

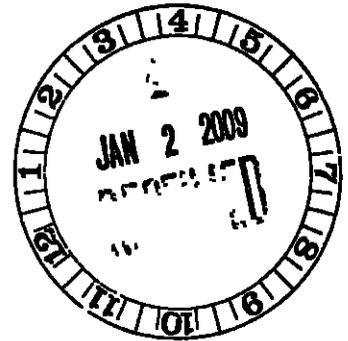
January 2, 2009

Hand-Delivered

Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

224284

Janie C. I. Sheng
202 778 9855
Fax 202 778 9100
janie.sheng@klgates.com



**Re: Docket No. AB-290 (Sub-No. 210X)
Norfolk Southern Railway Company – Abandonment –
In Atlanta, Fulton County, Georgia**

Dear Secretary Quinlan:

Enclosed for filing in the above-captioned proceedings are an original and ten copies of the Petition For Stay filed pursuant to 49 C.F.R. § 1152.50(d)(3) requesting that the Board (i) stay the Notice of Exemption, and (ii) deny Norfolk Southern Railway Company's request for waiver from the Offers of Financial Assistance and public use conditions. A check in the amount of \$200.00, representing the appropriate filing fee, is also enclosed.

Please acknowledge receipt of this filing by file-stamping the attached copy of this letter and returning it to our courier. Should any questions arise regarding this filing, please feel free to contact me.

Respectfully submitted,

Janie Sheng
Attorney for Georgia Department of
Transportation

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB-290 (SUB-NO. 210X)

NORFOLK SOUTHERN RAILWAY COMPANY
- ABANDONMENT -
IN ATLANTA, FULTON COUNTY, GEORGIA

**PETITION FOR STAY
BY GEORGIA DEPARTMENT OF TRANSPORTATION**

ENTERED
Office of Proceedings

JAN - 2 2009

Part of
Public Record

Kevin M. Sheys
Janie Sheng
K&L Gates LLP
1601 K Street, NW
Washington, DC 20006
(202) 778-9000

**ATTORNEYS FOR
GEORGIA DEPARTMENT OF
TRANSPORTATION**

Dated: January 2, 2009

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-290 (SUB-NO. 210X)

NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT –
IN ATLANTA, FULTON COUNTY, GEORGIA

**PETITION FOR STAY
BY GEORGIA DEPARTMENT OF TRANSPORTATION**

Pursuant to 49 C.F.R. § 1152.50(d)(3) and in accordance with the notice served by the Surface Transportation Board (the “Board”) on December 23, 2008, Georgia Department of Transportation (“GDOT”) hereby petitions the Board for a stay of the abandonment exemption in the above-captioned matter and requests that the Board deny the Norfolk Southern Railway Company’s (“NSR”) request for waiver from the Offers of Financial Assistance (“OFA”) and public use conditions, and submits the following information in support thereof.

BACKGROUND

Norfolk Southern Railway Company (“NSR”) has filed a notice of exemption to abandon its operations over a 4.30 mile line of railroad located in Atlanta, Fulton County, Georgia (the “Subject Line”).¹ As stated in the Notice of Exemption, NSR conveyed the underlying property of the Subject Line to a local developer in 2004, who subsequently conveyed the property to NE Corridor Partners, LLC (“NE Corridor”).²

¹ *Norfolk Southern Ry. Co. – Abandonment – In Atlanta, Fulton County, Georgia*, STB Docket No. AB-290 (Sub-No. 210X) (Dec. 3, 2008) (“Notice of Exemption”).

² *Id.* at 4.

NSR has retained a freight rail operating easement over the Subject Line.³ Neither the local developer nor NE Corridor filed for Board authority when it acquired the right-of-way. The local developer acquired the right to require NSR to seek abandonment authority at any time over the Subject Line as part of the conveyance.⁴ Based on information and belief, NE Corridor acquired from the local developer the same right to require NSR to seek abandonment at any time and is using that right to require NSR now to seek Board authority to abandon the Subject Line.

According to NSR, NE Corridor intends to develop the property as part of the Atlanta BeltLine project. The project will “combine transit, green space, trails and new development along 22 miles of historic rail segments that encircle the urban core of Atlanta.”⁵ NSR states that the Board's abandonment authority will permit the development of the BeltLine project. GDOT is interested in developing the Subject Line for passenger rail service in the Atlanta area. GDOT also has plans for development of a new downtown multimodal terminal to include AMTRAK service.

SUMMARY OF ARGUMENT

The Board has exclusive jurisdiction over the acquisition of a rail line by a non-carrier where common carrier rights and obligations are being transferred. Although Board precedent establishes an exception to allow buyers who leave the freight carrier with control over freight operations to acquire railroad rights-of-way without Board

³ *Id.*

⁴ A copy of the deed for the conveyance of the subject property to the local developer is attached hereto as **Exhibit A**. GDOT understands that the same right to require NSR to seek abandonment was deeded to NE Corridor from the local developer.

⁵ *Id.*

approval, the Board requires that such transactions be submitted in advance for a jurisdictional determination. By acquiring the right to require NSR to abandon the Subject Line at any time, NE Corridor failed to leave NSR with the requisite control over its freight operations. Additionally, NE Corridor failed to file the transaction with the Board to seek a jurisdictional determination in advance of closing. For these reasons, GDOT seeks to stay the abandonment exemption.

ARGUMENT

I. The Conveyance To NE Corridor Partners Required Board Authorization

Under 49 U.S.C. § 10901, the Board has exclusive jurisdiction over the acquisition of a railroad line by a non-carrier (including public entities), where common carrier rights and obligations also are being transferred. *Common Carrier Status of States, State Agencies*, 363 I.C.C. 132, 133 (1980), *aff'd sub nom. Simmons v. ICC*, 697 F.2d 326 (D.C. Cir. 1982). Non-carriers require the Board's approval under Section 10901 to acquire or operate a rail line in interstate commerce.⁶ Whether a particular transaction is an acquisition of a railroad line subject to Board jurisdiction depends on the specific facts of each case.

*State of Maine*⁷ is the seminal case establishing that a buyer may work out an arrangement with a freight railroad to acquire rail property without itself becoming a rail carrier under 49 U.S.C. § 10102(5), but must leave the freight carrier with control over freight operations and seek an advance jurisdictional determination. The Interstate

⁶ See *Southern Pac. Transp. Co. – Abandonment Exemption – Los Angeles County, CA*, 8 I.C.C.2d 495 (May 6, 1992) (“*Southern Pacific*”).

⁷ *Maine, DOT – Acquisition and Operation Exemption – Maine Central Railroad Co.*, 8 I.C.C.2d 835 (May 20, 1991).

Commerce Commission (or "ICC," predecessor agency to the Board) in *State of Maine* held that the Maine Department of Transportation's acquisition of the physical assets of a rail line owned by a common carrier did not require approval under Section 10901 because the existing carrier retained a permanent and unconditional easement to conduct common carrier freight operations. However, the ICC emphasized that similar transactions should be submitted in advance for its review.

