the Boston and Maine Rail Road dated September 2, 1898 recorded in Hampshire County Registry of Deeds in Book 514, Page 3.
6. Easement taken by the City of Northampton Sewer Commissioners for the diversion of King Street Brook dated May 22, 1905 recorded in Hampshire County Registry of Deeds in Book 596, Page 375.
7. License No. 2619 issued to the Boston and Maine Railroad by the Commonwealth of Massachusetts to place and maintain riprap on the bank of the Connecticut River dated September 21, 1943 recorded in Hampshire County Registry of Deeds in Book 976, Page 339.
8. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to James Cahillane and John F. Skibiski dated November 4, 1960 recorded in Hampshire County Registry of Deeds in Book 1342, Page 309.
9. Layout No. 5277 – Order of Taking by the Commonwealth of Massachusetts, Department of Public Works for the layout of Route 91 of a fee interest and an easement interest dated November 6, 1962 recorded in Hampshire County Registry of Deeds in Book 1396, Page 311, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 63, Plan 24 to 34.
10. Order of Taking by the Commonwealth of Massachusetts, Department of Public Works of a drainage easement dated January 28, 1964 recorded in Hampshire County Registry of Deeds in Book 1433, Page 17, as shown on a plan recorded in Hampshire County Registry of Deeds in Plan Book 65, Plans 18 and 19.
11. Order of the Hampshire County Commissioners for the reconstruction and/or alteration of Damon Road at its crossing at grade of the Connecticut River Division of the Boston and Maine Corporation dated July 29, 1966 recorded in Hampshire County Registry of Deeds in Book 1494, Page 750.
12. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
13. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees

of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1.

14. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1.
15. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/21:

1. Subject to an easement for a highway from Northampton to Hatfield and the obligation to make and maintain fences and crossings as set forth in a deed from Samuel L. Hinckley to the Connecticut River Rail Road Company dated June 29, 1846 recorded in Hampshire County Registry of Deeds in Book 114, Page 164, as affected by Release of crossing rights by Samuel L. Hinckley dated September 13, 1847 recorded in Hampshire County Registry of Deeds in Book 120, Page 179.
2. Subject to the obligation to maintain fences as set forth in a deed from Israel Billings to the Connecticut River Rail Road Company dated August 26, 1846 recorded in Hampshire County Registry of Deeds in Book 115 Page 68.
3. Subject to the obligation to maintain fences and a crossing as set forth in a deed from John P. Wilson to the Connecticut River Rail Road Company dated August 26, 1846 recorded in Hampshire County Registry of Deeds in Book 115 Page 69.
4. Subject to the obligation to build fences and a passing place as set forth in a deed from William Dwight, et al to the Connecticut River Rail Road Company dated September 28, 1846 recorded in Hampshire County Registry of Deeds in Book 115, Page 215.
5. Subject to the obligation to erect and forever maintain a fence as set forth in a deed from Samuel L. Hinckley to the Connecticut River Rail Road Company dated February 17, 1860 recorded in Hampshire County Registry of Deeds in Book 216, Page 298.
6. The benefit of a right of way as appurtenant to land described in deed from John L. Draper to the Boston and Maine Rail Road dated September 2, 1898 recorded in Hampshire County Registry of Deeds in Book 514, Page 3.
7. Layout No. 4984 taking by the Commonwealth of Massachusetts, Department of Public Works of easements for Route 91 and the relocation of Laurel Park Road and Elm Street dated May 31, 1960 recorded in Hampshire County Registry of Deeds in Book 1327, Page 479 and shown on plan recorded in Hampshire County Registry of Deeds in Plan Book 59, Plans 86 to 120, as affected by Certificate of Entry made June 14, 1960 recorded in Hampshire County Registry of Deeds in Book 1329, Page 58.
8. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth

in a deed from Boston and Maine Railroad to James Cahillane and John F. Skibiski dated November 4, 1960 recorded in Hampshire County Registry of Deeds in Book 1342, Page 309.

9. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
10. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1.
11. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1.
12. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/22:

1. Subject to the obligation to make and maintain fences and a crossing as set forth in a deed from Lyman Hastings to the Connecticut River Rail Road Company dated April 30, 1846 recorded in Hampshire County Registry of Deeds in Book 113 Page 106.
2. Subject to the obligation to make and maintain fences as set forth in a deed from Israel Billings to the Connecticut River Rail Road Company dated August 26, 1846 recorded in Hampshire County Registry of Deeds in Book 115 Page 68.
3. Subject to the obligation to build fences and a passing place as set forth in a deed from William Dwight, et al to the Connecticut River Rail Road Company dated September 28, 1846 recorded in Hampshire County Registry of Deeds in Book 115, Page 215.
4. Subject to the obligation to maintain fences as set forth in a deed from Thomas Cutter, et al to the Connecticut River Rail Road Company dated November 30, 1846 recorded in Hampshire County Registry of Deeds in Book 116, Page 98.
5. Subject to the obligation to maintain fences as set forth in a deed from Israel Billings, et al to the Connecticut River Rail Road Company dated December 16, 1846 recorded in Hampshire County Registry of Deeds in Book 116, Page 151.
6. Subject to the obligation to make and maintain fences as set forth in a deed from Rufus Graves to the Connecticut River Rail Road Company dated February 6, 1847 recorded in Hampshire County Registry of Deeds in Book 117, Page 101.
7. Easement rights to lay water pipes in a grant from the Boston and Maine Railroad to the Hatfield Water Works dated June 29, 1896 recorded in Hampshire County Registry of Deeds in Book 488, Page 28, so far as the same may now be in force and applicable.

8. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to John Bucala dated March 20, 1924 recorded in Hampshire County Registry of Deeds in Book 802, Page 501.
9. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Porter-McLeod Machine Tool Co., Inc. dated April 29, 1954 recorded in Hampshire County Registry of Deeds in Book 1166, Page 90.
10. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Arthur J. Demers dated July 27, 1960 recorded in Hampshire County Registry of Deeds in Book 1332, Page 144.
11. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
12. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1.
13. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1.
14. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/23:

1. Subject to the obligation to make and maintain fences as set forth in a deed from Elnathan Hastings to the Connecticut River Rail Road Company dated August 20, 1846 recorded in Hampshire County Registry of Deeds in Book 114, Page 503.
2. Subject to the obligation to make and maintain fences as set forth in a deed from Erastus Smith to the Connecticut River Rail Road Company dated September 7, 1846 recorded in Hampshire County Registry of Deeds in Book 115, Page 72.
3. Subject to the obligation to maintain fences as set forth in a deed from Calvin Wells to the Connecticut River Rail Road Company dated November 23, 1846 recorded in Hampshire County Registry of Deeds in Book 116, Page 52.
4. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
5. Subject to and with the benefit of reservations, restrictions, covenants, agreements and drainage rights as set forth in a deed from Boston and Maine Corporation to Charles J. Eberlein, Jr., et als dated April 9, 1974 recorded in Hampshire County Registry of Deeds in Book 1769, Page 216.

6. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1.
7. Subject to and with the benefit of reservations, restrictions, covenants, agreements and drainage rights as set forth in a deed from Boston and Maine Railroad to John P. Rogalski, et als dated May 10, 1977 recorded in Hampshire County Registry of Deeds in Book 1956, Page 146.
8. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1.
9. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/24:

1. Subject to the obligation to build and maintain fences and crossing as set forth in a deed from Lyman Graves to the Connecticut River Rail Road Company dated March 5, 1846 recorded in Hampshire County Registry of Deeds in Book 112, Page 295.
2. Subject to the obligation to make and maintain fences as set forth in a deed from Edwin Morton to the Connecticut River Rail Road Company dated May 20, 1846 recorded in Hampshire County Registry of Deeds in Book 113, Page 283.
3. Subject to the obligation to make and maintain fences and crossing as set forth in a deed from Daniel White to the Connecticut River Rail Road Company dated May 20, 1846 recorded in Hampshire County Registry of Deeds in Book 113, Page 286.
4. Subject to the obligation to make and maintain fences and crossing as set forth in a deed from Elijah Dickinson to the Connecticut River Rail Road Company dated September 3, 1846 recorded in Hampshire County Registry of Deeds in Book 115, Page 61.
5. Subject to the obligation to maintain fences as set forth in a deed from Lemuel A. Wait to the Connecticut River Rail Road Company dated November 24, 1846 recorded in Hampshire County Registry of Deeds in Book 116, Page 4.
6. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
7. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1.
8. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in

Book 3430, Page 1.

9. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/25:

1. Subject to the obligation to make and maintain fences and crossing as set forth in a deed from Caleb Dickinson to the Connecticut River Rail Road Company dated May 20, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 38.
2. Subject to the obligation to make and maintain fences as set forth in a deed from Gad Crafts to the Connecticut River Rail Road Company dated July 22, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 77.
3. Subject to the obligation to make and maintain fences as set forth in a deed from Herman K. Vining to the Connecticut River Rail Road Company dated August 7, 1846 recorded in Hampshire County Registry of Deeds in Book 114, Page 374.
4. Subject to the obligation to make and maintain fences as set forth in a deed from Russell Wait, et als to the Connecticut River Rail Road Company dated August 22, 1846 recorded in Hampshire County Registry of Deeds in Book 114, Page 509.
5. Subject to the obligation to make and maintain fences and crossing as set forth in a deed from Erastus Graves to the Connecticut River Rail Road Company dated September 2, 1846 recorded in Hampshire County Registry of Deeds in Book 115, Page 62.
6. The benefit of a right of way as set forth in a deed from Ralph E. Crafts to the Connecticut River Railroad Company dated February 15, 1871 recorded in Hampshire County Registry of Deeds in Book 278, Page 149, so far as in force and applicable.
7. The benefit of a grant of an easement from Luman S. Crafts to the Connecticut River Railroad Company for the privilege of laying down an aqueduct pipe dated August 25, 1871 recorded in Hampshire County Registry of Deeds in Book 286, Page 112.
8. The benefit of a grant of an easement from Edwin A. Stockbridge to the Connecticut River Railroad Company for the perpetual right and privilege of taking and conducting water dated August 3, 1871 recorded in Hampshire County Registry of Deeds in Book 286, Page 113.
9. The benefit of a release and grant of an easement from Clara W. Vining to the Connecticut River Railroad Company to permit the railroad to lay down an aqueduct pipe dated August 25, 1871 recorded in Hampshire County Registry of Deeds in Book 286, Page 114.
10. Provisions in a grant of an easement from Horace W. Field to the Connecticut River Railroad Company of the right to one half of the water below a certain point flowing in the small brook dated June 21, 1871 recorded in Hampshire County Registry of Deeds in Book 286, Page 115.
11. Provisions in a grant of an easement from C. C. Dickinson to the Connecticut River Railroad

Company of rights across his land to take the water from enclosure of Horace W. Field dated August 2, 1871 recorded in Hampshire County Registry of Deeds in Book 286, Page 116.

12. Provisions in a release from Champion B. Dickinson to the Connecticut River Railroad Company of rights across his land to take the water from enclosure of Horace W. Field dated August 25, 1871 recorded in Hampshire County Registry of Deeds in Book 286, Page 117.
13. The benefit of a grant of an easement from Michael Tobin to the Connecticut River Railroad Company for the privilege of laying down an aqueduct pipe dated October 2, 1871 recorded in Hampshire County Registry of Deeds in Book 299, Page 22.
14. The benefit of a grant of an easement from Lucretia Frary, et al to the Connecticut River Railroad Company of rights across their land to take the water from enclosure of Horace W. Field dated October 2, 1871 recorded in Hampshire County Registry of Deeds in Book 299, Page 23.
15. Release of an easement over South Crossing as set forth in release from Josephine Crafts to Connecticut River Railroad Company dated July 18, 1884 recorded in Hampshire County Registry of Deeds in Book 389, Page 127.
16. Subject to and with the benefit of reservations, restrictions, covenants, agreements and drainage rights as set forth in a deed from Boston and Maine Railroad to Harold E. Pomeroy, et al dated August 7, 1962 recorded in Hampshire County Registry of Deeds in Book 1386, Page 316.
17. Petition and Notice to abandon passenger service in 1967 recorded in Hampshire County Registry of Deeds in Book 1503, Pages 269 and 273.
18. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Hampshire County Registry of Deeds in Book 1822, Page 1 and in Franklin County Registry of Deeds in Book 1425, Page 116.
19. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Hampshire County Registry of Deeds in Book 3430, Page 1 and in Franklin County Registry of Deeds in Book 2362, Page 1.
20. Subject to reservations as set forth in a deed from Boston and Maine Corporation to Pan Am Southern LLC dated April 9, 2009 recorded in Hampshire County Registry of Deeds in Book 9791, Page 163.
21. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/26:

1. Subject to the obligation to make and maintain fences as set forth in a deed from David Stockbridge to the Connecticut River Rail Road Company dated April 22, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 46.

2. Subject to the obligation to make and maintain fences and a crossing as set forth in a deed from Chester Bardwell, 3d to the Connecticut River Rail Road Company dated September 26, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 144.
3. Subject to the obligation to maintain a fence and crossing where then constructed as set forth in deed from Dwight Dickinson to the Connecticut River Rail Road Company dated December 11, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 150.
4. Subject to the obligation to build and maintain fences and a crossing as set forth in a deed from Chester Bardwell, 3d to the Connecticut River Rail Road Company dated October 6, 1847 recorded in Franklin County Registry of Deeds in Book 143, Page 48.
5. Subject to the obligation to maintain fences as set forth in a deed from Charles Dickinson, et als to the Connecticut River Rail Road Company dated October 5, 1847 recorded in Franklin County Registry of Deeds in Book 143, Page 60.
6. Subject to the obligation to maintain fences and the reservation of grantors to construct a crossing as set forth in a deed from Charles Dickinson, et als to the Connecticut River Rail Road Company dated October 5, 1847 recorded in Franklin County Registry of Deeds in Book 143, Page 61.
7. Farm crossing as retained in a release of two farm crossings by Thomas Crafts to the Connecticut River Railroad Co. dated December 18, 1858 recorded in Franklin County Registry of Deeds in Book 738, Page 269.
8. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
9. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
10. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/27:

1. Subject to the obligation to make and maintain fences as set forth in a deed from David Stockbridge to the Connecticut River Rail Road Company dated April 22, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 46.
2. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from George W. Crafts to the Connecticut River Rail Road Company dated July 9, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 62.
3. Subject to the obligation to erect and maintain fences as set forth in a deed from Asa Crafts to the Connecticut River Rail Road Company dated July 9, 1846 recorded in Franklin County Registry

of Deeds in Book 140, Page 63.

4. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Caleb Crafts to the Connecticut River Rail Road Company dated July 9, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 64.
5. Subject to the obligation to make and maintain a crossing and culvert for drainage as set forth in a deed from Sylvester and Horace Graves to the Connecticut River Rail Road Company dated July 7, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 66.
6. Subject to the obligation to make and maintain fences and a crossing as set forth in a deed from Erastus Crafts to the Connecticut River Rail Road Company dated July 9, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 67.
7. Subject to the obligation to erect and maintain fences and build a crossing as set forth in a deed from Allen Belding to the Connecticut River Rail Road Company dated July 22, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 72.
8. Subject to the obligation to make and maintain fences and crossings as set forth in a deed from Chester Bardwell, 3d to the Connecticut River Rail Road Company dated September 26, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 144, as affected by Release from Chester Bardwell dated June 4, 1847 recorded in Franklin County Registry of Deeds in Book 140 Page 156.
9. Subject to the obligation to maintain fences as set forth in a deed from Horace Bardwell to the Connecticut River Rail Road Company dated June 4, 1847 recorded in Franklin County Registry of Deeds in Book 140, Page 155.
10. Subject to and with the benefit of reservations, restrictions, covenant and agreements as set forth in a deed from Boston and Maine Railroad to Louis Kandsz dated April 11, 1962 recorded in Franklin County Registry of Deeds in Book 1138, Page 307.
11. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
12. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
13. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/28:

1. Subject to the obligation to make and maintain a crossing as set forth in a deed from John Wait to the Connecticut River Rail Road Company dated July 2, 1846 recorded in Franklin County

Registry of Deeds in Book 140, Page 53.

