



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



SG

William Cass, P.E.
Assistant Commissioner

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

Bureau of Rail & Transit
May 18, 2022

REQUESTED ACTION

The Department of Transportation requests placing this item on the Consent Calendar.

Authorize the Department of Transportation to enter into a contract amendment with the New Hampshire Central Railroad Corporation (NHCR), Vendor I57337, North Stratford, New Hampshire, to amend the completion date from June 30, 2022 to December 31, 2022 for the use of the state-owned portions of the North Stratford-Beecher Falls Branch, Berlin Branch, Groveton Branch, Mountain Division, and Adjacent Railroad Corridors for freight rail service, effective upon Governor and Executive Council approval, through December 31, 2022. The original contract was approved by Governor and Council on March 28, 2012, Item 130, and was amended by the Governor and Executive Council on December 8, 2021, Item 5C.

Income from the agreement will be credited as follows:

04-096-096-964010-2991
Special Railroad Account
009-407323 Agency Income

EXPLANATION

On March 28, 2012, the Governor and Council approved an Operating Agreement between the Department of Transportation and the New Hampshire Central Railroad Corporation (NHCR) to provide freight rail service on the state-owned portions of the North Stratford-Beecher Falls Branch, Berlin Branch, Groveton Branch, Mountain Division Railroad Line, and Adjacent Railroad Corridors for the period of May 1, 2012 through December 31, 2021. The original Operating Agreement was amended on December 8, 2021 and granted a six-month extension, through June 30, 2022, to allow the State time to develop an updated railroad operating agreement template.

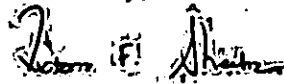
The Department and the Attorney General's Office has been actively developing an updated railroad operating agreement template, but that has yet to be finalized. Upon completion, that template will be used to actively negotiate final terms and conditions with NHCR to result in a new 10-year Operating Agreement that will then be submitted to Governor and Council for approval. As such, this subject amendment will extend the current Operating Agreement for six (6) months to allow time for completion of the template and final negotiations to conclude.

As the railroad line is active and NHCR has ongoing railroad operations, this amendment allows NHCR to continue to use the subject state-owned railroad lines to provide freight rail service while negotiations conclude and the State develops an updated operating agreement template.

This amendment has been reviewed and approved by the Office of the Attorney General for form and execution. Copies of the fully executed amendment have been provided to the Secretary of State's Office and the Department of Administrative Services. Subsequent to the Governor and Council approval, a copy of the amendment will be on file with the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria F. Sheehan", written in a cursive style.

Victoria F. Sheehan
Commissioner

Attachments

AMENDMENT #2 TO OPERATING AGREEMENT

This AMENDMENT TO THE OPERATING AGREEMENT ("Amendment") is entered into this ___ day of _____, 2022, by and between the State of New Hampshire, acting by and through the New Hampshire Department of Transportation, Bureau of Rail and Transit, PO Box 483, Concord, NH 03302-0483, (hereinafter referred to as "State") and New Hampshire Central Railroad Corporation, PO Box 165, North Stratford, NH 03590-0165, (hereinafter referred to as "the Contractor"), collectively referred to as ("the Parties").

WHEREAS, the State and the Contractor are parties to the Operating Agreement entitled "Operating Agreement on the State-Owned Portion of the North Stratford-Beecher Falls Branch, Berlin Branch, Groveton Branch, and Adjacent Railroad Corridors" dated February 17, 2012, approved by the New Hampshire Governor and Executive Council of New Hampshire March 28, 2012 and as amended by the Parties on December 8, 2021 ("Operating Agreement");

WHEREAS, pursuant to the Operating Agreement, the Contractor provides service on the North Stratford-Beecher Falls Branch, Berlin Branch, Groveton Branch, Mountain Division, and Adjacent Railroad Corridors, as more particularly described in Section 2.1 of the Operating Agreement ("the Line");

WHEREAS, pursuant to Section 1.1.1(k), the Completion Date of the Operating Agreement is June 30, 2022;

WHEREAS, pursuant to Section 1.3.1, the Parties are negotiating for a new operating agreement, but will not be able to finalize a new agreement and seek approval of the Governor and Council of New Hampshire before the current Operating Agreement expires on June 30, 2022; and

WHEREAS, the Parties desire for the Contractor to continue its use and operation of the Line pursuant to the terms of the current Operating Agreement during negotiations.