*We caution that any similar transactions should likewise be submitted to us in advance, together with a copy of the agreement between the railroad and the entity acquiring its right-of-way, for a jurisdictional determination. Because of the significant possibility that this sort of transaction could affect the carrier's ability to meet its common carrier obligations, unless there are adequate protections built into the transaction, we intend to examine these transactions closely and will make a determination based on the facts and circumstances of each case.*⁸

Following *State of Maine*, the ICC in *Southern Pacific* found that the acquisition by the Los Angeles County Transportation Commission ("LACTC") of the physical assets of several rail lines from Southern Pacific required ICC approval under Section 10901 because pursuant to the terms of the acquisition, LACTC obtained too much control over the freight carrier's ability to provide freight rail service. Specifically, the operating agreement gave LACTC, among other things, the unqualified right to file an abandonment application to have freight rail service over the lines discontinued, and it prohibited Southern Pacific from opposing any such acquisition or abandonment request before the ICC.⁹

⁸ *State of Maine* at 838 (emphasis added).

⁹ See *Southern Pacific*, 8 I.C.C.2d at 507-08.

A. As A Result of the Acquisition, NE Corridor Partners Became A Rail Carrier

The transaction conveying the underlying property to NE Corridor (as well as the transaction from NSR to the local developer) was subject to the Board's jurisdiction under 49 U.S.C. § 10901. The deed conveying the right-of-way makes clear that NSR did not retain a permanent and unconditional freight rail operating easement as required by *State of Maine*. The pertinent language in the deed requiring NSR to pursue abandonment of the Subject Line appears below:

At the request of Grantees, Grantor shall, at no cost to Grantor, file and diligently pursue all appropriate petitions and other documents with the United States Surface Transportation Board and any other agency having jurisdiction for approval or exemption to abandon or discontinue railroad service over the above-described easement areas, except the easement area over Parcel 1.

This language gives NE Corridor the *unfettered right* to require NSR to apply for authority to abandon the line at any time. This is similar to the language found in *Southern Pacific* that the ICC deemed gave LACTC too much control over the freight carrier.

II. Petition For Stay And Request For Relief

The standards governing disposition of a petition for stay are: (1) whether petitioner is likely to prevail on the merits; (2) whether petitioner will be irreparably harmed in the absence of a stay; (3) whether issuance of a stay would substantially harm other parties; and (4) whether issuance of a stay would be in the public interest.¹⁰

¹⁰ See, e.g., *Illinois Central R. Co. – Construction and Operation Exemption – In East Baton Rouge Parish, LA*, STB Fin. Docket No. 33877 (served Feb. 20, 2002)(citing *Virginia Petroleum Jobbers Assoc. V. FPC*, 259 F.2d 921 (D.C. Cir. 1958); *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977)). The party seeking the stay carries the burden of persuasion on all the elements required for a stay. *Id.*

As further discussed below, GDOT meets the requisite stay standards, and the Board should stay the Notice of Exemption.

A. GDOT Is Likely To Prevail On The Merits

Both the local developer and NE Corridor should have sought authority from the Board when they acquired it several years ago. They failed to do so, contravening Section 10901. Board precedent is clear that transactions such as the conveyance from NSR to NE Corridor require a jurisdictional determination from the Board. The Board should stay the abandonment exemption at least until such time it can properly review the deed and Sales Agreement (and other transaction agreements) to determine the status of NE Corridor.¹¹

B. GDOT Will Suffer Irreparable Harm

Without the benefit of a stay on the effectiveness of the abandonment exemption, the abandonment most likely will be consummated on January 22, 2009. GDOT's plan for passenger rail service for the Atlanta area requires access to the Subject Line. Without a stay, GDOT would be deprived of the opportunity to negotiate with NSR and NE Corridor for access to the Subject Line. Had NE Corridor and NSR properly followed *State of Maine* and other Board precedent, GDOT would have had the opportunity to negotiate for access under the public use condition or submit an Offer of Financial Assistance ("OFA") during the review period of that transaction.

¹¹ GDOT has requested a copy of the Sales Agreement (and any other agreements pertaining to the conveyance) in order to determine what other provisions might be relevant, but as of the time of this filing, has not received it.

C. A Stay Will Not Harm Substantially Harm Other Parties

No parties will be harmed by the issuance of a stay in this case. A stay will merely maintain the *status quo* pending Board review of the previous transactions conveying the right-of-way to NE Corridor. Neither NSR nor NE Corridor expressed any urgency with respect to the timing of the effectiveness of the abandonment. Moreover, GDOT's understanding is that the BeltLine project proposed by NE Corridor is still in its nascent stages and a stay will not adversely impact its plans.

D. Issuance Of A Stay Is Consistent With The Public Interest

Staying the Notice of Exemption pending the Board's review of the transactions conveying the right-of-way to NE Corridor clearly is in the public interest of upholding federal transportation law and policy. Moreover, GDOT seeks an opportunity to negotiate with NSR and NE Corridor in an attempt to develop passenger rail service in the Atlanta area, a service designed to benefit the public, and GDOT would work to ensure compatibility with NE Corridor's plans. Furthermore, AMTRAK is interested in working with GDOT, NSR and NE Corridor to use the right-of-way to bring intercity passenger service into Atlanta's proposed Downtown Multimodal Center.

E. NSR's Request For Waiver From The OFA And Public Use Conditions Should Be Denied

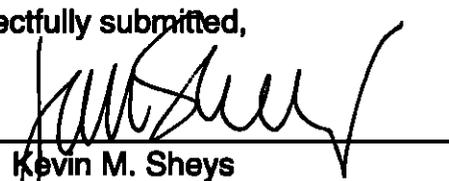
Simultaneously with its Notice of Exemption, NSR filed a Petition For Exemption from the conditions governing OFAs and public use in the same docket. GDOT respectfully requests that these waiver requests be denied. Given the significant jurisdictional issue surrounding the conveyance of the right-of-way to NE Corridor discussed above, NSR should not be awarded by a waiver from OFA and public use conditions.

CONCLUSION

For the reasons set forth above, GDOT exceeds the standards for a Board-ordered stay, and respectfully requests that the requested relief be granted.