2. Subject to the obligation to maintain a crossing and build a culvert for drainage as set forth in a deed from Plyna Graves to the Connecticut River Rail Road Company dated July 2, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 55, as affected by Release of crossing rights dated August 22, 1917 recorded in Franklin County Registry of Deeds in Book 634, Page 381.
3. Subject to the obligation to construct a crossing as set forth in a deed from Graves Crafts to the Connecticut River Rail Road Company dated July 2, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 59.
4. Subject to the obligation to make and maintain a crossing as set forth in a deed from Franklin Graves to the Connecticut River Rail Road Company dated July 8, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 61.
5. Subject to the obligation to make and maintain a crossing and build a culvert for drainage as set forth in a deed from Sylvester and Horace Graves to the Connecticut River Rail Road Company dated July 7, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 66.
6. Subject to the obligation to make and maintain a crossing as set forth in a deed from Dexter and Noah Crafts to the Connecticut River Rail Road Company dated July 20, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 68.
7. The benefit of a slope easement and subject to the obligation to maintain a crossing as set forth in a deed from Calvin Wells, et als to the Connecticut River Rail Road Company dated July 21, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 70.
8. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Maria Scott to the Connecticut River Rail Road Company dated August 4, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 75.
9. Subject to the obligation to make and maintain fences and a crossing as set forth in a deed from Randal Graves to the Connecticut River Rail Road Company dated August 4, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 76.
10. Subject to the obligation to make and maintain fences as set forth in a deed from Gad Crafts to the Connecticut River Rail Road Company dated July 22, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 77.
11. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
12. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.

13. Subject to and with the benefit of reservations, restrictions, covenant and agreements as set forth in a Release Deed from the Boston and Maine Corporation to Alan E. Sanderson, Sr., et als dated August 23, 1996 recorded in Franklin County Registry of Deeds in Book 3155, Page 86.
14. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/29:

1. Subject to the obligation to make and maintain a crossing as set forth in a deed from Reuben Crafts to the Connecticut River Rail Road Company dated July 2, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 54.
2. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Dexter Crafts to the Connecticut River Rail Road Company dated July 9, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 62.
3. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Francis H. Wright to the Connecticut River Rail Road Company dated November 18, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 149.
4. Subject to the obligation to maintain a crossing as set forth in a deed from Artemus and Amalia Williams to the Connecticut River Rail Road Company dated December 31, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 152.
5. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Dwight Jewett to the Connecticut River Rail Road Company dated March 16, 1847 recorded in Franklin County Registry of Deeds in Book 140, Page 153.
6. Subject to the obligation to make and maintain a crossing as set forth in a deed from Solomon Piper to the Connecticut River Rail Road Company dated March 10, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 176.
7. The benefit of an easement to lay an aqueduct as set forth in grant from Artemas and Isabella Williams to the Connecticut River Railroad Company dated February 4, 1864 recorded in Franklin County Registry of Deeds in Book 246, Page 300.
8. Crossing rights as reserved in a deed from Charles A. Pierce to the Connecticut River Rail Road Company dated May 30, 1871 recorded in Franklin County Registry of Deeds in Book 293, Page 216.
9. The benefit of a slope easement as reserved in a deed from the Boston and Maine Railroad to Michael T. Doolan dated June 22, 1925 recorded in Franklin County Registry of Deeds in Book 706, Page 257.
10. Order of the Town of Deerfield, Board of Sewer Commissioners dated July 11, 1950 recorded in Franklin County Registry of Deeds in Book 951, Page 387, as affected by sewer easement granted by the Boston and Maine Railroad to the Inhabitants of the Town of Deerfield dated July

11, 1950 recorded in Franklin County Registry of Deeds in Book 954, Page 58 and shown on a plan recorded in Franklin County Registry of Deeds in Plan Book 7, Page 38.

11. Order of taking for the relocation of Elm Street by the Town of Deerfield dated September 10, 1952 recorded in Franklin County Registry of Deeds in Book 979, Page 19 and shown on plan recorded in Franklin County Registry of Deeds in Plan Book 15, Pages 24 and 25.
12. Subject to and with the benefit of exceptions, reservations, restrictions, covenants and agreements as set forth in a deed from the Boston and Maine Railroad to Edward S. Sadoski dated January 10, 1962 recorded in Franklin County Registry of Deeds in Book 1132, Page 337, as affected by Amendment dated August 29, 1966 recorded in Franklin County Registry of Deeds in Book 1203, Page 99.
13. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a Release Deed from the Boston and Maine Railroad to Paul Mannos, et al, Trustees of The Falls Trust dated February 24, 1960 recorded in Franklin County Registry of Deeds in Book 1138, Page 155.
14. Pipe Agreement between the Boston and Maine Railroad and the Town of Deerfield dated June 22, 1962 recorded in Franklin County Registry of Deeds in Book 1142, Page 375.
15. Layout No. 5307 by the Commonwealth of Massachusetts, Department of Public Works of an easement for highway purposes in the Town of Whately dated March 26, 1963 recorded in Franklin County Registry of Deeds in Book 1151, Page 334.
16. Drainage easement taken by the Commonwealth of Massachusetts, Department of Public Works dated September 27, 1967 recorded in Franklin County Registry of Deeds in Book 1216, Page 253, as shown on a plan recorded in Franklin County Registry of Deeds in Plan Book 28, Page 54.
17. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
18. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
19. Subject to and with the benefit of exceptions, reservations, restrictions, covenants and agreements as set forth in a Release Deed from the Boston and Maine Corporation to Michael L. Skalski, et al dated June 10, 1994 recorded in Franklin County Registry of Deeds in Book 2916, Page 47.
20. Subject to and with the benefit of exceptions, reservations, restrictions, covenants and agreements as set forth in a Release Deed from the Boston and Maine Corporation to American Barn Corporation dated November 18, 1997 recorded in Franklin County Registry of Deeds in Book 3287, Page 29.
21. Subject to and with the benefit of exceptions, reservations, restrictions, covenants and agreements

as set forth in a Release Deed from the Boston and Maine Corporation to Alton B. Acker dated June 1, 1999 recorded in Franklin County Registry of Deeds in Book 3507, Page 4.

22. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a Release Deed from the Boston and Maine Corporation to John J. Jankowski, Jr., et ux dated June 1, 1999 recorded in Franklin County Registry of Deeds in Book 3507, Page 224.
23. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/30:

1. Subject to the obligation to erect and maintain fences as set forth in a deed from Asa C. Edwards to the Connecticut River Rail Road Company acknowledged August 16, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 60.
2. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Edward Clark to the Connecticut River Rail Road Company dated July 10, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 65.
3. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Horatio Graves to the Connecticut River Rail Road Company dated June 25, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 78.
4. Subject to the obligation to erect and maintain fences as set forth in a deed from William D. Bates and Steven W. Bates to the Connecticut River Rail Road Company dated June 26, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 80.
5. Subject to the obligation to erect and maintain fences, a crossing and a sluiceway as set forth in a deed from Timothy and Francis Billings to the Connecticut River Rail Road Company dated August 13, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 81.
6. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Dexter Anderson to the Connecticut River Rail Road Company dated August 24, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 82.
7. Subject to the obligation to erect and maintain fences and crossings as set forth in a deed from Ebenezer Morton to the Connecticut River Rail Road Company dated November 10, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 88.
8. Subject to the obligation to erect and maintain fences and crossings as set forth in a deed from Elizabeth and Theodore S. Sprague to the Connecticut River Rail Road Company dated November 10, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 143.
9. Subject to the obligation to maintain a crossing as set forth in a deed from Artemus and Amalia Williams to the Connecticut River Rail Road Company dated December 31, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 152.

10. The benefit of an easement to lay an aqueduct as set forth in grant from Artemas and Isabella Williams to the Connecticut River Railroad Company dated February 4, 1864 recorded in Franklin County Registry of Deeds in Book 246, Page 300.
11. The benefit of an easement to lay an aqueduct as set forth in grant from George S. Cooley to the Connecticut River Railroad Company dated November 28, 1864 recorded in Franklin County Registry of Deeds in Book 246, Page 368.
12. The benefit of an easement to lay a water pipe as set forth in grant from Edward A. Rice, et ux to the Boston and Maine Railroad dated July 25, 1911 recorded in Franklin County Registry of Deeds in Book 558, Page 104.
13. Layout No. 3046 by the Commonwealth of Massachusetts Department of Public Works for the layout of Conway Road in Deerfield, dated September 13, 1933 recorded in Franklin County Registry of Deeds in Book 798, Page 59.
14. Subject to and with the benefit of exceptions, reservations, restrictions, covenants and agreements as set forth in a deed from the Boston and Maine Railroad to Edward S. Sadoski dated January 10, 1962 recorded in Franklin County Registry of Deeds in Book 1132, Page 337, as affected by Amendment by Boston and Maine Corporation and Amour Agricultural Chemical Company dated August 29, 1966 recorded in Franklin County Registry of Deeds in Book 1203, Page 99.
15. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
16. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
17. Subject to and with the benefit of exceptions, reservations, restrictions, covenants and agreements as set forth in a Release Deed from the Boston and Maine Corporation to Michael L. Skalski, et al dated June 10, 1994 recorded in Franklin County Registry of Deeds in Book 2916, Page 47.
18. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/31:

1. Subject to the obligation to erect and maintain fences and a crossing and the right to carry an aqueduct pipe through the culvert and bars along the fence as set forth in a deed from Henry Childs to the Connecticut River Rail Road Company dated May 13, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 36.
2. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Charles Hawkes 2d to the Connecticut River Rail Road Company dated May 8, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 45.

3. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Emily Russell to the Connecticut River Rail Road Company dated June 4, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 50.
4. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Horatio Graves to the Connecticut River Rail Road Company dated June 25, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 78.
5. Subject to the obligation to make and maintain fences and a crossing as set forth in a deed from Eli Cooley to the Connecticut River Rail Road Company dated November 18, 1847 recorded in Franklin County Registry of Deeds in Book 143, Page 62.
6. Subject to the obligation to make and maintain fences as set forth in a deed from Ira Billings to the Connecticut River Rail Road Company dated November 9, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 179.
7. Subject to the obligation to make and maintain fences and a crossing as set forth in a deed from Amariah D. Sprout to the Connecticut River Rail Road Company dated November 9, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 179.
8. The benefit of a release of farm crossing rights as set forth in release from Laura S. Warren to the Connecticut River Railroad Company dated February 26, 1897 recorded in Franklin County Registry of Deeds in Book 455, Page 114.
9. Alteration and relocation of Sprout's Crossing by the Selectmen of the Town of Deerfield under order of the Franklin County Superior Court dated January 2, 1903 recorded on July 1, 2002 in Franklin County Registry of Deeds in Book 4034, Page 2.
10. The benefit of an easement to maintain a culvert or drain as set forth in grant from Laura S. Warren to the Boston and Maine Railroad dated November 12, 1903 recorded in Franklin County Registry of Deeds in Book 506, Page 152.
11. Layout No. 2522 by the Commonwealth of Massachusetts Department of Public Works for the layout of State Highway in Deerfield, dated August 7, 1928 recorded in Franklin County Registry of Deeds in Book 751, Page 60.
12. Subject to and with the benefit of restrictions, covenants and agreements as set forth in a deed from the Boston and Maine Railroad to Max Kowalski dated August 11, 1949 recorded in Franklin County Registry of Deeds in Book 938, Page 355.
13. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
14. Grant from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation to the Commonwealth of Massachusetts, acting through its Department of Public Works of right in Sprouts Crossing Bridge dated July 1, 1975 recorded in Franklin County Registry of Deeds in Book 1432, Page 188.

15. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
16. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/32:

1. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Luke Wright to the Connecticut River Rail Road Company dated March 19, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 24, as affected by release and reservation as set forth in instrument from Luke Wright to the Connecticut River Rail Road Company dated November 28, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 178.
2. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Luke and George Wright to the Connecticut River Rail Road Company dated March 19, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 25.
3. Subject to the obligation to erect and maintain fences and a crossing and the reservation of the privilege to carry an aqueduct pipe through the culvert and maintain bars as set forth in a deed from Henry Childs to the Connecticut River Rail Road Company dated May 13, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 36, as affected by release and reservation as set forth in instrument from Hiram Root to the Connecticut River Rail Road Company dated November 6, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 177.
4. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Charles Hawkes 2d to the Connecticut River Rail Road Company dated May 8, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 40.
5. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Eli Wright to the Connecticut River Rail Road Company dated May 9, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 44.
6. Subject to the obligation to erect and maintain fences and an aqueduct pipe by a small culvert and the right of grantor to repair said culvert as set forth in a deed from David Kemp to the Connecticut River Rail Road Company dated May 15, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 47.
7. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Asahel Wright to the Connecticut River Rail Road Company dated August 12, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 79.
8. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Susan Wright, et als to the Connecticut River Rail Road Company dated September 15, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 84.

9. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Samuel Childs to the Connecticut River Rail Road Company dated November 19, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 145.
10. Subject to the obligation to maintain fences and permit a crossing to be maintained by grantor and the right to lay a pipe through the culvert under the railroad as set forth and reserved in a deed from Hiram Root to the Connecticut River Rail Road Company dated November 6, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 177.
11. Subject to the obligation to maintain fences and a crossing as set forth in a deed from Erastus Childs to the Connecticut River Rail Road Company dated December 6, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 181.
12. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
13. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
14. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/33:

1. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Amos Willis to the Connecticut River Rail Road Company dated January 16, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 2.
2. Subject to the obligation to erect and maintain fences and a crossing and to maintain a secure aqueduct as set forth in a deed from Thomas Greenough to the Connecticut River Rail Road Company dated January 9, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 4.
3. Subject to an easement or right of way which public may have over the highway (formerly a part of Pleasant Avenue) as set forth in a deed from Edwin Ware to the Connecticut River Rail Road Company dated January 9, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 5, so far as the same may now be in force and applicable.
4. Subject to the obligation to erect fences and a crossing and the benefit of the obligation of the grantor to grade each side of the railroad as set forth in a deed from Nathaniel Hitchcock to the Connecticut River Railroad Company dated January 14, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 9.
5. Subject to the obligation to erect fences and a crossing as set forth in a deed from David W. Childs to the Connecticut River Rail Road Company dated March 6, 1846 recorded in Franklin

County Registry of Deeds in Book 140, Page 22.

6. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Charles Hawks 2d to the Connecticut River Rail Road Company dated May 8, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 40.
7. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Lydia Barnard, et als to the Connecticut River Rail Road Company dated July 7, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 58.
8. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Emeline Stebbins to the Connecticut River Rail Road Company dated July 3, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 74, as affected by release of crossing rights from Albert Stebbins, et als to the Connecticut River Rail Road Company acknowledged July 23, 1855 recorded in Franklin County Registry of Deeds in Book 195, Page 236.
9. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
10. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
11. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/34:

1. Subject to the obligation to erect and maintain fences as set forth in a deed from Seth Sheldon to the Connecticut River Rail Road Company dated January 17, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 6.
2. Subject to the obligation to erect and maintain fences and crossings as set forth in a deed from Austin Rice, Gdn. to the Connecticut River Rail Road Company dated January 28, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 8.
3. Subject to the obligation to erect fences and a crossing and the benefit of the obligation of the grantor to grade each side of the railroad as set forth in a deed from Nathaniel Hitchcock to the Connecticut River Railroad Company dated January 14, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 9.
4. Subject to the obligation to erect and maintain fences, a crossing and culvert to drain land as set forth in a deed from William Russell to the Connecticut River Rail Road Company dated February 19, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 11, as affected by release and reservation from William Russell dated November 1, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 178 and release from William Russell, et

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als dated December 7, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 182.