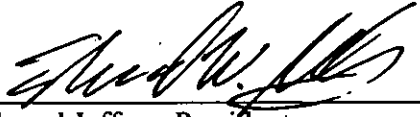
NOW THEREFORE, the Parties agree to amend the Operating Agreement as follows:

1. Section 1.1.1(k) of the Operating Agreement shall be amended to extend the Completion Date of June 30, 2022 for an additional six (6) months. The amended Completion Date shall be December 31, 2022. The Operating Agreement shall terminate on December 31, 2022, unless terminated sooner in accordance with Section 1.8 or Section 1.9 of the Operating Agreement.
2. If the Parties enter into a new operating agreement on or before December 31, 2022, the current Operating Agreement shall automatically terminate upon the effective date of the new agreement.
3. Section 1.3.1 of the Operating Agreement shall be replaced with the following: If the Contractor and the State cannot agree upon a new agreement by December 31, 2022, the State shall have no further obligations for renewal of the Operating Agreement with the Contractor.
4. The Parties agree that all other provisions of the Operating Agreement not amended herein shall remain in full force and effect.

5. This Amendment and all obligations of the parties hereunder shall become effective upon approval by the New Hampshire Governor and Executive Council.

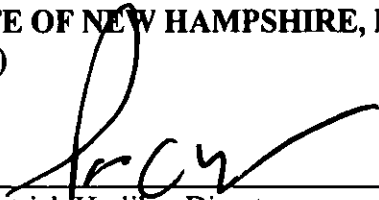
IN WITNESS WHEREOF, the Parties hereto have set their hands the date first-written above.

**New Hampshire Central Railroad Corporation
(Contractor)**

By: 
Edward Jeffrey, President

Date: 4-22-22

**STATE OF NEW HAMPSHIRE, DEPARTMENT OF TRANSPORTATION
(State)**

By: 
Patrick Herlihy, Director
Division of Aeronautics, Rail & Transit
New Hampshire Department of Transportation

Date: 5/31/22

The foregoing Amendment, having been reviewed by this office, is approved as to form and execution on 6/7, 20 22.

OFFICE OF THE ATTORNEY GENERAL

By: 
Assistant Attorney General

Approved by Governor and Council on _____, 20____, Item # _____.

ATTEST: _____
Secretary of State

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that NEW HAMPSHIRE CENTRAL RAILROAD, INC. is a New Hampshire Profit Corporation registered to transact business in New Hampshire on July 06, 1992. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing, as far as this office is concerned.

Business ID: 175754

Certificate Number: 0005768536



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 28th day of April A.D. 2022.

A handwritten signature in black ink, appearing to read "D. Scanlan", written over a horizontal line.

David M. Scanlan
Secretary of State

NEW HAMPSHIRE CENTRAL RAILROAD, INC.

ACTION BY UNANIMOUS WRITTEN CONSENT OF DIRECTORS

The undersigned, being all of the directors of **NEW HAMPSHIRE CENTRAL RAILROAD, INC.**, a New Hampshire corporation (the "Corporation"), acting pursuant to the provisions of §8.21 of the New Hampshire Business Corporation Act (R.S.A., Chapter 293-A), and every other power, do hereby consent to and adopt the following resolutions effective as of April 22, 2022 with the same force and effect as though adopted at the duly called and held 2022 annual meeting of the Corporation's board of directors on such date:

Resolved: The Corporation hereby ratifies, confirms and authorizes **EDWARD W. JEFFREY** to execute on behalf of the corporation an Amendment To Operating Agreement with the State of New Hampshire, acting by and through the New Hampshire Department of Transportation, Bureau of Rail and Transit to amend the existing agreement to include the following:


1. Section 1.1.1(k) of the Operating Agreement shall be amended to extend the Completion Date of June 30, 2022 for an additional six (6) months. The amended Completion Date shall be December 31, 2022. The Operating Agreement shall terminate on December 31, 2022, unless terminated sooner in accordance with Section 1.8 or Section 1.9 of the Operating Agreement.
2. If the Parties enter into a new operating agreement on or before December 31, 2022, the current Operating agreement shall automatically terminate upon the effective date of the new agreement.
3. Section 1.3.1 of the Operating agreement shall be replaced with the following: If the Contractor and the State cannot agree upon a new agreement by December 31, 2022, the state shall have no further obligations for renewal of the Operating Agreement with the Contractor.
4. All other provisions of the Operating Agreement not amended shall remain in full force and effect.

In witness whereof, we have executed this action by unanimous written consent of the directors of **NEW HAMPSHIRE CENTRAL RAILROAD, INC.** effective on the date first written above.

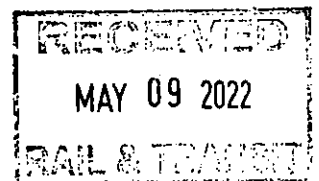

EDWARD W. JEFFREY
Director

Filed with the records of **NEW HAMPSHIRE CENTRAL RAILROAD, INC.** on this 22nd day of April, 2022.

ATTEST


Secretary/Assistant Secretary

Andrew B. Nolette
Andrew B. Nolette
May 5, 2022





NEWHAMP-17

JPETITT

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/26/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. IF SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hub International Mid-America 8285 N Van Dyke Road Port Austin, MI 48467	CONTACT: Julie Pettit PHONE (AC No. Exp): (989) 738-6400 FAX (AC No.): (989) 738-6557 EMAIL: julie.pettit@hubinternational.com	
	INSURER A: Aspen Specialty Insurance NAIC # 10717	
INSURED New Hampshire Central Railroad PO Box 165, 2283 US Rte 3 North Stratford, NH 03590-0165	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER REVISION NUMBER

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

PER LTR	TYPE OF INSURANCE	ADDITIONAL INSURED	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Railroad Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ. <input type="checkbox"/> LOC OTHER:	X	RL004ED21	12/15/2021	12/15/2022	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (CA operations) \$ MED EXP (Any one person) \$ PERSONAL & ADY INJURY \$ GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMPROP AGG. \$ OTHER \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ OTHER \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ OTHER \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A			<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER EL EACH ACCIDENT \$ EL DISEASE - EA EMPLOYEE \$ EL DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The following certificate holder is an additional insured but only with respect to liability arising out of the operation of the named insured.

CERTIFICATE HOLDER State of NH-Dept of Transport, Bureau of Railroads PO Box 483, 7 Hazen Drive Concord, NH 03302-0483	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Assistant Commissioner

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

Bureau of Rail & Transit
October 20, 2021

REQUESTED ACTION

The Department of Transportation requests placing this item on the Consent Calendar.

Authorize the Department of Transportation to enter into a contract amendment with the New Hampshire Central Railroad Corporation (NHCR), Vendor 157337, North Stratford, New Hampshire, to amend the completion date from December 31, 2021 to June 30, 2022 for the use of the state-owned portions of the North Stratford-Beccher Falls Branch, Berlin Branch, Groveton Branch, Mountain Division, and Adjacent Railroad Corridors for freight rail service. This amendment is effective January 1, 2022, with Governor and Executive Council approval, through June 30, 2022. The current operating agreement was approved by Governor and Council on March 28, 2012, Item 130.