Respectfully submitted,

By: _____



Kevin M. Sheys
Janie Sheng
K&L Gates LLP
1601 K Street, NW
Washington, D.C. 20006
(202) 778-9000

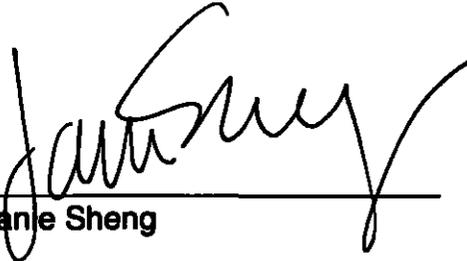
**ATTORNEYS FOR
GEORGIA DEPARTMENT OF
TRANSPORTATION**

Dated: January 2, 2009

CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2009, I caused the foregoing **Georgia Department of Transportation's Petition For Stay** to be served via first class mail, postage prepaid, or by a more expeditious method of delivery on the following:

James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510



Janie Sheng

Exhibit A

STATE OF GEORGIA

COUNTY OF FULTON

THIS DEED, made this 30th day of DECEMBER, 2004, between **NORFOLK SOUTHERN RAILWAY COMPANY**, a Virginia corporation, successor to the Georgia Air Line Railway Company, the Atlanta and Richmond Air Line Railway Company, Richmond and Danville Railroad Company, the Atlanta and Charlotte Air Line Railway Company and Southern Railway Company, Grantor, party of the first part; and **ANSLEY NORTH BELTLINE, LLC**, a Georgia limited liability company, **ANSLEY SOUTH BELTLINE, LLC**, a Georgia limited liability company, **PIEDMONT BELTLINE, LLC**, a Georgia limited liability company, **NORTH AVENUE BELTLINE, LLC**, a Georgia limited liability company, **CORRIDOR BELTLINE, LLC**, a Georgia limited liability company, and **CORRIDOR EDGEWOOD, LLC**, a Georgia limited liability company, Grantees, parties of the second part:

W I T N E S S E T H:

THAT the said Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does, subject to the reservations as hereinafter set forth, grant, bargain, sell and convey unto Ansley North Beltline, LLC, all right,

title and interest of Grantor in and to Parcel 1 as described on Exhibit A, attached hereto and made a part hereof, and, subject to the reservations as hereinafter set forth, does grant, bargain, sell and convey unto Ansley South Beltline, LLC, all right, title and interest of Grantor in and to Parcel 2 as described on Exhibit A, and, subject to the reservations as hereinafter set forth, does grant, bargain, sell and convey unto Piedmont Beltline, LLC, all right, title and interest of Grantor in and to Parcel 3 as described on Exhibit A, and subject to the reservations as hereinafter set forth, does grant, bargain, sell and convey unto North Avenue Beltline, LLC, all right, title and interest of Grantor in and to Parcel 5 as described on Exhibit A, and, subject to the reservations as hereinafter set forth, does grant, bargain, sell and convey unto Corridor Beltline, LLC, all right, title and interest of Grantor in and to Parcel 4 and Parcel 6 as described on Exhibit A, and, subject to the reservation as hereinafter set forth, does grant, bargain, sell and convey unto Corridor Edgewood, LLC, all right, title and interest of Grantor in and to Parcel 7 as described on Exhibit A. Except as set forth above, each Grantee shall have no interest in any parcel of property described on Exhibit A except that parcel of property specifically conveyed to that Grantee.

GRANTOR RESERVES unto itself and to its successors and assigns all railroad tracks and railroad facilities including, but not limited to, the railroad tracks, roadbed, ballast, culverts, bridges, tunnels, communications and signal facilities, fixtures and all other railroad appurtenances located on the property described on Exhibit A and within the easement property described in Exhibit B, TOGETHER WITH, subject to the conditions set forth on Exhibit B, an easement or right of way for all passenger and freight railroad purposes over, upon and across the property as described on Exhibit B, attached hereto and made a part hereof.

GRANTOR FURTHER RESERVES unto itself and its successors and assigns an easement or right of way ten (10) feet wide, being five (5) feet wide on each side of all existing fiber optic communications occupations existing on the property described on Exhibit A as of the date of this deed together with all rents received by Grantor, or its successors and assigns, for the use of this reserved easement or right of way by third parties. Grantor shall cooperate with Grantees, their successors and assigns, if Grantees determine that any portion of the fiber optic cables or conduits require relocation.

The foregoing conveyance is made **SUBJECT** to all easements, conditions, reservations, leases, licenses and restrictions as may appear of record or be apparent by an inspection or survey of the property described on Exhibit A and affect the property as of October 5, 2004 (the "Permitted Title Exceptions"). However, the Permitted Title Exceptions shall only be deemed permitted exceptions to the extent the same are currently valid, subsisting, and applicable to the property described on Exhibit A. By acceptance of this deed with the above list of Permitted Title Exceptions, Grantee shall not be deemed to have waived, modified or otherwise released any coverages, remedies or recourse available to Grantee under any current or future policy or policies of title insurance, nor shall Grantee be deemed to have acknowledged that such exceptions are currently valid, subsisting and applicable to the property conveyed hereby; but Grantee shall have no recourse whatsoever to Grantor relative to the Permitted Title Exceptions.

AND the said Grantor for itself, its successors and assigns, will, except as hereinabove provided, warrant and forever defend the right and title to the property described on Exhibit A unto the said Grantees, their successors and assigns, against all persons lawfully claiming, or to claim the same by, through or under Grantor, but not otherwise.

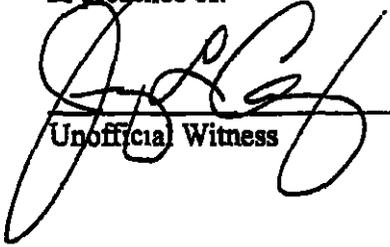
IN WITNESS WHEREOF, NORFOLK SOUTHERN RAILWAY COMPANY has caused these presents to be executed, and its seal to be hereunto affixed and attested by its officers, thereunto duly authorized, the day and year first above written.

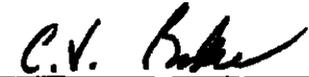
Signed, sealed and delivered

NORFOLK SOUTHERN RAILWAY
COMPANY

In presence of:

By


Unofficial Witness


Assistant Vice President - Real Estate

L. S. ATTEST:


Notary Public


Assistant Corporate Secretary

NOTARY PUBLIC, FAYETTE COUNTY, GEORGIA
MY COMMISSION EXPIRES JULY 18, 2006

My commission expires:

This instrument prepared by:
Jerry L. Causey
Attorney at Law
Norfolk Southern Corporation
1200 Peachtree Street, NE
Atlanta, Georgia 30309

EXHIBIT A

Parcel 1
Norfolk Southern Railway Company to
Ansley North Beltline, LLC

All rights, title and interest of Grantor in a parcel of land being a portion of that line of railroad known as the Decatur Street Beltline comprised of land and right of way lying and being in Land Lots 56 and 57 in the 17th District of Fulton County, Georgia and being more particularly described as follows:

Said parcel of land beginning at a point on the original centerline of said Beltline at Railway Valuation Station 5056+20, more or less, said point also being 100 feet as measured radially and at right angles from the said centerline of Beltline to the point of intersection of the westerly right of way line of said Beltline and the southerly right of way line of the "Y" track connecting the said Beltline to the main line right of way of Grantor running between Atlanta, Georgia, and Washington, D.C., said point being a distance of 230 feet, more or less, as measured in a southerly direction along the said centerline of Beltline from a 2.5'x 2.5' stone box culvert located at Railway Valuation Station 5053+90, more or less;

Thence, along the original centerline of said Beltline in a general southeasterly direction with a strip of land 200 feet wide, being 100 feet in width on each side of the original centerline of said Beltline for a distance of 3,247.5 feet, more or less, to the point of terminus of said strip of land, said point being the centerline of Clear Creek located at Railway Valuation Station 5088+67.5, more or less, and containing 14.91 acres, more or less.