5. Subject to the obligation to erect and maintain fences as set forth in a deed from Judith Bardwell to the Connecticut River Rail Road Company dated February 5, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 12.
6. Subject to the obligation to erect and maintain fences as set forth in a deed from Abigail Sheldon to the Connecticut River Railroad Company dated January 31, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 13.
7. Subject to the obligation to erect and maintain fences as set forth in a deed from Elizabeth Dickinson, et als to the Connecticut River Rail Road Company dated February 5, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 14.
8. Subject to the obligation to erect and maintain fences and secure an aqueduct as set forth in a deed from Francis Hawks to the Connecticut River Rail Road Company dated February 3, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 16.
9. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Edwin and Lucinda Nims to the Connecticut River Rail Road Company dated February 18, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 17.
10. Subject to the obligation to erect and maintain fences, a crossing and secure an aqueduct as set forth in a deed from Asa Stebbins to the Connecticut River Rail Road Company dated February 19, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 19.
11. Subject to the obligation to erect and maintain fences as set forth in a deed from Lydia Williams to the Connecticut River Rail Road Company dated February 16, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 26.
12. Subject to the obligation to put a sufficient lead pipe under the railroad track for spring water as set forth in a deed from Arad Munn to the Connecticut River Rail Road Company dated April 22, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 27.
13. Subject to the obligation to erect and maintain fences and crossings, and right to protect an aqueduct as set forth in a deed from Asa Stebbins, Trustee to the Connecticut River Rail Road Company dated April 17, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 28.
14. Subject to the obligation to erect and maintain fences as set forth in a deed from Samuel Willard to the Connecticut River Rail Road Company dated May 26, 1846 recorded in Book 140, Page 39.
15. Subject to the obligation to erect and maintain fences and secure an aqueduct as set forth in a deed from Henry Stebbins to the Connecticut River Rail Road Company dated May 28, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 42.
16. Subject to the obligation to erect and maintain fences as set forth in a deed from John G. Williams

to the Connecticut River Rail Road Company dated October 16, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 87.

17. The benefit of the right to allow a culvert to be built under the track to be extended to a brook running across the grantor's land as set forth in a deed from Eunice K. Brown to the Connecticut River Railroad Company dated January 1, 1884 recorded in Franklin County Registry of Deeds in Book 372, Page 86.
18. Subject to the obligation to build and maintain fences as set forth in a deed from Harriet S. Ware, et als to the Connecticut River Railroad Company dated March 18, 1884 recorded in Franklin County Registry of Deeds in Book 372, Page 252.
19. Subject to and with the benefit of reservations, restrictions, covenants and agreements as set forth in a deed from the Boston and Maine Railroad to Paul Mannos, et al, Trustees of The Falls Trust dated February 24, 1960 recorded in Franklin County Registry of Deeds in Book 1138, Page 155.
20. Subject to and with the benefit of covenants and restrictions as set forth in a deed from the Boston and Maine Corporation to Nicholas M. Russo, et ux dated June 1, 1965 recorded in Franklin County Registry of Deeds in Book 1184, Page 82.
21. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
22. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
23. Order of Conditions, DEP File No. 142-130 issued by the Deerfield Conservation Commission to the Boston & Maine Railroad regarding a parcel of land on Pleasant Avenue dated February 25, 2000 recorded in Franklin County Registry of Deeds in Book 3606, Page 278.
24. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/35:

1. Subject to the obligation to erect and maintain fences and an easement for a public highway as set forth in a deed from Consider Dickinson, et al to the Connecticut River Rail Road Company dated January 23, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 1.
2. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Seth Sheldon to the Connecticut River Rail Road Company dated January 17, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 6.
3. Subject to the obligation to erect and maintain fences and a crossing and to secure an aqueduct as set forth in a deed from Asa Stebbins to the Connecticut River Rail Road Company dated

February 19, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 19.

4. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Asa Stebbins, et al to the Connecticut River Rail Road Company dated February 19, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 21.
5. Subject to the obligation to make and maintain fences and a crossing as set forth and reserved in a deed from Isaac Abercrombie, Jr. to the Connecticut River Rail Road Company dated May 15, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 35.
6. Subject to the obligation to erect and maintain fences and a crossing as set forth in a deed from Lois and Asa Stebbins to the Connecticut River Rail Road Company dated May 28, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 51.
7. Subject to the obligation to erect and maintain fences and crossings as set forth in a deed from Isaac Abercrombie, Jr. to the Connecticut River Rail Road Company dated October 10, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 85.
8. Easement from the Connecticut River Railroad Company to George W. Fuller for a cattle crossing under the railroad as set forth in grant dated June 10, 1882 recorded in Franklin County Registry of Deeds in Book 359, Page 239.
9. Easement from the Boston and Maine Corporation, et als to the Western Massachusetts Electric Company dated January 30, 1970 recorded in Franklin County Registry of Deeds in Book 1254, Page 38.
10. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
11. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
12. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/36:

1. Subject to the obligation to erect and maintain fences and make and maintain a crossing as set forth in a deed from Seth Sheldon to the Connecticut River Rail Road Company dated January 17, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 6.
2. Subject to the obligation to erect and maintain fences and a passage under the railroad and laying down a lead pipe to conduct water as set forth in a deed from William Russell to the Connecticut River Rail Road Company dated February 19, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 11, as affected by release and reservation from William Russell to the

Connecticut River Rail Road Company dated November 1, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 178.

3. Subject to the obligation to erect and maintain fences and a crossing and rights reserved to use the springs of water as set forth in a deed from David R. Wait to the Connecticut River Rail Road Company dated May 14, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 41.
4. Subject to the obligation to erect and maintain fences and crossings and rights reserved to cross the railroad as set forth in a deed from Ora Sheldon to the Connecticut River Rail Road Company dated June 6, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 48.
5. Subject to the obligation to build a slope wall and provide fences and a crossing as set forth in a deed from Rebecca Wait, et al to the Connecticut River Rail Road Company dated October 19, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 86.
6. Abolition of grade crossings and the laying out of a county road by the Town of Greenfield dated July 18, 1911 recorded in Franklin County Registry of Deeds in Book 564, Pages 275 and 276.
7. Layout No. 2781 by the Commonwealth of Massachusetts, Department of Public Works of a taking in fee for a highway dated May 19, 1931 recorded in Franklin County Registry of Deeds in Book 778, Page 203.
8. Layout No. 3814 by the Commonwealth of Massachusetts, Department of Public Works for the taking of an easement for highway purposes dated December 19, 1950 recorded in Franklin County Registry of Deeds in Book 956, Page 331.
9. Subject to and with the benefit of agreements and covenants as set forth in a deed from Boston and Maine Railroad to Arthur O. Fiset, et ux dated February 25, 1954 recorded in Franklin County Registry of Deeds in Book 999, Page 132.
10. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
11. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
12. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/37:

1. Subject to the obligation to keep a sufficient fence as set forth in a deed from Ambrose Ames to the Connecticut River Rail Road Company dated September 25, 1845 recorded in Franklin County Registry of Deeds in Book 128, Page 289.

2. Subject to the obligation to erect and maintain fences and a crossing and to make and maintain a convenient watering place for cattle and to conduct water as set forth in a deed from Spencer B. Root to the Connecticut River Rail Road Company dated April 22, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 30, as affected by release and reservation instrument from Spencer B. Root to the Connecticut River Rail Road Company dated June 7, 1847 recorded in Franklin County Registry of Deeds in Book 140, Page 154.
3. The benefit of the right to take water from a spring and a right to enter grantor's land for keeping an aqueduct in good repair as set forth in a grant from Daniel Wells to the Connecticut River Rail Road Company dated September 10, 1846 recorded in Franklin County Registry of Deeds in Book 140, Page 85.
4. Subject to sloping rights as set forth in a deed from Spencer B. Root to the Connecticut River Rail Road Company dated December 10, 1847 recorded in Franklin County Registry of Deeds in Book 147, Page 100.
5. Subject to the obligation to build and maintain a passage way under the railroad as set forth in a deed from Daniel Wells to the Connecticut River Rail Road Company dated January 24, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 112.
6. The benefit of all reversionary rights in the adjoining highway (Bank Row) as set forth in a deed from Allen Jones to the Connecticut River Rail Road Company dated March 28, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 114.
7. Subject to the obligation to erect and maintain fences and cattle guards and a plank crossing at the intersection of the railroad and Russell Street and a reserved right of way to cross the land conveyed as set forth in a deed from Henry W. Clapp to the Connecticut River Rail Road Company dated March 26, 1849 recorded in Franklin County Registry of Deeds in Book 147, Page 185.
8. Subject to the rights which Henry W. Clapp may have to lay water pipes as set forth and reserved in a deed from the Connecticut River Rail Road Company to David N. Carpenter dated October 20, 1849 recorded in Franklin County Registry of Deeds in Book 158, Page 36.
9. The benefit of rights to enter upon the land to repair as reserved in a deed from the Connecticut River Rail Road Company to Henry W. Cushman dated July 17, 1849 recorded in Franklin County Registry of Deeds in Book 158, Page 251.
10. The benefit of rights to lay water pipes as reserved in a deed from the Connecticut River Rail Road Company to Daniel Wells dated August 6, 1850 recorded in Franklin County Registry of Deeds in Book 160, Page 296.
11. The benefit of the release from any liability for any washing or caving of earth as set forth in a deed from the Connecticut River Railroad Company to Charles H. Munn dated June 20, 1853 recorded in Franklin County Registry of Deeds in Book 182, Page 17.
12. Agreement by and between the Connecticut River Railroad Company and Charles H. Munn regarding reimbursement of condemnation funds dated October 27, 1853 recorded in Franklin County Registry of Deeds in Book 182, Page 19.

13. The benefit of rights to allow water to pass into the culvert as set forth and reserved in a deed from the Connecticut River Rail Road Company to George Pierce dated February 5, 1851 recorded in Franklin County Registry of Deeds in Book 183, Page 347.
14. The benefit of water rights and the right to lay an aqueduct as set forth in a grant from George Pierce to the Connecticut River Rail Road Company dated May 29, 1851 recorded in Franklin County Registry of Deeds in Book 195, Page 14.
15. Subject to and with the benefit of the grantee's obligation to make and maintain fences and the grantee's right of passage over a private way as set forth in a deed from the Connecticut River Rail Road Company to Edwin Pierce dated November 14, 1859 recorded in Franklin County Registry of Deeds in Book 222, Page 212.
16. Subject to and with the benefit of the grantee's obligation to make and maintain fences and the grantor's right of way on the north and south side and the right to carry water as set forth in a deed from the Connecticut River Rail Road Company to John Breen dated March 16, 1860 recorded in Franklin County Registry of Deeds in Book 224, Page 122.
17. The benefit of a right of way 12 feet wide as set forth in a deed from George W. Potter, et al, Executors to the Connecticut River Rail Road Company dated March 13, 1865 recorded in Franklin County Registry of Deeds in Book 248, Page 83.
18. Subject to and with the benefit of water rights and reservations as set forth in a deed from John Kennedy to the Connecticut River Rail Road Company dated July 6, 1869 recorded in Franklin County Registry of Deeds in Book 273, Page 200.
19. Subject to the reservation of a right of way 11 feet wide as set forth in a deed from George W. Potter to the Connecticut River Railroad Company dated December 30, 1869 recorded in Franklin County Registry of Deeds in Book 278, Page 144.
20. Abolition of Grade Crossing at Clay Hill Street (now known as Bank Row) dated February 3, 1892 recorded in Franklin County Registry of Deeds in Book 419, Page 255.
21. Subject to and with the benefit of rights regarding a stairway and a three (3) foot right of way as set forth in a deed from Boston and Maine Railroad to William A. Davenport dated December 20, 1927 recorded in Franklin County Registry of Deeds in Book 738, Page 255.
22. Subject to and with the benefit of restrictions covenants and agreements as set forth in a deed from Boston and Maine Railroad to William A. Davenport dated December 20, 1927 recorded in Franklin County Registry of Deeds in Book 738, Page 257.
23. Subject to and with the benefit of restrictions, covenants, agreements and reservations as set forth in a deed from Boston and Maine Railroad to Arthur E. Gleason, et al dated March 16, 1932 recorded in Franklin County Registry of Deeds in Book 779, Page 8.
24. Subject to and with the benefit of restrictions, covenants, agreements and reservations as set forth in a deed from Boston and Maine Railroad to Arthur E. Gleason, et al dated August 20, 1935 recorded in Franklin County Registry of Deeds in Book 816, Page 73.

25. Subject to and with the benefit of restrictions, covenants, agreements, and a right of way in common with the railroad as set forth in a deed from Boston and Maine Railroad to The Salvation Army of Massachusetts, Inc. dated September 7, 1937 recorded in Franklin County Registry of Deeds in Book 820, Page 309.
26. Subject to and with the benefit of restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Franklin County Lumber Company dated October 18, 1943 recorded in Franklin County Registry of Deeds in Book 870, Page 50.
27. Subject to and with the benefit of restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Stephen P. Maniatty dated November 29, 1944 recorded in Franklin County Registry of Deeds in Book 875, Page 213.
28. Subject to the right to encroach the existing building as set forth in a deed from Stephen P. Maniatty to the Boston and Maine Railroad dated November 29, 1944 recorded in Franklin County Registry of Deeds in Book 875, Page 215.
29. Subject to and with the benefit of restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Philip Aliber dated July 10, 1953 recorded in Franklin County Registry of Deeds in Book 989, Page 432.
30. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to John A. Petravice, et ux dated July 22, 1953 recorded in Franklin County Registry of Deeds in Book 990, Page 329.
31. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Marios L. Metaxas dated July 30, 1953 recorded in Franklin County Registry of Deeds in Book 990, Page 374.
32. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to George E. Stephenson and Paul Collins dated February 1, 1954 recorded in Franklin County Registry of Deeds in Book 998, Page 180.
33. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to William P. Coughlin dated November 23, 1954 recorded in Franklin County Registry of Deeds in Book 1013, Page 40.
34. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements, including rights in air space over the railroad, as set forth in a deed from Boston and Maine Railroad to Daniel W. Ragovin dated August 12, 1955 recorded in Franklin County Registry of Deeds in Book 1025, Page 324.
35. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Paul Mannos, et al, Trustee of the Falls Trust dated May 25, 1962 recorded in Franklin County Registry of Deeds in Book 1138, Page 23.
36. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Paul Mannos, et al, Trustee of the Falls Trust dated May 25, 1962 recorded in Franklin County Registry of Deeds in Book 1138, Page 34.

37. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Paul Mannos, et al, Trustee of the Falls Trust dated May 27, 1960 recorded in Franklin County Registry of Deeds in Book 1138, Page 168.
38. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements, including rights in air space over the railroad, as set forth in a deed from Boston and Maine Railroad to Stephen P. Maniatty dated February 6, 1963 recorded in Franklin County Registry of Deeds in Book 1149, Page 633.
39. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
40. Deed from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation to the Commonwealth of Massachusetts, acting through its Department of Public Works of rights in Main Street Bridge dated July 1, 1975 recorded in Franklin County Registry of Deeds in Book 1432, Page 192.
41. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements as set forth in a deed from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation to Hamilton Smith, et al dated November 18, 1975 recorded in Franklin County Registry of Deeds in Book 1448, Page 4.
42. Subject to and with the benefit of exceptions, restrictions, reservations, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Mill House Limited Partnership dated June 6, 1985 recorded in Franklin County Registry of Deeds in Book 1865, Page 107.
43. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
44. Subject to and with the benefit of reservations, conditions, covenants and agreements as set forth in a deed from Boston and Maine Corporation to Edmund Kapansky dated August 12, 1991 recorded in Franklin County Registry of Deeds in Book 2558, Page 305.
45. Subject to and with the benefit of reservations, conditions, covenants and agreements and easements, as set forth in a deed from Boston and Maine Corporation to the Town of Greenfield dated August 5, 1999 recorded in Franklin County Registry of Deeds in Book 3535, Page 216.
46. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/38:

1. The benefit of the right to take water from a certain spring as set forth in a grant from Daniel Wells to the Connecticut River Rail Road Company dated September 10, 1846 recorded in

Franklin County Registry of Deeds in Book 140, Page 85.