Income from the agreement will be credited as follows:

04-096-096-964010-2991
Special Railroad Account
009-407323 Agency Income

EXPLANATION

On March 28, 2012, the Governor and Council approved an Operating Agreement between the Department of Transportation and the New Hampshire Central Railroad Corporation (NHCR) to provide freight rail service on the state-owned portions of the North Stratford-Beccher Falls Branch, Berlin Branch, Groveton Branch, Mountain Division Railroad Line, and Adjacent Railroad Corridors for the period of May 1, 2012 through December 31, 2021.

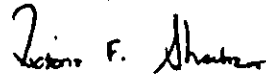
Pursuant to Section 1.3 of the current Operating Agreement, NHCR notified the Department on December 2, 2020 that it wished to renew its operating agreement. The Department and the Attorney General's Office has been actively developing an updated railroad operating agreement template, but that has yet to be finalized. Upon completion, that template will be used to actively negotiate final terms and conditions with NHCR to result in a new 10-year Operating Agreement that will then be submitted to Governor and Council for approval. This subject Amendment will extend the current Operating Agreement for six (6) months to allow time for completion of the template and final negotiations to conclude.

As the railroad line is active and NHCR has ongoing railroad operations, this Amendment allows NHCR to continue to use the subject state-owned railroad lines to provide freight rail service while negotiations conclude and the State develops an updated operating agreement template.

This Amendment has been reviewed and approved by the Office of the Attorney General for form and execution. Copies of the fully executed Amendment have been provided to the Secretary of State's Office and the Department of Administrative Services. Subsequent to the Governor and Council approval, a copy of the Amendment will be on file with the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,



Victoria F. Sheehan
Commissioner

Attachments

OPERATING AGREEMENT

**ON THE
STATE-OWNED PORTION OF THE NORTH STRATFORD-BEECHER FALLS
BRANCH, BERLIN BRANCH, GROVETON BRANCH AND ADJACENT RAILROAD
CORRIDORS**

BETWEEN

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
BUREAU OF RAIL & TRANSIT**

AND

**NEW HAMPSHIRE CENTRAL RAILROAD INC.
NORTH STRATFORD, NEW HAMPSHIRE**

February 17, 2012

Contractor Initials
Date

EwJ

2/17/12

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Contractor Initials EWJ
Date 2/2/12

ARTICLE I - GENERAL CONDITIONS

1.1 DEFINITIONS

1.1.1 As used herein, the following terms have the meanings indicated:

- a. "Contractor"- New Hampshire Central Railroad Corp., PO Box 165 North Stratford, New Hampshire, 03590-0165.
- b. "State" - means the State of New Hampshire.
- c. "FRA" means the Federal Railroad Administration.
- d. "STB" means the Surface Transportation Board.
- e. "Service" - means rail freight transportation.
- f. "Contracting Officer" - Commissioner, New Hampshire Department of Transportation (NHDOT), or his duly authorized representative having an address of 7 Hazen Drive, P.O. Box 483, Concord, NH 03302-0483. The Contracting Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement and the resolution of any disputes by the Contracting Officer shall be final.
- g. "Agreement" - means this Operating Agreement dated February 17, 2012.
- h. "Facilities" collectively means the real estate, track, bridges, signals, switches, structures, buildings, and related railroad transportation property over which Service is to be provided, excluding propane transload facilities constructed by the Contractor.
- i. "Effective Date" means the date this Agreement is approved by the Governor and Council of the State of New Hampshire or the Contractor obtains operating authority from the STB, whichever occurs last.
- j. "Commencement Date" - May 1, 2012
- k. "Completion Date" - December 31, 2021.
- l. "Operating Year" - January 1 to December 31.
- m. "Users Fee" - Fee to be paid by the Contractor to State for the use of the Facilities.
- n. "Subcontractor" - An individual, partnership, firm, corporation, or any combination thereof, or joint venture, to whom the Contractor sublets any part of this Agreement.

1.2 EFFECTIVE DATE/COMPLETION OF SERVICES

- 1.2.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").
- 1.2.2 Any Service performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation any obligation to pay the Contractor for any costs incurred or Service performed.