Said parcel of property being substantially as shown on Railway Valuation Maps V-12a/1 and V-12a/2, copies of which are attached hereto and made a part hereof and on file in the Office of the Archives of Grantor.

Said property being a portion of that property described in Deed Book N, page 377 in the Office of the Clerk of Superior Court of Fulton County which lies south of the beginning point of the above-described property at Railway Valuation Station 5056+20 and being a portion of that property described in Deed Book S, page 381 in said Clerk's Office which lies north of the centerline of Clear Creek.

Parcel 2
Norfolk Southern Railway Company to
Ansley South Beltline, LLC

All rights, title and interest of Grantor in a parcel of land being a portion of that line of railroad known as the Decatur Street Beltline comprised of land and right of way lying and being in Land Lots 55 and 56 in the 17th District of Fulton County, Georgia and being more particularly described as follows:

Said parcel of land beginning at a point on the original centerline of said Beltline at Railway Valuation Station 5088+67.5, more or less, said point of beginning also being the centerline of Clear Creek and the point of terminus of Parcel 1;

Thence, along the said original centerline in a general southeasterly direction with a strip of land being 200 feet wide, being 100 feet in width on each side of the said centerline for a distance of 858.5 feet, more or less, to a point, said point being the common line between Land Lots 55 and 56 located at Railway Valuation Station 5097+26, more or less;

Thence, continuing along the said original centerline in a general southeasterly direction with a strip of land being 132 feet wide, being 66 feet in width on each side of said centerline a distance of 420 feet, more or less, to the point of terminus, said point being the north line of Piedmont Avenue (Road) located at Railway Valuation Station 5101+46, more or less, and containing 5.21 acres, more or less, and being substantially as shown on Railway Valuation Map V-12a/2, a copy of which is attached hereto and made a part hereof and on file in the Office of the Archives of Grantor.

Said parcel being that portion of the property described in Deed Book S, page 381 in the Office of the Clerk of Superior Court of Fulton County lying south of the centerline of Clear Creek and that portion of the property described in a deed from J. J. Thrasher, et al. Georgia Air Line Railway Company dated September 25, 1866 and recorded in Deed Book ____, page ____ in said Clerk's Office which lies north of the north line of Piedmont Avenue (Road).

Parcel 3
Norfolk Southern Railway Company to
Piedmont Beltline, LLC

All rights, title and interest of Grantor in a parcel of land being a portion of that line of railroad known as the Decatur Street Beltline comprised of land and right of way lying and being in Land Lots 54 and 55 in the 17th District of Fulton County, Georgia and being more particularly described as follows:

Said parcel of land beginning at a point on the original centerline of said Beltline at Railway Valuation Station 5101+46, said point being the north line of Piedmont Avenue (Road) and also being the point of terminus of Parcel 2;

Thence, along the said centerline in a general southeasterly direction with a strip of land being 132 feet wide, being 66 feet in width on each side of said centerline for a distance of 709 feet, more or less, to a point, said point being the centerline of Clear Creek located at Railway Valuation Station 5108+55, more or less;

Thence, continuing along said centerline in a general southeasterly direction with a strip of land being 200 feet wide, being 100 feet in width on each side of the said centerline for a distance of 4,257 feet, more or less, to the point of terminus, said point being the west line of Monroe Drive located at Railway Valuation Station 5151+12, more or less, and containing 21.69 acres, more or less, and being substantially as shown on Railway Valuation Maps V-12a/2 and V-12a/3, copies of which are attached hereto and made a part hereof and on file in the Office of the Archives of Grantor.

Said parcel of land being the portion of that property described in a deed from J. J. Thrasher to Georgia Air Line Railway Company dated September 25, 1866 and recorded in Deed Book ____, page ____ in the Office of the Clerk of Superior Court of Fulton County which lies south of the north line of Piedmont Avenue (Road), all of that property described in Deed Book M, page 760 in said Clerk's Office and the portion of that property described in Deed Book M, page 761 and Deed Book 565, page 2 which lies north of the north line of Monroe Drive.

Parcel 4
Norfolk Southern Railway Company to
Corridor Beltline, LLC

All rights, title and interest of Grantor in a parcel of land being a portion of that line of railroad known as the Decatur Street Beltline comprised of land and right of way lying and being in Land Lot 53 and 54 of the 17th District and Land Lot 17 of the 14th District of Fulton County, Georgia and being more particularly described as follows:

Said parcel of land beginning at a point on the original centerline of said Beltline at Railway Valuation Station 5151+12, more or less, said point of beginning being the west line of Monroe Drive and also being the point of terminus of Parcel 3;

Thence, along said centerline in a general southeasterly direction with a strip of land being 200 feet wide, being 100 feet in width on each side of said centerline for a distance of 1,166 feet, more or less, to a point, said point being the common line between Land Lots 17 and 53 located at Railway Valuation Station 5162+78, more or less;

Thence, along said centerline in a general southeasterly direction with a strip of land being 100 feet wide, being 50 feet in width on each side of said centerline for a distance of 3,164.9 feet, more or less, to the point of terminus of said strip of land, said point being the common line between Land Lots 17 and 18 located at Railway Valuation Station 5194+42.9, more or less.

Said parcel of land being a portion of that property described in Deed Book M, page 761 and Deed Book 565, page 2 which lies southeast of the northwest line of Monroe Drive, all of that property described in Deed Book M, page 758, Deed Book I, page 176 and Deed Book M, page 757 in the Office of the Clerk of Superior Court of Fulton County

Also a strip of land lying on the east side of and adjoining the above-described parcel of land beginning at the south line of Roy Street and ending at the north line of Greenwood Avenue as shown as parcel 5 on Railway Valuation Map V-12a/3.

LESS AND EXCEPT the westerly 50 feet wide strip of land lying between the southerly line of Monroe Drive and the common line between Land Lots 53 and 17 located at Railway Valuation Station 5162+78.

Said property being shown on Railway Valuation Maps V-12a/3 and V-12a/4, copies of which are attached hereto and made a part hereof and on file in the Office of the Archives of Grantor.