2. Subject to the obligation to build and maintain fences and to construct a convenient farm crossing as set forth in a deed from Daniel Wells to the Connecticut River Rail Road Company dated December 10, 1847 recorded in Franklin County Registry of Deeds in Book 147, Page 111.
3. Subject to the obligation to build and maintain a passage under the railroad as set forth in a deed from Daniel Wells to the Connecticut River Rail Road Company dated January 24, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 112.
4. Layout No. 3912 by the Commonwealth of Massachusetts, Department of Public Works for the abolition of a grade crossing and the discontinuance of Silver Street dated January 22, 1952 recorded in Franklin County Registry of Deeds in Book 970, Page 55.
5. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
6. Deed from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation to the Commonwealth of Massachusetts regarding the transfer of rights in the Allen Street bridge dated July 1, 1975 recorded in Franklin County Registry of Deeds in Book 1432, Page 192.
7. Subject to and with the benefit of exceptions, covenants and agreements as set forth in a deed from the Boston and Maine Corporation to Brenner Smith dated June 27, 1986 recorded in Franklin County Registry of Deeds in Book 1984, Page 319.
8. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
9. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/39:

1. Subject to rights granted to flood land adjoining to the westerly end of the culvert as set forth in a deed from Connecticut River Railroad Company to Levi J. Gunn, et als dated July 25, 1862 recorded in Franklin County Registry of Deeds in Book 234, Page 176.
2. Layout No. 3912 by the Commonwealth of Massachusetts, Department of Public Works of an easement taken for the relocation of Silver Street dated January 22, 1952 recorded in Franklin County Registry of Deeds in Book 970, Page 55.
3. Layout No. 5126 by the Commonwealth of Massachusetts, Department of Public Works of an easement taken for the layout of Interstate Route 91 dated August 1, 1961 recorded in Franklin County Registry of Deeds in Book 1124, Page 241.

4. Taking of an easement for a common sewer by the Town of Greenfield dated June 8, 1962 recorded in Franklin County Registry of Deeds in Book 1138, Page 457.
5. Taking of a drainage easement by the Commonwealth of Massachusetts, Department of Public Works dated December 18, 1962 recorded in Franklin County Registry of Deeds in Book 1148, Page 444.
6. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
7. Deed from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation to the Commonwealth of Massachusetts regarding the transfer of rights in the Silver Street bridge dated October 21, 1975 recorded in Franklin County Registry of Deeds in Book 1445, Page 222.
8. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
9. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/40:

1. Subject to the obligation to build an underground passage for cattle as set forth in a deed from John Newton to the Connecticut River Rail Road Company dated January 26, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 123.
2. Indenture by and between the Boston and Maine Railroad and New England Power Company for the construction of wires for the transmission of electric current as set forth in a grant dated April 30, 1942 recorded in Franklin County Registry of Deeds in Book 854, Page 296.
3. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
4. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
5. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/41:

1. The benefit of rights in the road passing northerly by the premises as set forth in a deed from Thomas Hillman to the Connecticut River Rail Road Company dated December 15, 1847 recorded in Franklin County Registry of Deeds in Book 147, Page 103.
2. Subject to the obligation to construct a place to cross and to construct a ditch or drain as set forth in a deed from Barnard A. Newell to the Connecticut River Rail Road Company dated January 1, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 169.
3. Subject to the obligation to erect and forever maintain a fence as set forth in a deed from Horatio Leonard to the Connecticut River Rail Road Company dated September 15, 1868 recorded in Franklin County Registry of Deeds in Book 270, Page 149.
4. The benefit of a covenant to build and maintain a fence as set forth in a deed from the Boston and Maine Railroad to Alvah J. Purrington dated September 27, 1949 recorded in Franklin County Registry of Deeds in Book 941, Page 278.
5. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
6. Grant from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation to the Commonwealth of Massachusetts, acting through its Department of Public Works of rights in a bridge over Log Plain Road dated October 21, 1975 recorded in Franklin County Registry of Deeds in Book 1445, Page 222.
7. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
8. Subject to reservations, conditions, covenants and agreements as set forth in a deed from the Boston and Maine Corporation to Steven P. Helgerson, et al dated July 5, 1991 recorded in Franklin County Registry of Deeds in Book 2556, Page 171.
9. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/42:

1. Subject to the obligation to erect and forever maintain a fence as set forth in a deed from Horatio Leonard to the Connecticut River Rail Road Company dated September 15, 1868 recorded in Franklin County Registry of Deeds in Book 270, Page 149.
2. The benefit of a covenant by grantee to build and maintain a fence as set forth in a deed from the Boston and Maine Railroad to Alvah J. Purrington dated September 22, 1949 recorded in Franklin County Registry of Deeds in Book 941, Page 278.
3. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees

of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.

4. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
5. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/43:

1. Subject to the obligation to construct a farm crossing as set forth in a deed from John V. and Dolly Hale to the Connecticut River Rail Road Company dated December 27, 1847 recorded in Franklin County Registry of Deeds in Book 147, Page 109.
2. Subject to the obligation to construct a farm crossing and build a culvert as set forth in a deed from Samuel W. Chapin to the Connecticut River Rail Road Company dated January 29, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 130.
3. Layout No. 7803 by the Commonwealth of Massachusetts through its Department of Public Works for the abolition of a grade crossing at Hale's Crossing and the discontinuance of South Street as set forth in Taking dated March 14, 1939 recorded in Franklin County Registry of Deeds in Book 826, Page 340.
4. The benefit of a covenant by grantee to build and maintain a fence as set forth in a deed from the Boston and Maine Railroad to William E. Kocian, et ux dated April 21, 1953 recorded in Franklin County Registry of Deeds in Book 986, Page 378.
5. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
6. Grant from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation to the Commonwealth of Massachusetts, acting through its Department of Public Works of Hale's Crossing Bridge dated October 21, 1975 recorded in Franklin County Registry of Deeds in Book 1445, Page 226.
7. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
8. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

9. Subject to and with the benefit of reservations, exceptions, agreements and covenants as set forth in a deed from Pan Am Southern LLC to Kringle Candle Company, LLC dated February 10, 2011 recorded in Franklin County Registry of Deeds in Book 5998, Page 165.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/44:

1. Subject to the obligation to construct a farm crossing as set forth in a deed from Samuel I. Green to the Connecticut River Rail Road Company dated December 27, 1847 recorded in Franklin County Registry of Deeds in Book 147, Page 117.
2. Subject to the obligation to construct a farm crossing and build a culvert as set forth in a deed from Samuel W. Chapin to the Connecticut River Rail Road Company dated January 29, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 130.
3. Subject to the obligation to construct a farm crossing and make a cattle culvert as set forth in a deed from Zebina C. Newcomb to the Connecticut River Rail Road Company dated February 4, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 141.
4. Subject to the obligation to have a farm crossing, rights reserved to use the culvert and embankment on the brook, and the condition to use a portion of the premises for depot purposes, all as set forth in a deed from John Sanderson to the Connecticut River Rail Road Company dated March 10, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 161.
5. The benefit of an easement to lay down, construct and maintain an aqueduct as set forth in a grant from Joel N. Dewey to the Connecticut River Railroad Company dated October 1, 1868 recorded in Franklin County Registry of Deeds in Book 270, Page 204.
6. The benefit of an easement to take water from a spring at Fox Brook and aqueduct as set forth in a grant from Aretas Ferry to the Connecticut River Rail Road Company dated October 19, 1868 recorded in Franklin County Registry of Deeds in Book 270, Page 247.
7. The benefit of a right of way as set forth in a deed from Curtis and Samuel W. Chapin to the Connecticut River Railroad Company dated November 7, 1872 recorded in Franklin County Registry of Deeds in Book 302, Page 127.
8. The benefit of a covenant to build and maintain a fence as set forth in a deed from the Boston and Maine Railroad to William E. Kocian, et ux dated April 21, 1953 recorded in Franklin County Registry of Deeds in Book 986, Page 378.
9. Layout No. 4774 for a state highway by the Commonwealth of Massachusetts, Department of Public Works dated January 13, 1959 recorded in Franklin County Registry of Deeds in Book 1083, Page 377.
10. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
11. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300

miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.

12. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/45:

1. Subject to the obligation to make a convenient farm crossing as set forth in a deed from Joseph Aldrich, et al to the Connecticut River Rail Road Company dated January 24, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 124.
2. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
3. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
4. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/46:

1. Subject to the obligation to construct two farm crossings and to erect a cattle culvert as set forth in a deed from Solomon H. Burrows to the Connecticut River Rail Road Company dated January 11, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 140.
2. Layout No. 5556 for a state highway by the Commonwealth of Massachusetts, Department of Public Works for Northfield Road (Route 10) dated January 26, 1966 recorded in Franklin County Registry of Deeds in Book 1192, Page 650.
3. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
4. Subject to and with the benefit of exceptions, covenants and agreements as set forth in a deed from the Boston and Maine Corporation to Agway Realities, Inc. dated September 15, 1983 recorded in Franklin County Registry of Deeds in Book 1763, Page 184.
5. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.

6. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/47:

1. Subject to the obligation to construct a farm crossing as set forth in a deed from Nelson Burrows to the Connecticut River Rail Road Company dated January 11, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 139.
2. Subject to the obligation to construct two farm crossings and erect a cattle culvert as set forth in a deed from Solomon H. Burrows to the Connecticut River Rail Road Company dated January 11, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 140.
3. Subject to the obligation to make a farm crossing and fix water from a spring for watering cattle as set forth in a deed from Fanny Burrows to the Connecticut River Rail Road Company dated February 10, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 149.
4. Subject to the reservation of grantor to build a farm bridge over the track as set forth in a deed from George L. Holton to the Connecticut River Rail Road Company dated July 31, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 174.
5. Subject to the exception of a well as set forth in a deed from Joanna M. Dunnell, et als to the Connecticut River Railroad Company dated June 7, 1887 recorded in Franklin County Registry of Deeds in Book 401, Page 163.
6. The benefit of the right to lay and maintain water pipes for a spring of water as set forth in a grant from Jonathan P. Holton to the Boston and Maine Railroad dated July 29, 1909 recorded in Franklin County Registry of Deeds in Book 550, Page 374 and shown on plan recorded in Franklin County Registry of Deeds in Plan Book 6, Page 40.
7. Taking in fee by the Town of Northfield for the relocation of Mount Hermon Road dated February 6, 1968 recorded in Franklin County Registry of Deeds in Book 1221, Page 235.
8. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
9. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
10. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/48:

1. Subject to the obligation to construct a farm crossing as set forth in a deed from Warren S. Williams to the Connecticut River Rail Road Company dated January 15, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 138.
2. Subject to the obligation to construct underground cattle passages and two farm crossings and also subject to rights reserved by the grantor to lay a pipe through a water culvert for use of an aqueduct as set forth in a deed from Rufus Caldwell to the Connecticut River Rail Road Company dated February 1, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 155.
3. Subject to the obligation to construct a farm crossing as set forth in a deed from Horace Burrows to the Connecticut River Rail Road Company dated January 24, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 167.
4. Subject to and with the benefit of reservations, covenants and agreements as set forth in a deed from Boston and Maine Railroad to Nathan Tufts, et ux dated March 27, 1958 recorded in Franklin County Registry of Deeds in Book 1069, Page 271.
5. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
6. Grant from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation to the Commonwealth of Massachusetts, acting through its Department of Public Works of Bennett Brook Road Bridge dated May 28, 1975 recorded in Franklin County Registry of Deeds in Book 1432, Page 131.
7. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
8. Order of Conditions in DEP File No. 150-294 issued by the Northfield Conservation Commission to the Boston & Maine Railroad dated March 18, 2002 recorded in Franklin County Registry of Deeds in Book 4018, Page 37.
9. Subject to and with the benefit of reservations, covenants and agreements as set forth in a Release Deed from Boston and Maine Corporation to Mitchell Aggregate, LLC dated March 8, 2006 recorded in Franklin County Registry of Deeds in Book 5205, Page 295, as affected by Release Deed (Correcting) dated March 26, 2010 recorded in Franklin County Registry of Deeds in Book 5889, Page 209.
10. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/49:

1. Subject to the obligation to construct a cattle culvert and a farm crossing as set forth in a deed from William Holton to the Connecticut River Rail Road Company dated March 10, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 153.
2. Subject to possible burial ground rights as set forth in a deed from Horace Holton to the Connecticut River Rail Road Company dated February 24, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 154.
3. Subject to the obligation to construct underground passages for cattle and to construct two farm crossings, and subject to the rights reserved by grantor to lay a pipe through the water culvert for use of an aqueduct as set forth in a deed from Rufus Caldwell to the Connecticut River Rail Road Company dated February 1, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 155.
4. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
5. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
6. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/50:

1. Subject to the obligation to construct a farm crossing as set forth in a deed from Earl Wilds to the Connecticut River Rail Road Company dated January 24, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 147.
2. Subject to the obligation to construct a farm crossing and a foot crossing and subject to the rights of the town in the highway south of the premises as set forth in a deed from Job M. Dickinson to the Connecticut River Rail Road Company dated February 10, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 150.
3. Subject to the obligation to construct a farm crossing as set forth in a deed from Asahel Dickinson to the Connecticut River Rail Road Company dated February 10, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 151.
4. Subject to the provision that if the highway (River Road) is discontinued and no farm crossing is allowed therein, then the railroad shall have the obligation to construct a farm crossing as set forth in a deed from Roswell Holton to the Connecticut River Rail Road Company dated March 10, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 152.

5. Subject to the obligation to construct a farm crossing as set forth in a deed from Nathaniel P. Dickinson to the Connecticut River Rail Road Company dated February 10, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 168.
6. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
7. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
8. Subject to reservations as set forth in a deed from Boston and Maine Corporation and the Vermont and Massachusetts Railroad Company to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/51 (STATION 2585+00 to STATION 2607+50.7):

1. Subject to the obligation to make and maintain cattle guards and the rights reserved by the grantor to open a private way over the railroad as set forth in a deed from Elijah E. Belding to the Connecticut River Rail Road Company and Vermont and Massachusetts Rail Road Company dated August 18, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 98, as affected by release from Eliza F. Belding to Boston and Maine Railroad dated July 28, 1909 recorded in Franklin County Registry of Deeds in Book 546, Page 253 and deed from Elijah Belding to Boston and Maine Railroad dated July 28, 1909 recorded in Franklin County Registry of Deeds in Book 550, Page 375.
2. Subject to the obligation to construct a farm crossing as set forth in a deed from Earl Wilds to the Connecticut River Rail Road Company dated January 24, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 147.
3. Subject to the obligation to construct and maintain a farm crossing and to enclose an aqueduct pipe as set forth in a deed from Nathan Priest to the Connecticut River Rail Road Company dated June 1, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 172.
4. Subject to and with the benefit of rights regarding water flowage and rights to lay pipes across grantor's land and subject to the rights reserved by the grantor to enter the main pipe as set forth in a deed from Nathan Priest to the Connecticut River Rail Road Company dated March 14, 1849 recorded in Franklin County Registry of Deeds in Book 147, Page 184.
5. Abolition of grade crossings dated April 28, 1908 recorded in duplicate on April 24, 1991 in Franklin County Registry of Deeds in Book 2522, Page 291 and on April 29, 1992 in Franklin County Registry of Deeds in Book 2639, Page 222.
6. Subject to an easement to use a new road (Northfield Road) as set forth in an Agreement by and between the Boston and Maine Railroad and Elijah Belding dated July 29, 1909 recorded on October 2, 1995 in Franklin County Registry of Deeds in Book 3041, Page 11.

7. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.
8. Grant from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, to the Commonwealth of Massachusetts, acting through its Department of Public Works, of Northfield Road Bridge dated July 1, 1975 recorded in Franklin County Registry of Deeds in Book 1432, Page 184.
9. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
10. Subject to reservations as set forth in a deed from Boston and Maine Corporation and The Vermont and Massachusetts Railroad to Pan Am Southern LLC dated April 9, 2009 recorded in Franklin County Registry of Deeds in Book 5665, Page 1.

BOSTON AND MAINE RAILROAD VALUATION MAP V42.1M/51 (STATION 2607+50.7 to STATION 2613+66.85):

1. The benefit of the right to take water from the mill pond, as much water as may be needed for station and depot purposes, as set forth in a deed from Horace Wood to Erastus Hopkins dated May 31, 1848 recorded in Franklin County Registry of Deeds in Book 143, Page 287 and conveyed by Erastus Hopkins to Chester W. Chapin, Trustee of Connecticut River Railroad Company dated July 8, 1851 recorded in Franklin County Registry of Deeds in Book 147, Page 199.
2. Subject to the obligation to make and maintain cattle guards and the rights reserved by the grantor to open a private way over the railroad as set forth in a deed from Elijah E. Belding to the Connecticut River Rail Road Company and Vermont and Massachusetts Rail Road Company dated August 18, 1848 recorded in Franklin County Registry of Deeds in Book 147, Page 98, as affected by release from Eliza F. Belding to Boston and Maine Railroad dated July 28, 1909 recorded in Franklin County Registry of Deeds in Book 546, Page 253 and deed from Elijah Belding to Boston and Maine Railroad dated July 28, 1909 recorded in Franklin County Registry of Deeds in Book 550, Page 375.
3. Abolition of grade crossings dated April 28, 1908 recorded in duplicate, on April 24, 1991 in Franklin County Registry of Deeds in Book 2522, Page 291 and on April 29, 1992 in Franklin County Registry of Deeds in Book 2639, Page 222.
4. Subject to an easement to use a new road (Northfield Road) as set forth in an Agreement by and between the Boston and Maine Railroad and Elijah Belding dated July 29, 1909 recorded on October 2, 1995 in Franklin County Registry of Deeds in Book 3041, Page 11.
5. Agreement between the Commonwealth of Massachusetts and Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation regarding the transfer of all vehicular bridges dated January 16, 1975 recorded in Franklin County Registry of Deeds in Book 1425, Page 116.

6. Grant from Robert W. Meserve, et al, Trustees of the Boston and Maine Corporation, to the Commonwealth of Massachusetts, acting through its Department of Public Works, of Northfield Road Bridge dated July 1, 1975 recorded in Franklin County Registry of Deeds in Book 1432, Page 184.
7. Right of Way Easement Agreement between MCI Telecommunications Corporation and Boston and Maine Corporation to construct a Telecommunications Transmission System across 300 miles of railroad land dated May 9, 1984 recorded in Franklin County Registry of Deeds in Book 2362, Page 1.
8. Subject to and with the benefit of exceptions, agreements and covenants as set forth in a Release Deed from the Boston and Maine Corporation to Kenneth Nokes, et al, dated February 20, 2003 recorded in Franklin County Registry of Deeds in Book 4214, Page 53.

GENERAL TITLE EXCEPTIONS:

The Property is also conveyed subject to, and, as the case may be, with the benefit of the following:

A. Pan Am Southern LLC ("PAS") acquired an easement for railroad purposes in certain portions of the Property by virtue of the original takings and locations of the railroad as filed with the County Commissioners, and continues to hold an easement interest, only, in certain portions of the Property as a result thereof.

B. PAS acquired easements for railroad purposes in certain portions of the Property by virtue of deeds out of portions of the original railroad line with reservations of easements and by virtue of takings and grants of easements, and continues to hold an easement interest, only, in certain portions of the Property as a result thereof.

C. Title to land located within public or private streets is subject to the rights of all persons lawfully entitled thereto.

EXHIBIT D
Provisions Relating to Transfer of Retained Freight Easement

Subject to this Exhibit D, the entirety of the Retained Freight Easement with respect to all or a portion of the Property shall be assignable, provided, however, that Grantor shall not have the right to split or share the Retained Freight Easement with respect to the Property or any portion thereof. Except as hereinafter set forth with respect to transfers to a Related Party (hereinafter defined), neither Grantor, a Related Party, as hereinafter defined, nor any subsequent holder of the benefit of the Retained Freight Easement (each of Grantor, a Related Party and a subsequent holder being a "**Benefitted Holder**"), shall sell, lease, license or otherwise transfer (each such transaction being a "**Transfer**") the benefit of the Retained Freight Easement, in whole or in part, or any interest therein (any such interest being an "**Easement Interest**") to a third party without the prior written consent of Grantee, which consent shall not be unreasonably withheld or delayed for any transferee meeting the standards set forth on **Exhibit E** (the "**Transferee Standards**"), provided that the Grantee, after reasonable inquiry and reasonable cooperation from the Grantor, a Related Party, or the Benefitted Holder, as applicable, has sufficient information to make such a determination. Notwithstanding the foregoing to the contrary, no Benefitted Holder shall be required to obtain Grantee's consent for a Transfer of an Easement Interest to a Related Party of the Benefitted Holder which is making the Transfer.

Grantor, a Related Party or the Benefitted Holder, as the case may be, shall deliver to Grantee written notice of every proposed Transfer of an Easement Interest not less than sixty (60) days prior to the effective date of the Transfer of the Easement Interest. Within such sixty (60) day period, if the Transfer is not to a Related Party, Grantee shall either (i) consent to such transfer, such consent not to be unreasonably withheld, conditioned or delayed for any proposed transferee meeting the Transferee Standards, provided that the Grantee after reasonable inquiry has sufficient information to make such a determination, or (ii) state in detail the reasons for denial of consent, why Grantee contends that the proposed transferee does not meet the Transferee Standards, or what information Grantee lacks to make such a determination, as the case may be. The preceding notification provision shall apply to each Transfer by Grantor, a Related Party and by each Benefitted Holder; provided, however, that Grantee shall not have any right to approve or withhold approval of a transfer to a Related Party. For the purposes of the this Deed, "**Related Party**" shall mean any person, firm, partnership, corporation or other entity now or hereafter affiliated with, or a Member of, such Benefitted Holder or with which Grantor enters into a merger, reorganization, or sale of all or substantially all of such Benefitted Holder's assets.

EXHIBIT E
Transferee Standards

In accordance with the provisions set forth in Exhibit D of this Deed ("**Exhibit D**"), no Benefitted Holder (as defined in Exhibit D) shall sell, lease, license or otherwise transfer (each such transaction being a "**Transfer**") the benefit of the Retained Freight Easement, in whole or in part, or any interest therein (any such interest being an "**Easement Interest**") to any person other than a Related Party (as defined in Exhibit D) (a "**Transferee**") without the prior written consent of Grantee. Such prior written consent shall not be unreasonably withheld or delayed unless the transferee fails to meet any of the following criteria (collectively, the "**Transferee Standards**"):

1. Freight Rail Operations Experience:

- a. The Transferee has a minimum of two (2) years prior experience conducting freight rail operations in the United States ("**U.S. Freight Operations**"), or is owned or controlled by a company that owns or controls at least one rail carrier that has a minimum of two (2) years prior experience conducting U.S. Freight Operations. Any such company, rail carrier owned by such holding company, and any other entity that owns or controls the Transferee, or is owned or controlled by the Transferee, is referred to herein as an "**Affiliate**" of the Transferee.
- b. Such U.S. Freight Operations have been conducted in a reasonably safe manner as demonstrated through publicly available records and information reported to the Federal Railroad Administration under 49 CFR Part 225.

2. Financial Capacity: The Transferee has the financial capacity required to satisfy the financial obligations described in the then-current trackage rights or operating agreement between the Benefitted Holder and the Grantee and the Massachusetts Bay Transportation Authority ("MBTA").

3. Ability to Secure and Maintain Insurance Coverage: In the event that the Benefitted Holder's interest in the Operating Agreement between the Benefitted Holder and the Grantee or the MBTA is to be assigned to the Transferee, and if such agreement requires the Benefitted Holder to maintain certain insurance coverage, the Transferee has the ability to secure and maintain insurance coverage in the amounts and on the terms required by such agreement.

4. Legal Matters: Neither the Transferee nor any Affiliate, nor any officer, director or department head of the Transferee or any Affiliate within the preceding five (5) years:

- a. has been convicted by a court of competent jurisdiction of any criminal charge of fraud, bribery, collusion, conspiracy, or any act in violation of state or federal antitrust law in connection with the bidding upon, award of, or performance of any contract with any public entity;
- b. has had a judgment entered against it, in a state or federal court, on any civil claim of fraud, bribery, collusion, conspiracy, or any action in violation of state or federal antitrust law in connection with the bidding upon, award of, or performance of any public works contract with any public entity;

- c. has been terminated or debarred on any contract issued by any public entity, including, but not limited to, the Grantee or the MBTA, or otherwise declared ineligible to contract with any public entity and such debarment remains in effect; or
 - d. is at the time of the proposed Transfer in default under or otherwise failing to perform any material obligations contained in any contract or agreement with the Grantee or the MBTA, and the Grantee or the MBTA has noticed the Transferee about such default or material nonperformance and otherwise exercised its contractual rights under such contract or agreement with respect to the same.
 - e. The Transferee may satisfy this Section 4 by certifying compliance in an affidavit.
5. Interchange: The Transferee shall comply with all applicable STB rules and regulations when filing for STB approval or exemption of the transfer of the Retained Freight Easement.

Notwithstanding any provision of this Exhibit E to the contrary, upon the request of the Transferee or the Benefitted Holder, Grantee may, in its sole discretion, waive all or any portion of the Transferee Standards. No such waiver shall be effective unless evidenced by a written instrument executed by a duly authorized representative of Grantee.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35863

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION
– ACQUISITION EXEMPTION –
CERTAIN ASSETS OF PAN AM SOUTHERN LLC

MOTION TO DISMISS

EXHIBIT J

OPERATING AGREEMENT

BETWEEN

NATIONAL RAILROAD PASSENGER CORPORATION

AND

PAN AM SOUTHERN LLC & SPRINGFIELD TERMINAL
RAILWAY COMPANY

DATED: May 1, 2012

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**OPERATING AGREEMENT BETWEEN
NATIONAL RAILROAD PASSENGER CORPORATION
AND
PAN AM SOUTHERN LLC
AND
SPRINGFIELD TERMINAL RAILWAY COMPANY**

THIS OPERATING AGREEMENT (the "Agreement"), dated as of May 1, 2012, is among **National Railroad Passenger Corporation**, a corporation organized under the Rail Passenger Service Act now codified at Title 49 US Code Section 24101 *et seq.* ("the Act"), and the laws of the District of Columbia, having offices at 60 Massachusetts Avenue, N.E., Washington, D.C. 20002 ("Amtrak"), and **Pan Am Southern LLC** and **Springfield Terminal Railway Company** having offices at Iron Horse Park, North Billerica, Massachusetts 01862, (collectively "PAS"), (individually, "a Party", and collectively, "the Parties".)

WHEREAS, Amtrak operates intercity rail passenger service under the Act; and

WHEREAS, PAS owns, controls and operates certain rail lines in Massachusetts; and

WHEREAS, Amtrak desires to operate intercity passenger rail service over the Rail Lines (as defined in Article I below);

NOW THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement, the Parties agree to incorporate the above recitals' into this Agreement by this reference and further contract, promise and agree as follows:

ARTICLE I DEFINITIONS

1. **"Base Timetable Speeds"** means those identified in Appendix I.
2. **"Construction Agreement"** means the agreement, as amended from time to time, between the Massachusetts Bay Transportation Authority and Pan Am Southern LLC to fund and construct certain track and other improvements between Springfield, MA and E.

Northfield, MA ("PAS Improvements"), which relate directly to the proposed reroute of Amtrak intercity rail passenger service in Massachusetts, a copy of which is attached hereto as Appendix VII.

3. "**Emergency**" means any condition that prevents the normal operation of an Amtrak Train over the Rail Lines.
4. "**Flat Rated Item**" means those Incremental Costs that are calculated and paid on a per-train-mile basis and are set forth in Appendix IV, Table 1 attached hereto.
5. "**Incremental Costs**" means all costs that PAS would not incur but for the operations of Amtrak Trains over the Rail Lines.
6. "**Intercity Rail Passenger Service**" means all intercity rail passenger service operated by Amtrak pursuant to the Act.
7. "**Intercity Rail Passenger Trains**" or "Amtrak Trains" means all trains operated by Amtrak.
8. "**MBTA**" means the Massachusetts Bay Transportation Authority.
9. "**Non-Routine**" means something that is not ordinarily required to operate normal Intercity Rail Passenger Service.
10. "**Rail Lines**" means PAS trackage and rights of way between Springfield, MA and East Northfield, MA, whether owned, leased or otherwise used by PAS, together with the facilities and structures thereon, as attached hereto as Appendix III. See also Section 4.1 of this Agreement.
11. "**SOA**" means that certain Maintenance and Service Outcome Agreement for Rail Line Improvements between Springfield, Massachusetts and East Northfield, Massachusetts, dated June 27th, 2011, as entered into by the Massachusetts Department of Transportation, PAS and Amtrak.
12. "**STB**" means the Surface Transportation Board.

ARTICLE II CONSTRUCTION AGREEMENT

In order to permit the timely, safe and reliable operation of Amtrak Trains between Springfield, Massachusetts and East Northfield, Massachusetts, the Rail Lines are expected to be rehabilitated and improved in accordance with the Construction Agreement.

ARTICLE III SERVICES

Section 3.1 Right to Services.

Subject to the Act, PAS shall provide Amtrak with the use of the Rail Lines and associated facilities, and such services (including, but not limited to dispatch services and services identified in Appendix IV) as may be requested by Amtrak for or in connection with the operation of Amtrak Trains over the Rail Lines, including the carrying by those trains of baggage, mail and express, to the extent authorized by the Act.

Upon completion of the PAS Improvements, Amtrak may operate regularly scheduled Amtrak Trains over the Rail Lines. The routes, schedules, and consists of these trains shall be compatible with the physical capabilities of PAS.

Section 3.2 Modification of Services and Emergency Services

A. Modification of the Services. Amtrak shall have the right from time to time to request and, subject to and in accordance with the terms and conditions of this Agreement, PAS shall provide modified or additional services, including but not limited to allowing Amtrak to operate additional frequencies and special trains pursuant to the Act and the terms and conditions of this Agreement, including without limitation Section 3.1 hereof, on the Rail Lines. Such modified or additional services (except emergency services as set forth in subsection 3.2.B below) shall be provided by PAS upon the filing by Amtrak of a request on a date sufficiently in advance of the date upon which any such request is to be implemented to permit adequate joint planning and joint preparation for the modified or additional services provided for in such

request. In the event that Amtrak requests additional or modified services, the Incremental Cost of implementing such additional or modified services shall be borne solely by Amtrak and not by PAS.

The modified services requested shall be subject to the physical and financial capabilities of PAS and shall give due regard to PAS's speed, weight and similar operating restrictions and rules and safety standards and to avoid unreasonably impairing the adequacy, safety, and efficiency of its other railroad operations. In applying the foregoing, recognition shall be given to the importance of fast and convenient Amtrak Train schedules and passenger comfort and convenience to the success of Amtrak's Intercity Rail Passenger Service.