1.3 RENEWAL OF AGREEMENT

- 1.3.1 The Contractor shall notify the State by certified mail no later than one year prior to the Completion Date that the Contractor wishes to enter into renegotiations for a new

Contractor Initials EWT
Date 2/21/12

Agreement for an additional ten (10) year period beginning January 1, 2022. If the Contractor and the State cannot agree upon new Operating Agreement by July 1, 2021, the State may at that time solicit proposals from other persons to operate the Facilities and have no further obligations for renewal of this Agreement with the Contractor.

1.4 MAINTENANCE OF ACCESS

1.4.1 Expiration of this operating agreement or any subsequent operating agreement shall not interfere with the right of the contractor (New Hampshire Central Railroad, Inc.) to maintain and enjoy rail access to its railroad car repair facility and trackage owned by contractor in Columbia, adjacent to the state owned North Stratford to Beecher Falls Branch Railroad Corridor's main line and sidetracks until 31 December 2023. The contractor may retain operating rights granted by the ICC in Finance Docket 32309, or any subsequent operating rights granted by the STB or successor agency in order to maintain access to its rail served facility, subject to the right of any replacement freight operation on the railroad corridor to utilize said railroad corridor.

1.5 CONTRACTOR'S REPRESENTATION AND WARRANTIES

1.5.1 The Contractor represents and warrants the following:

1.5.11 The Contractor is a corporation duly organized, validly registered with the Secretary of State, and in good standing under the laws of the State, and is duly qualified to do business in each jurisdiction where its business or the ownership of its property requires such qualification;

1.5.12 The Contractor has the full power and authority to enter into this Agreement and to carry out the functions that it has undertaken in this Agreement;

1.5.13 All corporate and other proceedings required to be taken by or on the part of the Contractor to authorize it to enter into this Agreement and perform the Service have been duly taken; and

1.5.14 The execution of this Agreement and the operation of the Service will not violate any statute, rule, regulations, order, writ, injunction or decree of any court, administrative agency or governmental body.

1.6 COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

1.6.1 In connection with the performance of the Service, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

1.6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

1.6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of

Contractor Initials EWT
Date 2/21/12

Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

1.7 PERSONNEL.

- 1.7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Service. The Contractor warrants that all personnel engaged in the Service shall be qualified to perform the Service, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
- 1.7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Service to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.
- 1.7.3 The Contracting Officer or his or her successor shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

1.8 EVENT OF DEFAULT/REMEDIES.

- 1.8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):
 - 1.8.1.1 failure to perform the Service satisfactorily or on schedule;
 - 1.8.1.2 failure to submit any report required hereunder;
 - 1.8.1.3 failure of the Contractor to maintain the records required hereunder, or to permit access thereof; and/or
 - 1.8.1.4 failure to perform any other covenant, term or condition of this Agreement;
- 1.8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions;
 - 1.8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

Contractor Initials EWJ
Date 2/21/12

1.8.2.2 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

1.9 TERMINATION.

1.9.1 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") containing all information required by the various reporting provisions of the Agreement, from the date of the last such reports through and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

1.10 CONTRACTOR'S RELATION TO THE STATE.

1.10.1 In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

1.11 ASSIGNMENT/DELEGATION/SUBCONTRACTS.

1.11.1 The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the Contracting Officer. None of the Service shall be subcontracted by the Contractor without the prior written consent of the State.

1.12 INDEMNIFICATION.

1.12.1 The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in Section 1.12.1 shall survive the termination of this Agreement.

1.13 INSURANCE.

1.13.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

1.13.1.1 Railroad Liability and Contractual Liability Insurance shall be purchased with the State named as co-insured in the amount of three million dollars (\$3,000,000), or five million dollars (\$5,000,000) if hazardous materials are shipped, each occurrence, with a deductible of twenty-five thousand dollars (\$25,000) maximum.