Parcel 5
Norfolk Southern Railway Company to
North Avenue Beltline, LLC

All rights, title and interest of Grantor in a parcel of land being a portion of that line of railroad known as the Decatur Street Beltline comprised of land and right of way lying and being in Land Lot 18 in the 14th District of Fulton County, Georgia and being more particularly described as follows:

Said parcel of land beginning at a point on the original centerline of said Beltline at Railway Valuation Station 5194+42.9, said point of beginning being the common line between Land Lots 17 and 18 and also being the point of terminus of Parcel 4;

Thence, along said centerline in a general southeasterly direction with a strip of land being 200 feet wide, being 100 feet in width on each side of said centerline for a distance of 1602.8 feet, more or less, to a point being at or near the north line of Ralph McGill Boulevard (Forrest Avenue) located at Railway Valuation Station 5210+45.7, more or less:

Thence, continuing along said centerline in a general southerly direction with a strip of land 140 feet wide, being 70 feet in width on each side of said centerline for a distance of 1,070.3 feet, more or less, to a point at Railway Valuation Station 5221+16 and being the point of terminus of said strip of land and being substantially as shown on Railway Valuation Map V-12a/4, a copy of which is attached hereto and made a part hereof and on file in the Office of the Archives of Grantor.

Said parcel of land being all of that property described in Deed Book N, page 382, and a portion of that property described in Deed Book N, page 383 and Deed Book S, page 379 in the Office of the Clerk of Superior Court of Fulton County and as acquired by Georgia Air Line Railway Company pursuant to condemnation proceedings against M. E. Dorsey, Executor.

Parcel 6
Norfolk Southern Railway Company to
Corridor Beltline, LLC

All rights, title and interest of Grantor in a parcel of land being a portion of that line of railroad known as the Decatur Street Beltline composed of land and right of way lying and being in Land Lots 18 and 19 of the 14th District of Fulton County, Georgia and being more particularly described as follows:

Said parcel of land beginning at a point on the original centerline of said Beltline at Railroad Valuation Station 5221+16, more or less, said point being 1070.3 feet, more or less, south of the north line of Ralph McGill Boulevard (Forrest Avenue) as measured along said centerline and also being the point of terminus of Parcel 5;

Thence, along said centerline in a general southwesterly direction with a strip of land 140 feet wide, being 70 feet in width on each side of said centerline a for distance of 644 feet, more or less, to a point, said point being the common line between Land Lots 18 and 19 located at Railway Valuation Station 5227+60;

Thence, continuing along said centerline in a general southwesterly direction with a strip of land being 68 feet wide, being 34 feet in width on each side of said centerline for a distance of 806.7 feet, more or less, to a point, said point being the north line of Highland Avenue located at Railroad Valuation Station 5235+66.7, more or less;

Thence, continuing along said centerline in a general southwesterly direction with a strip of land being 68 feet wide, being 34 feet in width on each side of said centerline for a distance of 1,738.3 feet, more or less, to a point, said point being the north line of Irwin Street or Lake Avenue located at Railroad Valuation Station 5253+05, more or less;

Thence, continuing along said centerline in a general southwesterly direction with a strip of land being 68 feet wide, being 34 feet in width on each side said centerline for a distance of 840 feet, more or less, to the point of terminus of said strip of land, said point being 350 feet north of the north line of Edgewood Avenue located at Railroad Valuation Station 5261+45, more or less.

Said parcel of land being apportion of that property described in Deed Book N, page 383, Deed Book S, page 379, Deed Book N, page 380, Deed Book S, page 378, Deed Book 140, page 381, and a potion of that property described in Deed Book N, page 378 in the Office of the Clerk of Superior Court of Fulton County.

Also, that parcel of land labeled as parcel 5 on Railroad Valuation Map V-12a/5 adjoining and lying east of the above described strip of land and being a part of the property conveyed to the Atlanta and Richmond Air Line Railroad Company by deed dated July 6, 1870 and recorded in Deed Book S, Page 378, in said Clerk's Office.

Also, that parcel of land labeled as parcel 10 on Railroad Valuation Map 12a/5 adjoining and lying on both sides of the above described strip of land and being a part of the property conveyed to the Atlanta and Richmond Air Line Railroad Company by deed dated July 6, 1870 and recorded in Deed Book S, Page 378, in said Clerk's Office.

Also, that parcel of land labeled as parcel 9 on Railroad Valuation Map 12a /5 adjoining and lying east of the above described strip of land and being a part of the property conveyed to Southern Railway Company by deed dated May 22, 1899 and recorded in Deed Book 140, Page 381, in said Clerk's Office.

LESS AND EXCEPT the following parcels of land:

- 1. The parcel of land shown as parcel 6a on Railroad Valuation Map V-12a/4 and parcel 1a on Railroad Valuation Map V-12a/5 and being conveyed by the Atlanta and Charlotte Air Line Railway Company to Grinnell Corp. by deed dated February 18, 1949;**
- 2. The parcel of land shown as parcel 10a on Railroad Valuation Map V-12a/5 and being conveyed by the Atlanta and Charlotte Air Line Railway Company and Southern Railway Company to William Cromer by deed dated May 14, 1980;**
- 3. The parcel of land shown as parcel 9a on Railroad Valuation Map V-12a/5 and being conveyed by Southern Railway Company to Montag Brothers by deed dated August 13, 1946;**
- 4. The parcels of land shown as parcel 5a, parcel 5b and parcel 7a on Railroad Valuation Map V-12a/5 as condemned by the City of Atlanta, Georgia.**
- 5. The parcel of land shown as parcel 5c on Railroad Valuation Map V-12a/5 and being conveyed by Norfolk Southern Railway Company to Berman Development, LLC by deed dated April 24, 1998.**

Said parcel of property being substantially as shown on Railway Valuation Maps V-12a/3, V-12a/4 and V-12a/5 copies of which are attached hereto and made a part hereof and on file in the Office of the Archives of Grantor.

Parcel 7
Norfolk Southern Railway Company to
Corridor Edgewood, LLC

All rights, title and interest of Grantor in a parcel of land being a portion of that line of railroad known as the Decatur Street Beltline comprised of land and right of way lying and being in Land Lot 20 in the 14th District of Fulton County, Georgia, and being more particularly described as follows:

Said parcel of land beginning at a point on the original centerline of said Beltline, said point being at Railway Valuation Station 5261+45, and being 350 feet, more or less north of the north line of Edgewood Avenue as measured along said centerline;

Thence, along said centerline in a general southwesterly direction with a strip of land being 68 feet wide, being 34 feet wide on each side of said centerline for a distance of 410 feet to a point on the south line of Edgewood Avenue located at Railway Valuation Station 5265+55, more or less;

Thence, along said centerline in a general southwesterly direction with a strip of land being 70 feet wide, being 35 feet in width on each side of said centerline for a distance of 390 feet, more or less, to a point on the northeast line of Airline Street at Railway Valuation Station 5269+45, more or less;

Thence, along said centerline in a general southwesterly direction with a strip of land 40 feet in wide, being 17 feet wide on the north side of said centerline and 23 feet wide on the south side of said centerline for a distance of 260 feet, more or less, to the point of terminus, said point being the north line of Decatur Street (DeKalb Avenue), located at Railway Valuation Station 5272+05, more or less, and being substantially as shown on Railway Valuation Map V-12a/5, a copy of which is attached hereto and made a part hereof and on file in the Office of the Archives of Grantor.