B. Emergency Service. Amtrak shall have the right to request and, subject to and in accordance with the terms and conditions of this Agreement, PAS hereby shall make best efforts to provide emergency services on the Rail Lines or on rail lines of other railroads (if PAS has access to those rail lines and subject to the terms of any applicable PAS agreements with other railroads) required as a result of the Rail Lines used in the operation of Amtrak Trains becoming impassable, unsafe, or impractical due to emergency conditions or short term disruptions, such as rail or bridge replacements, for use by Amtrak Trains; provided, however, that PAS shall not be required to obtain additional access rights to the rail lines of other railroads where: (1) PAS does not presently have rights to access the rail lines of other railroads, or (2) PAS agreements with other railroads do not permit the use of such rights by Amtrak. Amtrak may request the operation of such emergency services orally; however, any such request shall be made as far in advance as possible, and shall be confirmed in writing within twenty-four (24) hours after initial communication to PAS. The services requested shall be compatible with the physical limitations of PAS. PAS also agrees to provide emergency repairs to equipment in Amtrak Trains to the extent that is it reasonably able to do so. PAS agrees to use its best efforts to provide the requested emergency services in an expeditious and efficient manner.

C. Detour Trains. In the event of detours over rail lines of other railroads of Amtrak Trains ordinarily operated over the Rail Lines, PAS shall be reimbursed by Amtrak for all of the Incremental Costs incurred by PAS as a result of such detours.

In the event an Amtrak Train ordinarily operated over the rail lines of other railroads is detoured over the Rail Lines, PAS will (except as may be provided in other provisions of this Agreement) be reimbursed by Amtrak for all of the Incremental Costs incurred by PAS as a result of the detour, which may include, without limitation, the costs of pilots, materials and supplies, track maintenance and other costs as specified in Appendix IV, and repairs to detoured trains. Amtrak shall not be obligated to pay PAS any additional amount for use of the Rail Lines in connection with such detours. PAS shall not bill other railroads for any costs or charges in connection with such detours. Amtrak shall not detour Amtrak Trains or any other trains over the Rail Lines if such detours are not compatible with the physical capabilities of PAS unless such physical capabilities are first improved or expanded at Amtrak's expense.

Section 3.3 Standards of Performance.

A. PAS shall provide and furnish all labor, materials, equipment and facilities necessary to perform the services to be provided under Sections 3.1 and 3.2 (except as the same are provided by or on behalf of Amtrak, subject to the issuance by PAS of a permit to enter to any Amtrak contractor), but shall not, except as upon agreement with Amtrak, be required to purchase, construct, rebuild or replace Rail Lines, locomotives, cars, or rolling stock.

B. PAS shall provide services hereunder in an economic and efficient manner and shall make every reasonable effort;

1. to dispatch Amtrak trains in such a manner as to facilitate the delivery of those trains to all station stops in accordance with the applicable schedules; and
2. to avoid delays to trains and, consistent with safety, to make up delays incurred on the Rail Lines, or on the rail lines of other railroads.

C. PAS shall cooperate in good faith with Amtrak in providing service which will contribute to the success of Amtrak's Intercity Rail Passenger Service.

Section 3.4 Springfield Terminal Railway Company

Amtrak acknowledges that Springfield Terminal Railway Company ("ST") is currently the contract operator on behalf of Pan Am Southern LLC and is therefore a necessary and proper Party to this Agreement.

Section 3.5 No Violation of Labor Agreements.

Neither Party will require the performance of services hereunder by the other, or exercise its rights hereunder in a manner which would cause the other to violate the terms of or incur penalties, unless reimbursed, in connection with any then-current labor agreements between that other Party and any organization representing any of the employees of that other Party. PAS shall provide Amtrak with reasonable notice of any proposed negotiations with labor organizations concerning agreements that may have an impact on the cost or quality of the services provided by PAS hereunder. PAS shall not, without the prior approval of Amtrak, voluntarily enter into any agreements with labor organizations containing provisions affecting employees engaged in providing such services that differ from the provisions applicable to other employees of PAS providing comparable services; provided, however, that Amtrak shall not unreasonably withhold its approval.

Section 3.6 Performance by Other than PAS.

All personnel rendering any services which involve responsibility for PAS's operating facilities or for the handling or movement of any Amtrak Train on the Rail Lines shall be subject to the direction, supervision and control of PAS, and such services performed by or for Amtrak shall be governed by and subject to all then-current operating and safety rules, orders, procedures and standards of PAS with respect thereto.

PAS may, for cause, require that any person performing services pursuant to this Agreement be prohibited or removed from performance of such services, subject to the requirement that PAS shall support any action defending such prohibition or removal and bear any liability growing out of any improper prohibition or removal.

ARTICLE IV RAIL LINES

Section 4.1 Rail Lines.

The Rail Lines shall include PAS's rights of way thereto necessary to operate Amtrak's trains between Springfield, MA (approximately M.P. 0.38) and East Northfield, MA (approximately M.P. 49.65), and all of PAS's rights to use properties of others between such points, together with the roadway structures, signal systems, and other facilities thereof that may be used in connection with the actual operation of Amtrak Trains.

Nothing herein shall prevent PAS from modifying, changing, or relocating any facility or any segment of its tracks, provided that with respect to the Rail Lines, the continuity of the tracks is retained.

In the event that PAS elects to dispose of or seek abandonment or discontinuance authority for any part or all of the Rail Lines, PAS shall first give Amtrak one-hundred eighty (180) days' written notice prior to such disposal or the seeking of such authority.

Section 4.2 Maintenance of Rail Lines.

A. The Rail Lines shall be restored pursuant to the Construction Agreement. Consistent with the terms of Section 3.3(B), PAS shall maintain the Rail Lines at a level of utility ("Level of Utility"), defined as a condition that permits each Amtrak Train to operate:

1. In accordance with the SOA, as amended from time to time; and
2. As the Parties may agree after termination of the SOA, addressing such issues from the SOA as they may then elect; and
3. With a reasonable degree of passenger comfort; and
4. With a reasonable degree of reliability.

B. Materials purchased or refurbished with funds provided pursuant to the Construction Agreement (including but not limited to rails, ties, and signal/communication system materials) shall not be removed from the Rail Lines except where necessary for maintenance, repair, or replacement. Materials installed in replacement during the term of this Agreement shall be of the same or better quality and condition as the materials removed.

C. Amtrak and PAS agree that the Incremental Costs identified in Appendix IV, are distinct from (and do not include any) costs incurred by PAS to maintain the Rail Lines at not less than the Level of Utility set forth in Section 4.2.A, rather than at some lower level of utility.

Section 4.3 Additional Improvements.

Amtrak shall have the right at its sole expense to require PAS to further improve the Rail Lines for the operation of Amtrak Trains, provided that such improvements shall not impair unreasonably PAS's other rail operations. Such improvements shall be mutually agreed upon by PAS and Amtrak and shall not interfere with or otherwise diminish PAS's ability to maintain appropriate railcar clearances so as to reasonably accommodate present or future freight operations. PAS shall make any such improvement as promptly as feasible. Any incremental increase in maintenance costs caused by such improvement shall be paid by Amtrak.

In the event that changes to the operation of the Rail Lines arise due to applicable laws, rules, regulations and or orders that would not be required but for the operation of Amtrak Trains, then Amtrak shall be solely responsible for the Incremental Costs of implementing the necessary changes. By way of example only, if the operation of Amtrak Trains or the Amtrak Intercity Rail Passenger Service gives rise to an additional signal infrastructure requirement, the installation of which is necessitated solely by the operation of Amtrak Trains along the Rail Lines, Amtrak shall bear the full Incremental Cost of such a requirement.

ARTICLE V ACCOUNTS AND PAYMENTS

Section 5.1 Basis of Payment.

As full and complete compensation for the services and activities performed, the Rail Lines and the facilities and equipment made available to Amtrak hereunder, and for PAS's provision of management and corporate resources necessary to enable PAS to provide the services, activities, and facilities specified in an efficient manner, Amtrak will pay PAS amounts set forth or calculated in accordance with this Section for each month in which the service is provided.

A. PAS Services.

With respect to any services hereunder, or with respect to any modified or additional services requested pursuant to Section 3.2.A hereof, Amtrak shall pay the amounts specified in Appendix IV.

B. Performance Payments.

PAS may earn additional payments for schedule adherence in the form of performance payments as set forth in Appendix V.

C. Payment Adjustment.

Payments under Subsection A of this Section 5.1, shall be subject to adjustments as follows:

1. For the purpose of keeping the cost provisions current with PAS's labor, fringe benefit, and material costs, the fixed payments specified in Appendix IV shall be adjusted in accordance with the provisions set forth in that Appendix.
2. The basis or the amounts of payment shall be appropriately adjusted whenever:
 - a. PAS ceases or fails to commence performing any service or

activity where such cessation or failure reduces Incremental Costs;
or

- b. The provision of any service, activity, or facility hereunder, is changed in accordance with this Agreement.
3. Amtrak may notify PAS that it no longer desires PAS to perform or furnish specific services, activities, or facilities for which Amtrak compensates PAS, and PAS shall cease to perform or provide the same on the date requested in Amtrak's notice which must be given at least 30 days in advance of its effective date. Such notice shall include a schedule of the services, activities, or facilities to be terminated, and upon the date requested for termination of performance, Amtrak shall no longer be required to make payment to PAS with respect thereto. Amtrak agrees, however, to reimburse PAS the costs specified in Appendix IV and the cost of removing facilities installed at Amtrak's request that are incurred as a consequence of PAS's orderly termination of such services, activities, or facilities irrespective of the date incurred.
4. If Amtrak and PAS are unable to resolve any dispute regarding the amount of any change in the basis of payment which may be made pursuant to Paragraphs 1 through 3 of this Subsection 5.1.C, either Party may initiate a proceeding before the STB or in the United States District Court for the District of Massachusetts in Boston for an order prescribing the amount or basis of payment consistent with such paragraphs. Such order shall be effective on the date agreed by the Parties or (in the absence of such agreement) upon the date set by the STB or Court. During the pendency of any such proceedings, PAS shall provide the services requested by Amtrak under the terms of this Agreement and Amtrak shall pay PAS the amount due for services provided by PAS pursuant to the terms of this Agreement and not requested to be terminated in accordance with Paragraph 3 of this Subsection 5.1.C, above, or shall for additional services requested, pay the amount proposed by Amtrak or an interim amount set by the STB or Court. The Parties

agree to adjust any interim payments to the final compensation determination as established by the STB or Court.

D. Redetermination of Compensation.

The foregoing shall be the basis of compensation for the services and activities performed and the use of the Rail Lines provided to Amtrak by PAS hereunder until the Parties have reached a new agreement with respect to compensation or until the STB or court has issued an order pursuant to a joint application of the Parties as hereinafter provided in this subsection. At any time after three (3) years from the date that regularly scheduled Amtrak Intercity Rail Passenger Service begins on the Rail Lines, Amtrak or PAS may notify the other that it wishes to negotiate as to a redetermination of the amount or method of computing the amount of payment for any service or activity performed or provided by PAS or the use of the Rail Lines hereunder. In such event, the other Party shall promptly negotiate with respect to such a redetermination.

If, within ninety (90) days after the date of such notice, Amtrak and PAS are unable to agree as to a new basis of compensation, Amtrak and PAS shall, at the request of either, jointly make application to the STB under Section 24308(a) of the Act for an order for the provision of such services or activity performed and such use of the Rail Lines on such terms and for such compensation as the STB by order may fix as just and reasonable. Until a new basis of compensation is established, Amtrak shall continue to make periodic payments to PAS in the manner and amount provided in this Agreement; provided, however, that the Parties agree to adjust any interim payments to the final compensation established by the STB.

Section 5.2 Billing and Payment.

A. Procedures.

Within thirty (30) days after the last day of each calendar month, PAS shall submit a statement of charges to Amtrak calculated for such month in accordance with the provisions of Section 5.1. The statement of charges shall be submitted in the form requested by Amtrak.

Within thirty (30) days after receipt of such statement, Amtrak shall pay PAS the net amount due PAS in accordance with Section 5.1. At PAS's option, Amtrak shall make payment by check or by wire transfer. If payment is made by check, PAS may elect to receive it by mail or have it picked up at Amtrak's controller's office by its authorized agent.

B. Right of Review and Audit.

Any payment by Amtrak or settlement between PAS and Amtrak shall be subject to an audit subject to reasonable notice to PAS.

C. Railroad Records.

PAS shall maintain supporting accounting and related data which, along with supporting documents, shall be available for review and audit at locations where such records are ordinarily kept by PAS. When requested, such records shall include the Amtrak designated train numbers and/or locomotive numbers and/or car numbers, and shall be maintained and accumulated at PAS headquarters. Such records shall be retained not less than sixty (60) months or the period of time required by record retention rules (e.g., 49 CFR 1220), whichever is greater, and shall be available during the regular business hours of the location where the records are retained, subject to reasonable notice from Amtrak to PAS. Specification of such minimum retention period shall not limit Amtrak's or the Office of the Inspector General's right of audit.

D. Billing Adjustments.

In the event either Party believes it has made a payment which exceeds (or has received a payment which is less than) the amount required by this Agreement or a settlement between the Parties of a matter covered by this Agreement, such Party shall formally submit its claim in reasonable detail to the other Party.

Undisputed adjustments shall be paid promptly by the other Party. In the event that a Party disagrees with the proposed adjustment, such Party shall provide a written statement of the theory of its disagreement and the facts supporting that theory in a form which will permit the claiming Party to evaluate the merits of the other Party's position. With respect to any adjustment

which is unresolved more than ninety (90) days after a claim is initially submitted, the amount of any such excess or shortfall eventually determined shall bear monthly compound interest at the Wall Street Journal's prime rate, which is the base rate on corporate loans posted by at least seventy-five percent (75%) of the nation's thirty (30) largest banks, from the date(s) on which the amount of the overpayment or underpayment was originally paid or should have been paid, until the date the appropriate adjustment is made.

E. Trackage Agreements

To the extent possible, PAS shall not bill any other railroad in connection with the operation of Amtrak trains by PAS or such other railroad. In the event that charges payable by or to PAS under existing joint trackage agreements are affected by operation of Amtrak Trains, PAS shall credit to Amtrak the entire amount of increased payments received from another railroad (or reduced payments to another railroad) as a result of Amtrak operations, and Amtrak shall pay to PAS any increase in the amount of payments PAS is required to make to another railroad (or reduced payments to PAS) pursuant to such agreements as a result of Amtrak operations; provided, however, that the amount of any payments for incremental track maintenance payable pursuant to Appendix IV of this Agreement with respect to trackage or facilities also covered by this subsection shall first be offset against any amounts determined to be payable by Amtrak pursuant to this subsection.

ARTICLE VI DISPUTE RESOLUTION

Except as otherwise specified herein, any claim or controversy between Amtrak and PAS concerning the interpretation, application, or implementation of this Agreement shall be resolved by a proceeding instituted by either Party at the United States District Court for the District of Massachusetts in Boston.

ARTICLE VII GENERAL

Section 7.1 [Reserved].

Section 7.2 Risk of Liability.

With respect to risk of damage or liability arising out of or connected with the operation of Amtrak Trains on the Rail Lines:

Amtrak shall defend, indemnify, and save harmless PAS and its officers, directors, agents, and employees, irrespective of any negligence or fault of PAS, for all liability for personal injury, wrongful death, or property damage which would not have been incurred but for the operation of the Amtrak Trains on the Rail Lines and the provision of associated railroad services to Amtrak pursuant to this Agreement. PAS will promptly tender to Amtrak the defense of all claims involving persons and property for which Amtrak has agreed to defend, indemnify, and save harmless PAS. Notwithstanding the preceding provisions of this section, Amtrak shall not be obligated to defend, indemnify, and save harmless PAS for injury, death or damage caused by the gross negligence or willful or wanton misconduct of PAS, its officers, directors, agents, contractors or employees.