Contractor Initials ELJ
Date 2/21/12

1.13.2 The policies described in subparagraph 1.13.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

1.13.3 The Contractor shall furnish to the Contracting Officer, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance, and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

1.13.4 Within ten (10) days prior to the start of operation and annually thereafter, the Contractor shall provide the Contracting Officer with a certificate evidencing the continual existence of required insurances.

1.14 WAIVER OF BREACH

1.14.1 No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

1.15 NOTICE.

1.15.1 Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given above.

1.16 AMENDMENT.

1.16.1 This Agreement may be amended waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

1.17 CONSTRUCTION OF AGREEMENT AND TERMS.

1.17.1 This Agreement shall be constructed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

Contractor Initials EWJ
Date 2/21/12

1.18 THIRD PARTIES.

1.18.1 The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

1.19 HEADINGS.

1.19.1 The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

1.20 SEVERABILITY.

1.20.1 In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

1.21 ENTIRE AGREEMENT.

1.21.1 This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

ARTICLE II - PHYSICAL DESCRIPTION

2.1 Physical Description - The Facilities are described as follows:

2.1.1 North Stratford to Beecher Falls Branch: All of the property of every kind and description, real, personal and mixed that was acquired by the State of New Hampshire from the Maine Central Railroad Co., and recorded in the Coos County Registry of Deeds on March 21, 1977, Book 595, Pages 167 - 170 and the Canaan, VT Town Clerk's Office on May 6, 1977, Book 27, Pages 113 - 115, said property being located in the Towns of Stratford, Columbia, Colebrook and Stewartstown, NH and the Town of Canaan, VT. Said property includes all real property, railroad and other fixtures and devices on the railroad corridor formerly owned by the Maine Central Railroad Co., from Engineering Station 1714+90, MP P131.93 in North Stratford to Engineering Station 2417+68.4, MP P145.21 in Colebrook, as shown on the plans of Federal Valuation Survey dated June 30, 1916, Sheets 7 to 20, on file in the records of the New Hampshire Department of Transportation, Bureau of Rail and Transit.

2.1.2 Groveton/Berlin Branch: Said property includes all real property, railroad and other fixtures and devices on the railroad corridor known as the Berlin Branch, Concord & Montreal White Mountains Division from Engineering Station 1359+77, MP C 119.86, as shown on Valuation Map 22/26, to Engineering Station 1629+30, MP C 125.0, as shown on Valuation Map 22/31, and also from Engineering Station 2+33, MP C 125.0, as shown on Valuation Map 24.2/1, to Engineering Station 315+20, MP C 130.7, as shown on Valuation Map 24.2/6, and also on the railroad corridor known as the Upper Coos Railroad from Engineering Station 131+41, MP P 101.91, as shown on Valuation Map 19/3, to Engineering Station 687+31, MP P 112.46, as shown on Valuation Map 19/14 and thence on the railroad corridor known as the Concord & Montreal White Mountains Division from Engineering Station 2275+50+/-, as shown on

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Valuation Map 22/44 to Engineering Station 2715+83, as shown on Valuation Map 22/52, on file in the records of the New Hampshire Department of Transportation, Bureau of Rail and Transit.

2.1.3 Mountain Division: That portion of the Mountain Division from Engineering Station 5060+25, MP P 103.3 in Whitefield, as shown on Valuation Map V17/53 to Engineering Station 5503+79.2, MP P 111.57 in Lunenburg Vermont, as shown on Valuation Map V18/03, formerly owned by the Maine Central Railroad. The Contractor shall be responsible for obtaining STB authority for such operation.

2.1.4 Mountain Division: That portion of the Mountain Division from Engineering Station MP P 100.91 in Whitefield, as shown on Valuation Map 17/51 to Engineering Station 5060+25, MP P 103.2 in Whitefield, as shown on Valuation Map 17/53 subject to terms of the Trackage Usage Agreement between the CSRR & NHCR dated July 31, 2007.