Said parcel of land being a portion of that property described in Deed Book M, page 756, Deed Book N, page 141, Deed Book N, page 381 and Deed Book N page 138 and all of that property described in Deed Book N, page 376 in the Office of the Clerk of Superior Court of Fulton County.

Also, that parcel of land labeled parcel 20 on Railroad Valuation Map 12a/5 adjoining and lying east of the above described strip of land conveyed to the Atlanta and Charlotte Air Line Railway Company by deed dated March 14, 1878, and recorded in Deed Book DD, Page 593 in said Clerk's Office.

Less and except the following parcel of land:

That parcel of property conveyed by Norfolk Southern Railway Company to Atlanta Metal, Inc. by deed dated October 1, 1998, and shown as parcel 23a on said Railway Valuation Map V-12a/5.

EXHIBIT B
Reserved Railroad Easement

AN EASEMENT OR RIGHT OF WAY for all passenger and freight railroad purposes over, upon and across a parcel of land being a portion of that line of railroad known as the Decatur Street Beltline lying and being in Land Lots 57, 56, 55, and 54 of the 17th District, Land Lot 53 of the 17th District and Land Lots 17, 18, 19 and 20 of the 14th District of Fulton County, Georgia, and being more particularly described as follows:

Said easement beginning at a point on the original centerline of said Beltline at Railway Valuation Station 56+20, more or less, said point also being 100 feet as measured radially and at right angles from the said centerline of Beltline to the point of intersection of the westerly right of way line of said Beltline and the southerly right of way line of the "Y" track connecting the said Beltline to the main line right of way of Grantor running between Atlanta, Georgia, and Washington, D.C., said point being a distance of 230 feet, more or less, as measured in a southerly direction along the said centerline of Beltline from a 2.5' x 2.5' stone box culvert located at Railway Valuation Station 53+90, more or less, and also being the point of beginning of Parcel 1 on Exhibit A;

Thence, along the original centerline of said Beltline in a general southeasterly direction with a strip of land 45 feet wide, being 15 feet in width on the west side of the original centerline of said line of railroad, 30 feet in width on the east side of said line of railroad and being 23 feet above the top of rail of the railroad track located on the property for a distance of 3,247.5 feet, more or less, to a point being the centerline of Clear Creek located at Railway Valuation Station 5088+67.5, more or less, and also being the point of terminus of Parcel 1 on Exhibit A and the point of beginning of Parcel 2 on Exhibit A;

Thence, continuing along the said original centerline in a general southeasterly direction with a strip of land being 30 feet wide, being 15 feet in width on each side of the said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 858.5 feet, more or less, to a point, said point being the common line between Land Lots 55 and 56 located at Railway Valuation Station 5097+26, more or less,

Thence, continuing along the said original centerline in a general southeasterly direction with a strip of land being 30 feet wide, being 15 feet in width each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 420 feet, more or less, to a point being the north line of Piedmont Avenue (Road) located at Railway Valuation Station 5101 +46, more or less, and also being the point of terminus of Parcel 2 on Exhibit A and the point of beginning of Parcel 3 on Exhibit A;

Thence, continuing along the said centerline in a general southeasterly direction with a strip of land being 30 feet wide, being 15 feet in width on each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 709 feet, more or less, to a point, said point being the centerline of Clear Creek located at Railway Valuation Station 5108+55, more or less;

Thence, continuing along said centerline in a general southeasterly direction with a strip of land being 30 feet wide, being 15 feet in width on each side of the said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 4,257 feet, more or less, to a point being the west line of Monroe Drive located at Railway Valuation Station 5151+12, more or less, and also being the point of terminus of Parcel 3 on Exhibit A and the point of beginning of Parcel 4 on Exhibit A;

Thence, continuing along said centerline in a general southeasterly direction with a strip of land being 30 feet wide, being 15 feet in width on each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 1,166 feet, more or less, to a point, said point being the common line between Land Lots 17 and 53 located at Railway Valuation Station 5162+78, more or less;

Thence, continuing along said centerline in a general southeasterly direction with a strip of land being 30 feet wide, being 15 feet in width on each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 3,164.9 feet, more or less, to a point being the common line between Land Lots 17 and 18 located at Railway Valuation Station 5194+42.9, more or less, and also being the point of terminus of Parcel 4 on Exhibit A and the point of beginning of Parcel 5 on Exhibit A;

Thence, continuing along said centerline in a general southeasterly direction with a strip of land being 30 feet wide, being 15 feet in width on each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 1602.8 feet, more or less, to the point of terminus, said point being at or near the north line of Ralph McGill Boulevard (Forrest Avenue) located at Railway Valuation Station 5210+45.7, more or less;

Thence, continuing along said centerline in a general southerly direction with a strip of land being 30 feet wide, being 15 feet in width on each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 1,070.3 feet, more or less, to Railway Valuation Station 5221+16, more or less, and also being the point of terminus of Parcel 5 on Exhibit A and the point of beginning of Parcel 6 on Exhibit A;

Thence, continuing along said centerline in a general southwesterly direction with a strip of land 30 feet wide, being 15 feet in width on each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for distance of 644 feet, more or less, to a point, said point being the common line between Land Lots 18 and 19 located at Railway Valuation Station 5227+60;

Thence, continuing along said centerline in a general southwesterly direction with a strip of land being 30 feet wide, being 15 feet in width on each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 846.7 feet, more or less, to a point, said point being the north line of Highland Avenue located at Railroad Valuation Station 5236+06.7, more or less;

Thence, continuing along said centerline in a general southwesterly direction with a strip of land being 30 feet wide, being 15 feet in width on each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 1,698.3 feet, more or less, to a point, said point being the north line of Irwin Street or Lake Avenue located at Railroad Valuation Station 5253+05, more or less;