In case suit shall at any time be brought against PAS asserting a liability against which Amtrak agrees by notice to PAS to indemnify and hold harmless PAS, Amtrak shall, at its own cost and expense and without any cost or expense whatsoever to PAS, defend such suit, and indemnify and save harmless PAS against all costs and expenses thereof and promptly pay or cause to be paid any final judgment recovered against PAS; provided, however, that PAS shall promptly upon the bringing of any such suit give notice to Amtrak and thereafter provide all such information as may from time to time be reasonably requested. Each Party shall furnish to the other, without charge, all such information relating to claims made for injuries, deaths, losses, damage or destruction of the type covered by this section as such other Party may from time to time reasonably request.

Section 7.3 Information.

Amtrak shall have the right, upon reasonable conditions and notice, to inspect the Rail Lines. PAS shall promptly furnish or make available, when reasonably requested by Amtrak, information, instructions or reports pertaining to the inspection, maintenance and repair of the structures, signals and tracks, and the operation of trains over the tracks, used by Amtrak. During any inspection of the Rail Lines, a representative of PAS may accompany Amtrak and Amtrak shall cause its employees, agents and contractors to comply with all applicable and reasonable safety rules, regulations and practices of PAS.

Section 7.4 Amtrak Operations Officer.

PAS shall appoint an individual of appropriate rank to be its Amtrak Operations Officer and shall so notify Amtrak. Within the PAS organization, the Amtrak Operations Officer shall have the responsibility for ensuring the performance by PAS of its obligations under this Agreement, and shall serve as the single point of contact at PAS with respect to any issues raised or notices given by Amtrak pursuant hereto or Amtrak's operations hereunder.

ARTICLE VIII MISCELLANEOUS

Section 8.1 Force Majeure.

Each Party will be excused from performance from any of its obligations to the other under this Agreement where such non performance is occasioned by any event beyond the non-performing Party's control, which shall include, without limitation, a work stoppage; natural disaster; terrorist act or threatened act of terrorism; or civil disorder, provided, however, that the Party excused hereunder shall use all reasonable efforts to minimize its non-performance and to overcome, remedy, or remove such event in the shortest practical time.

Section 8.2 Successors and Assigns.

Neither Amtrak or PAS shall assign its rights or obligations, in whole or in part, under this Agreement without the prior written consent of the other, such consent not to be unreasonably withheld or delayed; provided, however, that such other may require that the proposed assignee represent in writing that it has the legal authority to, and will, comply with all obligations that are being assigned.

Section 8.3 Interpretation.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof. This Agreement shall be construed in accordance with and governed by the laws of the District of Columbia. All exhibits and appendices attached hereto are integral parts of this Agreement and the provisions set forth in the appendices shall bind the Parties hereto to the same extent as if such provisions had been set forth in their entirety in the main body of this Agreement. Nothing expressed or implied herein shall give or be construed to give to any person, firm or corporation other than Amtrak or PAS any legal or equitable right, remedy or claim under or in respect of this Agreement. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an order of the STB or a court or instrument in writing signed by Amtrak and PAS, unless a provision hereof expressly permits either of said Parties to effect termination, amendment, supplementation, waiver or modification hereunder, in which event such action shall be taken in accordance with the terms of such provision.

Section 8.4 Severability

If any part of this Agreement is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality, or enforceability of any other part of this Agreement, and the remaining parts of this Agreement shall be enforced as if such invalid, illegal, or unenforceable part were not contained herein.

Section 8.5 Notices.

Any request, demand, authorization, direction, notice, consent, waiver, or other document provided for or permitted by this Agreement to be made upon, given or furnished to, or filed with one Party by the other Party, shall be in writing, effective upon receipt, and shall be delivered by deposit in the mails of the United States or by overnight courier, prepaid, if to Amtrak, in an envelope addressed as follows:

NATIONAL RAILROAD PASSENGER CORPORATION
30th Street Station, 4 North, Box 20.
Philadelphia, PA 19104

Attention: Sr. Director, Host Railroads

And if to PAS, in an envelope addressed to the attention of PAS's Amtrak Operations Officer, as follows:

PAN AM SOUTHERN LLC and
SPRINGFIELD TERMINAL RAILWAY COMPANY
Iron Horse Park
North Billerica, MA 01862

Attention: Amtrak Operations Officer
c/o Vice President – Transportation

Each Party may change the address at which it shall receive notification hereunder by notifying the other of such change.

Section 8.6 Term.

This Agreement shall become effective upon the initiation of regularly scheduled Amtrak trains on the Rail Lines. Unless the STB or a court issues an order that modifies or extinguishes this Agreement, or unless Amtrak and PAS agree otherwise, this Agreement shall remain in effect during the term of the SOA. Thereafter, this Agreement shall remain in effect until it is terminated by Amtrak or PAS upon at least 12 months prior notice

Section 8.7 Equal Employment Opportunity

Amtrak and PAS shall both comply with applicable laws or regulations pertaining to hiring and employment.

Section 8.8 Rights and Remedies

A. Each Party's rights and remedies hereunder shall be cumulative, in addition to, and not a limitation of, any duties, obligations, rights and/or remedies provided at law, in equity, or otherwise.

B. A Party's failure to exercise any of its rights under this Agreement shall not constitute a waiver of any past, present or future right or remedy. No action or failure to act by a Party shall constitute approval of, waiver of, or acquiescence to, a breach by the other Party unless specifically agreed in writing. Waiver by a Party of any breach by the other Party shall not constitute a waiver of any other breach of the same or any other provision of this Agreement. Acceptance of any services, or payment therefor, shall not operate as a waiver of any breach.

C. Nothing in this Agreement is intended to derogate any right, duty, or obligation of Amtrak's Office of Inspector General under the Inspector General Act of 1978, as amended.

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IN WITNESS WHEREOF, Amtrak and PAS have caused this Agreement to be duly executed by their respective representatives thereunto duly authorized.

NATIONAL RAILROAD PASSENGER CORPORATION

By: DJ Stebbins for JNS
President

SPRINGFIELD TERMINAL RAILWAY COMPANY

By: David G. Fink
President

PAN AM SOUTHERN LLC

By: David G. Fink
President

APPENDIX I MAXIMUM PASSENGER TRAIN SPEEDS

The Parties agree that upon completion of the PAS Improvements, copies of the appropriate Employee Timetable pages reflecting the PAS Improvements shall promptly be inserted into this **Appendix I**, and that such pages shall show maximum authorized passenger train speeds on the Rail Lines.

APPENDIX II AMTRAK PASSENGER TRAIN SCHEDULES

The Amtrak Intercity Rail Passenger Train schedules shall be as published in Amtrak's Public timetables. In the event that Amtrak desires to amend such schedules, Amtrak and PAS shall confer regarding any such schedule change, including, without limitation, train meets that might result from such schedule change, the capacity required to avoid any delays in trip time as a result of such schedule change, and the capacity required to not impair unreasonably PAS freight rail operations.

APPENDIX III RAIL LINES

INITIAL DRAFT TO BE PROVIDED BY PAS

APPENDIX IV COST DETAIL

Section I. Current Cost Summary

The Current Cost Summary provided as Table 1 to this Appendix IV lists in summary form the authorized cost elements which comprise the monthly charges to Amtrak from PAS under this Agreement.

- Column 1 lists the reference to the item in Appendix IV, Section III, where the provision governing the cost element is found.
- Column 2 describes the item (as described herein).
- Column 3 shows the latest Amendment Agreement Change number which affects the cost item.
- Column 4 shows the current cost, or indicates that an item is to be compensated on an actual basis.
- Column 5 shows the unit of measure for Flat Rated Items.
- Column 6 shows the method (from Table 2) to be used to adjust individual cost items in order to keep the cost provisions at current price levels.

This Appendix IV shall constitute the authority for PAS to bill the amounts shown in Table 1, under Column 4 as of the date of the latest revision of this Appendix IV.

APPENDIX IV (Cont'd)

Table 1

Note: There are 49.27 PAS train miles between Springfield, MA and East Northfield, MA.

(1) <u>Item No.</u>	(2) <u>Description</u>	(3) <u>Agreement Change No.</u>	(4) <u>Current Amount</u>	(5) <u>Unit of Cost</u>	(6) <u>Price Level Adj. Method</u>
1	Incremental Operating Maintenance	<u>Original</u>	Actual up to Annual Maximum	Hourly	Table 2
2	Transportation of Materials and Supplies	<u>Original</u>	Actual	Actual	N/A
3	Other Light Density Line Expense	<u>Original</u>	\$ 10,339.00	Per Month	Table 2
4	Authorization Notices	<u>Original</u>	Actual	Actual	N/A

Note: Above rates as of date of this Agreement.

Section II. Price Level Adjustment Method

Table 2 of this **Appendix IV** defines the method for adjusting all cost items that are identified in Table 1.

Table 2	
Price Level Adjustment Method	
Base Level AAR Quarterly Index of Charge-out Prices and Wage rates (Table C) East – Material prices, wage rates and supplements combined (excluding fuel). Beginning on January 1, 2013, and effective on January 1 of each year thereafter, based on the relationship of the most recent Third Quarter index (beginning with the Third Quarter 2012) to the Third Quarter 2011 index value.	<u>3rd Quarter 2011</u> 460.7

Section III. Cost Description Detail.

The following describes in further detail the cost items listed in Appendix IV, Table I.

Item 1. Incremental Operating Maintenance:

Operating maintenance costs on the Rail Lines shall be paid by PAS in accordance with the SOA until the annual PAS Maintenance Payment (as defined in the SOA) is fully expended. Thereafter, as payment for the Incremental Cost of maintaining the Rail Lines of PAS in connection with the operation of Amtrak Trains, Amtrak shall pay PAS the amount as identified in Appendix IV, Table 1 as follows.

A. Incremental Equipment Costs

Amtrak shall pay PAS actual equipment costs for the following equipment, computed by multiplying the following hourly rates by the hours the listed equipment is actually used on the Rail Lines, up to the indicated annual maximum amounts¹ as follows:

Equipment Description	Hourly Rate	Annual Maximum
Ballast Regulator/Snow Fighter	\$ 155.15	\$ 62,060
Hy-Rail Pick-up	\$ 15.69	\$ 22,311
Utility Body Pick-up	\$ 11.68	\$ 20,520

In addition, Amtrak shall pay PAS \$1458.00 per month for all other equipment costs incurred by PAS for incremental operating maintenance on the Knowledge Corridor.

¹ Such annual maximum amounts shall be calculated based on an Amtrak fiscal year calendar (October 1 – September 30) or prorated for any portion of the initial year and the final year of this Agreement, if necessary. Annual maximum amounts may be adjusted for additional Amtrak Train frequencies.

B. Incremental Labor Costs

Amtrak shall pay PAS actual labor and overhead costs for incremental operating maintenance on the Knowledge Corridor, computed by multiplying the following hourly rates by the hours the listed employees are actually providing services on the Rail Lines, up to the indicated annual maximum amount² as follows:

Labor Class	Hourly Rate	Annual Maximum
1. MOW Foreman	\$44.58	
2. CLD A Operator	\$40.71	
3. Trackman	\$37.69	
4. Signal Maintainer	\$41.71	
Total All Labor		\$ 165,095

Item 2. Transportation of Material and Supplies:

Amtrak shall pay PAS's actual costs of inspection, transporting, parts, supplies and materials for repair, inspection and maintenance of Amtrak equipment.

Item 3. Other Light Density Line Expenses:

Light density line expenses on the Rail Lines shall be paid by PAS in accordance with the SOA until the annual PAS Maintenance Payment (as defined in the SOA) is fully expended. Thereafter, Amtrak shall pay PAS the amount as identified in **Appendix IV**, Table 1 for light density rail line costs and any other costs not otherwise provided for herein associated with the operation of Amtrak Trains on Rail Lines. This payment shall not preclude payment for Non-Routine services covered in Item 4, Authorization Notice, below. Further, the foregoing

² Such annual maximum amounts shall be calculated based on an Amtrak fiscal year calendar (October 1 – September 30) or prorated for any portion of the initial year and the final year of this Agreement, if necessary. Annual maximum amounts may be adjusted for additional Amtrak Train frequencies.

payment shall not preclude Amtrak from continuing its practice of operating a geometry car and conducting Federal Railroad Administration testing at no charge.

Item 4. Authorization Notice:

If Non-Routine services, which are not otherwise covered by this Agreement, are rendered for Amtrak by PAS, with prior approval by Amtrak, Amtrak shall pay PAS the Incremental Costs incurred by PAS in performing such services in accordance with the Authorization Notice procedures set forth in **Appendix VI**.

APPENDIX V PERFORMANCE PAYMENTS AND PENALTIES

A. Incentive or Penalties

1. Amtrak shall pay PAS performance payments or assess PAS performance penalties for operation of the Amtrak trains listed in Exhibit 1 of this **Appendix V** based upon the number of minutes of PAS Delays (as defined below) that such trains incur. The data contained in Amtrak's OTP Monitor Report System (MRS) shall be used as the official data source for all information required for measuring performance under this **Appendix V** and shall, unless otherwise agreed, be considered the definitive delay data for billing and payment purposes. The data in the MRS are derived from daily input by Amtrak employees using information from the Amtrak Conductor Delay Report. After a train completes its operation on PAS Rail Lines, PAS and Amtrak shall (1) identify and correct any errors found in the MRS and (2) calculate monthly payments as described in Section D of this Appendix V. The Parties shall work jointly to resolve any problems that may exist concerning the clarity or accuracy of all data.

2. **PAS Delays.** PAS Delays are defined as all delays reported for the following Delay Codes in MRS between the Origin and Destination points on PAS specified in Exhibit 1 of this Appendix V:

DCS - Signal Delays (false wayside detector actuations, defective road-crossing warning devices, restrictive wayside or cab signals from unknown cause or from signal, power-switch or CTC/ATS-system failure; operational tests of the crew; drawbridge failure to close properly). DCS includes Signal Delays at Initial Terminals.

DMW - Maintenance of Way ("MW") Work (holding for defect repair or MW forces to clear; inability to contact MW Foreman on radio; routed around MW work).

DSR - Temporary Speed Restrictions (slow orders, slow through MW site).

FTI - Freight Train Interference (meets / overtakes, restrictive signals caused by freight trains, holds due to freight train derailments, non-scheduled stops to pick up or drop off freight train crews).

CTI - Commuter Train Interference (meets / overtakes, restrictive signals caused by commuter trains).

PTI - Passenger Train Interference (meets / overtakes, restrictive signals caused by other Amtrak trains).

RTE - Routing (crossover moves, lining manual or spring switches, routed via siding, late track bulletins, inability to contact dispatcher, dispatcher-holds, routed to non-scheduled track at stations).

- a. All of the above Delay Codes include delays at initial terminals located on PAS.
- b. Delays reported for Delay Codes not specified above may also be defined as PAS Delays if they are the result of PAS's failure to remedy an Amtrak identified practice or condition within sixty (60) days of notification from Amtrak.
- c. When an Amtrak train is delayed from entering PAS (at the PAS Origin) for reasons described above, those delays shall be coded as, and considered PAS Delays, for the purposes of this **Appendix V** even if the Amtrak train is not at that time physically located between the PAS Origin and PAS Destination. When an Amtrak train is delayed from leaving PAS (at the PAS Destination) for reasons described above, those delays shall not be coded as, or considered PAS Delays, for purposes of this **Appendix V** even if the Amtrak train is at that time physically located between the PAS Origin and PAS Destination.
- d. If the definitions for the above listed Delay Codes are changed in Amtrak's delay reporting procedures, PAS and Amtrak shall confer and determine if an amendment to the above definitions is required. The above definitions shall not be amended for purposes of this **Appendix V** unless mutually agreed to by PAS and Amtrak in writing.