2.1.4.1 Main Line: The former Maine Central alignment from MP P 101.5 (former B&M MP C 128.15) and MP P 103.2 (former B&M MP C 126.00) is designated the Main Line. Former B&M Berlin Branch is designated as a sidetrack between MP C 126.00 and C 128.15.

- 2.2 The Facilities shall remain the property of the State, which reserves to itself the right to grant easements, contracts, leases, and other rights therein which do not, in the sole judgment of the State, conflict with the operations described in Article III. The State reserves to itself all rents, fees and revenues derived from such grants. As permitted by applicable State law, the State may sell portions of the railroad yard not needed for present or future railroad operations to the Town of North Stratford-Columbia-Colebrook or other parties. Notwithstanding these provisions, the Contractor with prior approval by the State may lease portions of the Facilities to shippers for construction of railroad sidings, loading platforms and other railroad-related facilities. Such leases shall be subject to appropriate local taxes, and revenues from such leases shall be included in the railroad's gross freight operating revenues.
- 2.3 The Contractor shall make no alterations to the Facilities, both real and personal, or construct any building or make other improvements on the Facilities beyond normal maintenance without the prior written consent of the State. Such consent shall not be unreasonably withheld. All alterations, changes, and improvements built, constructed, or placed on the Facilities by the Contractor, shall unless otherwise provided by written agreement between the State and the Contractor be the property of the State and remain on the State's property at the expiration or sooner termination of this agreement. Salvageable or scrap materials generated as a part of normal maintenance shall become the property of the Contractor.
- 2.4 At its option the State may provide the Contractor with State-owned railroad equipment and materials under the jurisdiction of the Bureau of Rail and Transit, which it may declare available to the Contractor. Said equipment and materials shall be used solely for the provision of Service under this Agreement and shall be insured by the Contractor to the State's satisfaction.

ARTICLE III - OPERATIONS

3.1 SERVICE AREAS

- 3.1.1 The Contractor shall, between the Effective Date and the Completion Date, manage and operate Service on the Facilities described in 2.1 above. The Contractor shall be solely responsible for all phases and requirements of its operation, including, but not limited to,

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dispatching of trains, assignment of power and cars, scheduling, workforce, equipment, advertising, and marketing. The Contractor may charge a reasonable fee for operations on the Facilities by other railroads.

- 3.1.2 The Contractor agrees to provide cars, locomotives and all other things as necessary to afford the degree and quality of Service reasonably requested by its shippers.
- 3.1.3 Notwithstanding any other provisions of this Agreement, the State may arrange to provide service on a temporary basis if the Contractor is unable to provide service, and the Contractor agrees to allow provision of such temporary Service by others in the event of its inability to provide Service. Notice of Service by others must be given to the Contractor in writing by the State.
- 3.1.4 The Contractor warrants that all personnel engaged in the Services shall be qualified to perform such Services, and shall be properly licensed and authorized to perform such Services under all applicable laws. The Contractor shall not hire as an employee, and it shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services, to hire, any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.
- 3.1.5 The Contractor will conform to the State's "Guidelines Governing the Operation of On-Track Equipment on State-owned Railroad Lines," and will incorporate these Guidelines into its current Time Table.
- 3.1.6 If the Contractor intends to provide passenger or tourist excursion service on any portion of the Facilities, it shall notify the State in writing no less than sixty (60) days prior to initiation of such service, and submit a certificate of insurance for Passenger Liability and Contractual Liability with the State named as additionally insured in the amount of Ten Million (\$10,000,000) dollars at least five (5) days prior to commencement of passenger or tourist excursion operations.