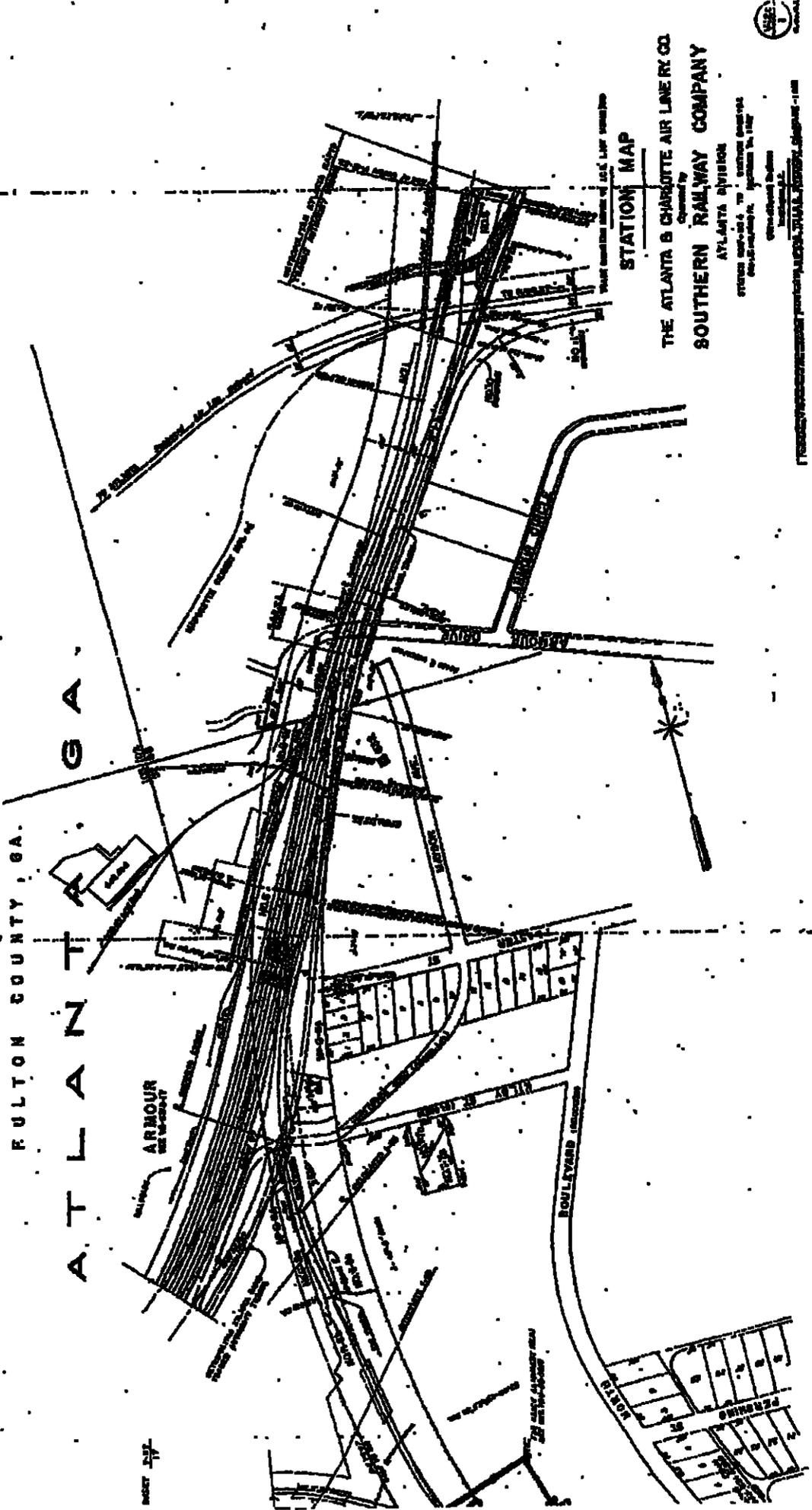
Thence, continuing along said centerline in a general southwesterly direction with a strip of land being 30 feet wide, being 15 feet in width on each side said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 1,190 feet, more or less, to a point being the north line of Edgewood Avenue located at Railroad Valuation Station 5264+95, more or less, and also being the point of terminus of Parcel 6 on Exhibit A and the point of beginning of Parcel 7 on Exhibit A;

Thence, continuing along said centerline in a general southwesterly direction with a strip of land being 70 feet wide, being 35 feet in width on each side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 450 feet, more or less, to a point on the northeast line of Airline Street at Railway Valuation Station 5269+45, more or less;

Thence, continuing along said centerline in a general southwesterly direction with a strip of land 40 feet in wide, being 17 feet wide on the north side of said centerline and 23 feet wide on the south side of said centerline and being 23 feet above the top of rail of the railroad track located on the property for a distance of 260 feet, more or less, to the point of terminus of said strip of land, said point being the north line of Decatur Street (DeKalb Avenue), located at Railway Valuation Station 5272+05, more or less, and being the point of terminus of Parcel 7 on Exhibit A and being shown on said Railway Valuation Maps V-12a/1, V-12a/2, V-12a/3, V-12a/4 and V-12a/5, copies of which are attached hereto and made a part hereof.

Grantees agree for themselves and their successors and assigns, as evidenced by the acceptance of the delivery and recordation of this deed that: (a) no railroad tracks or other railroad facilities shall be removed from the easement areas without the written approval of Grantor, or its successors or assigns, and only if authorized by any and all appropriate governmental agencies; (b) no portion of the above-described easement areas will be disturbed without the prior written consent of Grantor, or its successors or assigns; (c) no grade crossings will be constructed by Grantees, or their respective successors, assigns, permittees, lessees or licensees without the consent of Grantor and only after the execution of Grantor's standard grade crossing agreement; (d) no pipelines or wirelines shall be constructed or installed under, over or upon the above-described easement areas

without the prior written consent of the Grantor or its successors or assigns; (e) at the request and/or consent of Grantees, Grantor shall negotiate the joint use of the above-described easement areas, except the easement area over Parcel 1, with an entity qualified to operate rail passenger service, however, Grantor shall not be entitled to compensation for the transfer of said passenger service rights; (f) Grantor shall not negotiate the use of the above-described easement areas, except the easement area over Parcel 1, with any party without the prior written consent of Grantees; and (g) at the request of Grantees, Grantor shall, at no cost to Grantor, file and diligently pursue all appropriate petitions and other documents with the United States Surface Transportation Board and any other agency having jurisdiction for approval or exemption to abandon or discontinue railroad service over the above-described easement areas, except the easement area over Parcel 1.



FULTON COUNTY, GA.

A T L A N T A, G A.