3. Calculation

- a. The Origin and Destination on PAS and the Delay Threshold for each train are specified in Exhibit 1 of this Appendix V. Except as provided below with respect to major maintenance and construction projects, the Delay Thresholds in Exhibit 1 shall be changed only by executing an amendment to this Agreement.
- b. If PAS Delay minutes are less than the Delay Threshold for a trip of a train, Amtrak shall pay PAS the Incentive Rate Per Minute specified in Exhibit 1 of this **Appendix V** for each minute the PAS Delay minutes are less than the Delay Threshold.
- c. If PAS Delay minutes are greater than the Delay Threshold for a trip of a train, PAS shall pay Amtrak the Penalty Rate Per Minute specified in Exhibit 1 of this **Appendix V** for each minute the PAS Delay minutes are more than the Delay Threshold.
- d. The maximum penalty payment per trip (including detoured, annulled and terminated trains due to PAS causes) shall be the product of the Penalty Rate Per Minute times the Maximum Penalty Minutes specified in Exhibit 1.
- e. The maximum incentive payment per trip shall be the product of the Incentive Rate Per Minute times the Maximum Incentive Minutes specified in Exhibit 1.
- f. In order to facilitate advance planning for major maintenance and construction projects, the Parties may from time to time agree in writing to temporarily increase the Delay Threshold and Maximum Penalty Minutes specified in Exhibit 1 of this **Appendix V** (to account for any operating delays expected for major maintenance and construction projects), along with a reduction in the Incentive Rate per Minute and/or increase in the Penalty Rate per Minute.

4. Detoured, Annulled and Terminated Trains.

- a. If a scheduled train is detoured, annulled, rescheduled, or does not complete its trip due to reasons included in the Delay Codes specified in Section 1 above or otherwise attributable to PAS, PAS shall pay Amtrak the amount calculated by multiplying the Penalty Rate Per Minute times the Maximum Penalty Minutes specified in Exhibit 1 of this **Appendix V** for that train for the first calendar day a train is detoured, annulled or does not complete its trip due to the same reason.
- b. After the first calendar day, if a train is detoured, annulled, rescheduled or not able to complete its trip due to the same incident, neither party shall make a payment for that trip of that train pursuant to this **Appendix V**.
- c. Section 4.a. shall not apply to trains detoured, annulled, rescheduled, or not able to complete their trip due to PAS maintenance of way work. In such cases, Section 4.d below shall apply.
- d. Unless otherwise agreed in advance by the Parties, if PAS maintenance of way work results in an Amtrak train being detoured, annulled, rescheduled, or not completing a complete trip, PAS shall pay Amtrak the amount calculated by multiplying the Penalty Rate Per Minute times the Maximum Penalty Minutes specified in Table 1 of this **Appendix V** for each trip of each train that is detoured, annulled, rescheduled, or does not complete a complete trip due to PAS maintenance of way work.

B. Remittance

1. For each calendar month, Amtrak shall calculate the amount of performance payments or performance penalties derived pursuant to this **Appendix V**.

- a. If the amount calculated is a performance payment, Amtrak shall pay it to PAS in accordance with Section 5.2 of this Agreement.
- b. If the amount calculated is a performance penalty, Amtrak shall subtract the performance penalty from any other amounts payable to PAS under this Agreement, until the total is paid; provided however, that the performance penalty in a month shall not exceed performance payments made in the previous 12 months by Amtrak to PAS which were not previously offset by penalties as reflected by the Maximum Penalty Payable described in Item 2 of this Section B.

2. Calculation of the Maximum Penalty Payable (MPP) in a Month

- a. Until the MPP is equal to the current month's calculated performance penalty, the MPP is calculated as follows:
 - (1) Add the net performance incentives paid by Amtrak to NSR in 12th month previous¹.
 - (2) In turn, do the same as described in (1) for the 11th through 1st month previous¹.
 - b. After completing all the steps described in (1) and (2) above, if the MPP is still less than the current month's calculated performance penalty, that lesser amount shall be the MPP³.
3. Amounts not used in the above calculation.

- a. Penalties not offset in the month in which they are incurred are not carried forward.
- b. Performance payments that have already been offset by penalties in prior months.

³ If the total performance incentives would make the MPP exceed the current month's calculated performance penalty, include only the amount for the month that will make the MPP equal to the current month's performance penalty.

c. Performance payments earned more than 12 months previous.

Example 1: January 2011's performance penalty calculated pursuant to Appendix V.1-3 equals \$10,247.			Example 2: January 2010's performance penalty calculated pursuant to Appendix V.1-3 equals \$11,577.		
The MPP is calculated as follows:			The MPP is calculated as follows:		
Month Previous	Monthly Incentive Paid	Addition to MPP	Month Previous	Monthly Incentive Paid	Addition to MPP
12 th (Jan 10)	*	\$0	12 th (Jan 09)	\$2,000	\$2,000
11 th (Feb 10)	*	\$0	11 th (Feb 09)	\$3,000	\$3,000
10 th (Mar 10)	*	\$0	10 th (Mar 09)	\$5,000	\$5,000
9 th (Apr 10)	*	\$0	9 th (Apr 09)	\$1,000	\$1,000
8 th (May 10)	*	\$0	8 th (May 09)	\$500	\$500
7 th (Jun 10)	*	\$0	7 th (Jun 09)**	\$5,000	\$77
6 th (Jul 10)	*	\$0	6 th (Jul 09)	\$4,000	\$0
5 th (Aug 10)	\$2,000	\$2,000	5 th (Aug 09)	\$3,500	\$0
4 th (Sep 10)	\$1,000	\$1,000	4 th (Sep 09)	\$4,250	\$0
3 rd (Oct 10)	\$3,000	\$3,000	3 rd (Oct 09)	\$3,000	\$0
2 nd (Nov 10)	\$2,000	\$2,000	2 nd (Nov 09)	\$250	\$0
1 st (Dec 10)	*	\$0	1 st (Dec 09)	\$2,555	\$0
MMP for the Current Month =		\$8,000	MMP for the Current Month =		\$11,577

* Months with Penalties, Incentives that were previously offset by penalties in prior months, or no Incentives or Penalties.

** The remainder of \$4,923 (\$5000-\$77) may be used to calculate future MPPs once during the following twelve months.

C. Price Level Adjustments

Beginning on January 1, 2013, and effective on January 1 of each year thereafter, all rates contained in this **Appendix V** shall be increased or decreased in accordance with Exhibit 1 B. of this Appendix.

E. Performance Reporting

Any incentive earnings, penalties incurred, performance metrics, and data adjustments made pursuant to **Appendix V** shall be strictly for the purposes described in Appendix V, and shall not relieve PAS or Amtrak from any other obligations under this Agreement or under any Federal or State laws, and shall not affect Amtrak's reporting of train performance or delay data to Federal agencies or for any other purpose unless explicitly agreed by the parties.

F. Administrative Process

1. Daily Process

- a. Amtrak conductors shall complete Conductor Delay Reports ("CDR") to account for all delay minutes encountered during operation of each Amtrak train on PAS, and shall communicate CDR information to central Amtrak locations for input into Amtrak's MRS computer systems. CDR data in MRS shall be available to PAS personnel via Amtrak's Intranet.
- b. Authorized representatives from Amtrak and PAS's Operations Officer and staff shall have read-only access to Amtrak's Intranet and shall review MRS delay data for completeness and accuracy. Such representatives shall notify each other of any suspected incompleteness or inaccuracy that would affect payment pursuant to this Appendix V. Amtrak and PAS authorized representatives shall reach agreement on any such corrections to MRS delay data within five (5) calendar days after the origin date of the train. Amtrak shall be responsible for implementing the agreed-upon corrections in its MRS computer system within six (6) calendar days after the origin

date of the train. In the event that the parties fail to reach agreement on any corrections, or if agreed-upon corrections cannot be made within six (6) calendar days after the origin date of the train, either party can propose such changes during the Annual Process outlined in Section 3.a. below.

2. Monthly Process

- a. After the conclusion of each month, Amtrak shall apply the provisions of this **Appendix V** to the MRS delay data and any other agreed-upon delays to calculate an incentive or penalty payment for each train for the month. Amtrak shall send to PAS a statement detailing the incentive and penalty calculations.
- b. Payments shall be made to, or penalties collected from, PAS in the manner specified in Section B of this **Appendix V**.

3. Annual Process

- a. Notwithstanding the provisions of Section F. 1. b. above, Amtrak and PAS shall have one final opportunity to review and make corrections to monthly payments generated by this **Appendix V**. Reviews shall be performed on each calendar year's payments. Amtrak and PAS may notify each other, within thirty (30) calendar days following the end of the calendar year, of any suspected incompleteness or inaccuracy in the calculation of incentives or penalties under this Agreement. Amtrak and PAS shall work to reach agreement on any resulting corrections within sixty (60) calendar days following the end of each calendar year.
- b. If Amtrak and PAS are unable to agree on a specific fact related to operations and payment during the sixty (60) day review period, the fact in dispute and the documented basis for the dispute shall be specifically identified in writing by one party to the other. The specific matter shall be resolved in accordance with provisions of Section 5.2 of this Agreement.

- c. Except for disputes identified in writing pursuant to Section F.3.b of this **Appendix V**, sixty (60) calendar days following the end of each calendar year, both parties shall be deemed to be in agreement with all payments made pursuant to this **Appendix V** for that calendar year, and neither party shall be entitled to adjust or make a claim concerning such payments.

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Exhibit 1

A. Incentive and Penalty Payments

Train	PAS Origin	PAS Destination	Delay Threshold Minutes	Incentive Rate Per Minute	Penalty Rate Per Minute	Maximum Penalty Minutes	Per Am Route Miles
55	E. Northfield, MA	Springfield, MA	5	\$ 24.00	\$ 24.00	18	49.0
56	Springfield, MA	E. Northfield, MA	5	\$ 24.00	\$ 24.00	18	49.0

B. Base Level AAR Quarterly Index for Inflation Adjustments

<p>Base Level AAR Quarterly Index of Charge-out Prices and Wage rates (Table C) East – Material prices, wage rates and supplements combined (excluding fuel). Beginning on January 1, 2013, and effective on January 1 of each year thereafter, based on the relationship of the most recent Third Quarter index (beginning with the Third Quarter 2012) to the Third Quarter 2011 index value.</p>	<p><u>3rd Quarter 2011</u></p> <p>460.7</p>
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APPENDIX VI

Amtrak Authorization Notice (AN) Procedure

(Revised May 26, 2003)

I. Responsible Entities.

- A. Division*
- B. Engineering*
- C. Consolidated National Operations Center (CNOC)
- D. Contract Management

*Individual Division/Engineering departments may require dual approval

II. Purpose.

The Authorization Notice Number (AN) serves a dual purpose of authorizing a railroad to perform work or provide services and provides a number to capture costs and bill Amtrak. The AN is issued to a railroad as Amtrak's approval to proceed with the work or services. The work or services are either not specifically covered by the Operating Agreement, or are covered by the Operating Agreement but require special identification and/or approval. Unless specifically exempted, all AN's are issued subject to the audit and payment provisions of the Operating Agreement.

III. General.

Each responsible entity shall be responsible for the complete administration of the AN program for their responsibility areas. Prior to issuing a number to a railroad, it should be determined if the work can be done less expensively or with better quality by Amtrak or an outside vendor. Prior to using an outside vendor, make sure it is permitted by the railroad labor agreements.

IV. Issuance & Transmission to the Railroad.

AN's may be issued verbally by CNOC for all emergency situations. Verbal AN's up to \$5,000 may be issued by Division, Engineering and Contract Management. When the AN exceeds \$5,000, it must be in writing. Written AN's must be signed by an Amtrak Official authorized to approve the expenditures. If there is any question as to Amtrak's obligation to pay for the services or if it might already be covered in the operating agreement, call Contract Management for clarification. It is the responsibility of each entity to prepare the AN document (attached) and to obtain the required signatures.

In order to streamline the AN process transmission to the Railroad may be either via mail,

FAX or e-mail transmission with attached document for AN.

V. Records.

Each entity will maintain a log listing the AN number, issue date, description, authorized amount, work completed date payment date, payment amount, and other appropriate information as may be deemed necessary. Each entity will forward a copy their log to Contract Management on a monthly basis.

VI. Bill Approval.

Railroad will bill AN's to Amtrak through the monthly operating statement and attach a copy of all written AN's over \$5000. Contract Management will ensure that the written AN projects have been completed by verifying with the monthly logs sent to Contract Management.

Amounts billed to written AN's must be within the estimated issued total as shown on the AN. Excess billings may be withheld from payment until a supplemental AN is issued. Verbally issued AN's may be billed and will be paid, subject to audit, if billed in accordance with established agreement provisions and methodology.

VII. Budgeting.

Contract Management shall be responsible for preparing the AN budget and obtaining approval.

Budgets for CAR projects, Passenger Service work, and/or state or local government agency's projects are not part of the AN budget process.

VIII. Numbering System.

An AN number consists of four parts. XX-XXX-XXXX-XXX

1. Part 1 consists of a two-letter railroad code as follows:

Railroad Name	Code
Boston & Maine, Pan Am Southern, or Springfield Terminal	BM
Burlington Northern Santa Fe	BN
Canadian National	CN
CN-Grand Trunk Western	GT
CN-Illinois Central	IC

Railroad Name	Code
CP-Soo Line	SO
CP-Delaware & Hudson	DH
Metro-North (Hudson Line)	MH
Metro-North (New Haven Line)	MN
Minnesota Commercial Railway	MC
New England Central Railroad	NE
Norfolk Southern	NS
North County Transit District	NC
Southern California Regional Rail Authority	SC
Union Pacific	UP
Terminal Railroad Name	Code
Denver Union Terminal	DU
Kansas City Terminal	KC
Los Angeles Union Passenger Terminal	LA
Portland Terminal (Oregon)	PT
Terminal Railroad Association of St. Louis	TR

2. Part 2 consists of a 3 character alpha numeric code. The first character identifies the fiscal year (10=FY10, 11=FY11, etc.). The second character identifies the issuing entity as follows:

Issuing Entity	Code
Division	D
Engineering	E
CNOC	T
Contract Management	C

3. Part 3 consists of four digit number. Numbers should be issued in sequence beginning with 0001 in each entity at the beginning of each Fiscal Year.
4. Part 4 consists of an alpha numeric code that further identifies an AN.

Code	Description
S1	First supplement to AN previously issued.
S2	Second supplement to AN previously issued.
C	AN issued in conjunction with CAR for a capital item.
X	Special handling (partly or wholly reimbursable by outside funding). It is the responsibility of each entity to make sure billing and payments are received.
F	Facility Repairs and Maintenance
L	Locomotive Rental
M	Mechanical Repairs
F	Fueling
S	Servicing
W	Switching
R	Crews

5. Other codes can be established by each entity to further identify and track specific areas of interest.

IX. Responsibility.

CNOC initiates and controls mechanical/transportation AN's for Special switching; detours and reroutes; emergency use of locomotives and cars; use of private cars; extra sections; special movements, including special trains and private car moves; clearing of wrecks; extra crew; emergency passenger busing and taxi service; emergency fueling; freight moves; and other transportation services necessary for the operation of passenger train service, car and locomotive damage repairs, and special car and locomotive maintenance.

Each Division shall initiate and control AN's in their territory uniquely associated with their territory.

Engineering shall initiate and control AN's for Facility Repairs and Maintenance to station buildings and ancillary facilities owned by the freight railroad; e.g., (a) painting interior and exterior, (b) general plumbing and electrical repairs; (c) watering and fueling facilities, (d)

electrical standby; and (e) filling holes and cracks in platforms, yards, and shops. (f) capital projects (CAR supported services) and special handling (partly or wholly reimbursable by outside funding) and capital work (supported by a CAR) or special handling (reimbursed by outside third parties), (g) station or facility modification, (h) replacement of roofs, heating and air conditioning units, (i) platform and track replacement (j) handicap accessible projects.

Contract Management initiates and controls AN's applicable to work or services not covered by any other entity.

APPENDIX VII

CONSTRUCTION AGREEMENT

PAS to PROVIDE