STATION MAP

THE ATLANTA & CHARLOTTE AIR LINE RY CO.
 Operated by
SOUTHERN RAILWAY COMPANY

ATLANTA DIVISION

STATION MAPS TO SOUTHERN DIVISION
 CHARLOTTE DIVISION, DIVISION No. 102

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 Southern Railway System

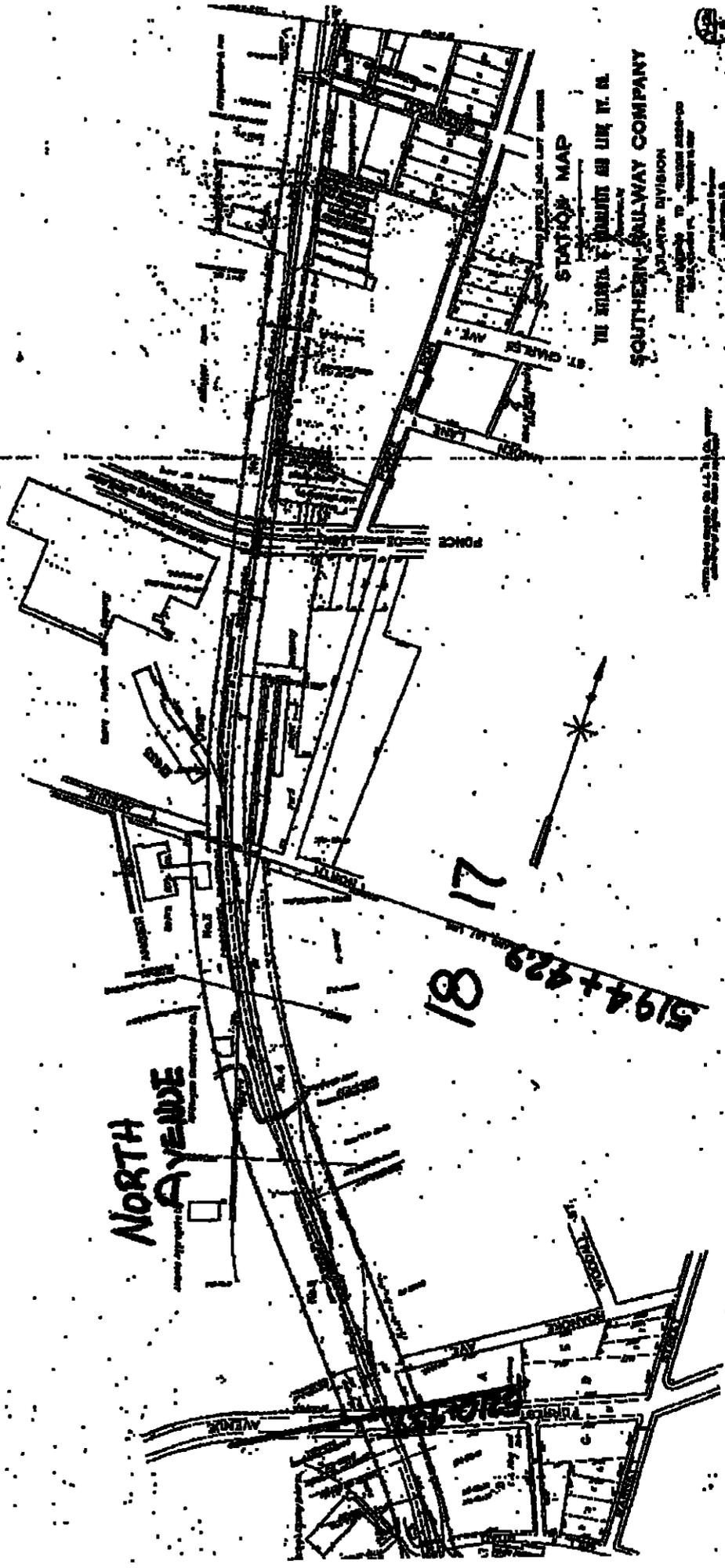


STATION MAPS TO SOUTHERN DIVISION, CHARLOTTE DIVISION, DIVISION No. 102

FULTON COUNTY, GA.

A T L A N T A , G A .

NORTH AVENUE



5194+429
81 71

STATION MAP

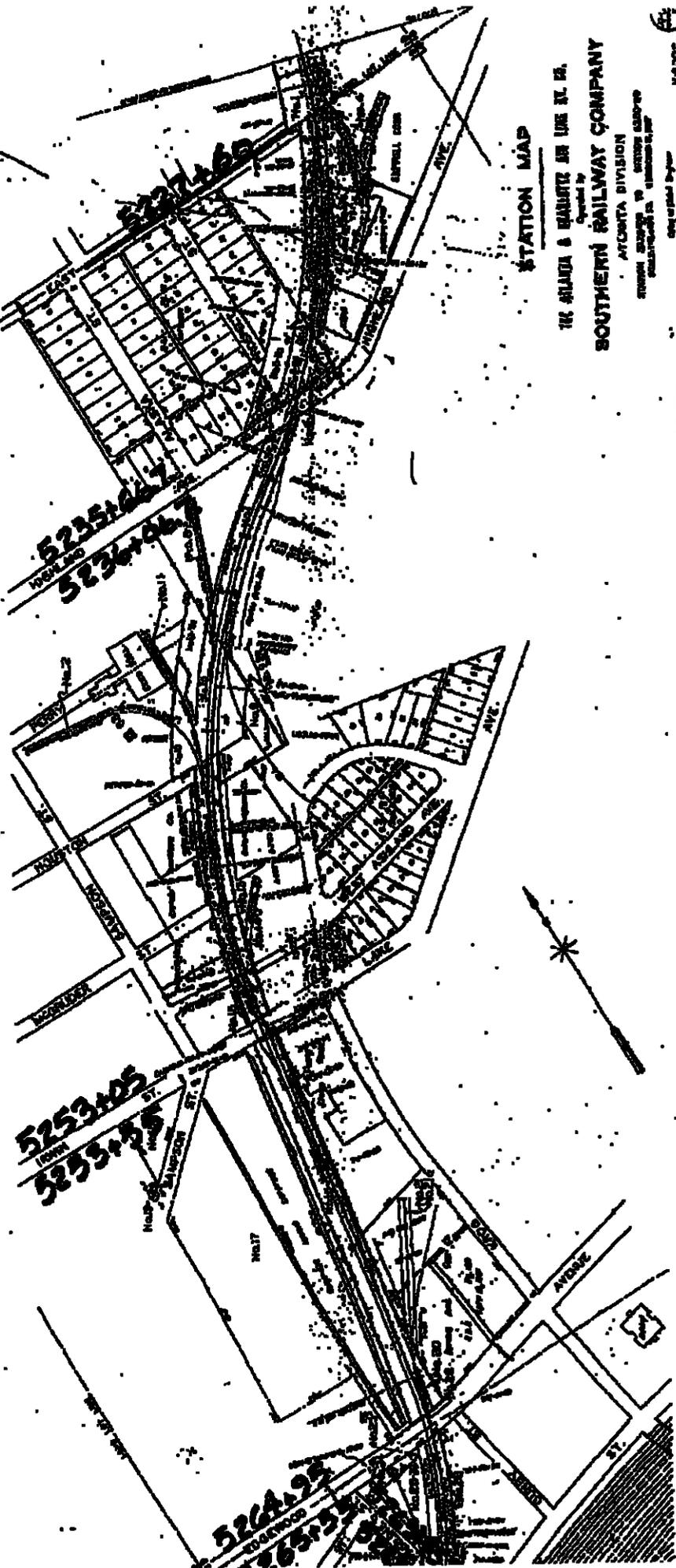
THE ATLANTA & NORTH SEB LINE, N. C.
SOUTHERN RAILWAY COMPANY

STATION DIVISION
STATION MAPS TO BE KEPT IN ALL STATIONS
AND TO BE KEPT IN ALL STATIONS
AND TO BE KEPT IN ALL STATIONS



FULTON COUNTY, GA.

ATLANTA, GA.



STATION MAP

THE ATLANTA & MARSHVILLE AIR LINE R.R.

Operated by

SOUTHERN RAILWAY COMPANY

ATLANTA DIVISION

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