3.2 CAR STORAGE TERMS AND CONDITIONS

- 3.2.1 Notwithstanding any other agreement to the contrary, the temporary storage of railcars on the leased Premises shall not be prohibited, restricted or otherwise modified, unless by mutual agreement, when located on the following trackage.
- 3.2.2 North Stratford-Beecher Falls Branch
 - 3.2.2.1 Mainline beginning at a point 200-feet north of the northerly most turn-out and ending at the end of track (MP 1.6+/- to MP 8.0+/-)
 - 3.2.2.2 All storage tracks within the North Stratford Terminal Area, not utilized for normal operations, to include tracks owned by the Railroad or the NHDOT.
- 3.2.3 Groveton and Berlin Branches
 - 3.2.3.1 Storage Tracks in Lancaster, south of Pine Hill Road, on tracks easterly and westerly of the Mainline, provided that no cars will be stored beyond foul points of the Mainline.
 - 3.2.3.2 Siding located westerly of Hazens Road (Approximate MP P101.05) to MP P103.2. (Former B&M Berlin Branch MP 126.00 to MP 128.15)

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3.2.3.3 Siding located westerly of NH 116 in Whitefield (Approximate MP C125.17 to MP C 125.71).

3.2.4 Systemwide Exceptions

3.2.4.1 Cars will not be placed in any locations that will block Public or Legal/Authorized Private Crossings or interfere with the safe sight distance or block visibility of a crossing.

3.2.4.2 Cars will not be placed on major bridges, nor within one car length either side of a perennial stream or water course. Exhibit attached:

3.2.4.3 Cars will not be placed where they will obstruct the scenic view of significant viewsheds or adjacent to the Connecticut and Ammonoosuc Rivers.

3.2.4.4 Locations that NHDOT determines create significant concerns for abutting property owners, shall be reviewed and the status determined by mutual agreement of the Railroad and the Contracting Official of the NHDOT. NHDOT and the Contractor will review these locations prior to this determination. Nothing contained in Section 3.2.4 shall be construed as a surrender of the Railroad's privileges and rights granted by the ICC Termination Act of 1994.

3.3 MAINTENANCE

3.3.1 Equipment - The Contractor shall be responsible for proper upkeep and maintenance of all equipment it uses, either supplied by the State or the Contractor, and shall ensure that equipment is in compliance with all current FRA regulations. State equipment shall be returned to the State in as good condition as when received except for ordinary wear and tear.

3.3.2 Track - The Contractor shall be responsible for the proper upkeep and maintenance of Facilities. Said upkeep and maintenance shall include but not be limited to:

- a. Surface and alignment
- b. Brush and vegetation control (all brush to be chipped)
- c. Drainage and ditches
- d. All operating signals to be kept in good operating condition
- e. Crossing and switches to be kept in good operating condition. The Contractor shall provide a flagman during the passage of trains for the protection of any crossing protected by signals where the signal is not operating for any reason.
- f. Snow removal and winter maintenance when needed for service.

3.3.2.1 The Contractor shall be responsible to perform all work and routine maintenance necessary to maintain the lines included in the Facilities at FRA Class I Track Safety Standards or better, and in any event will expend no less than twenty (20) percent of annual gross freight operating revenue on actual track maintenance during each year of this Agreement, and will include a report of maintenance expenses on a form and according to a schedule to be specified by the State (See Exhibit A). Credit for these expenditures may be carried forward to future years at the State's discretion. The Contractor shall satisfy all obligations required by the FRA of a railroad owner, set forth in Part 213 of the FRA Track Safety Standards (49 CFR 213).

3.3.3 STRUCTURES (BRIDGES & CULVERTS, See Exhibit B) - The contractor shall be responsible for routine maintenance of structures required to keep them safe for the convenience of the railroad and the State; said maintenance shall include but not be

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limited to the cleaning and removal of debris, lubrication of bearing surfaces, scour and erosion protection.

- 3.3.4 In the event a major unanticipated maintenance or capital expenditure is required (bridge failure or major washout, etc.) the Contractor shall assist in all necessary repairs, but be limited in its direct financial contribution to five thousand (\$5000.00) dollars per Operating Year, or any amount remaining pursuant to the required expenditures pursuant to Section 3.3.2.1, whichever is greater, in the aggregate. However, the Contractor waives any claims to damages for any delays in repairing or reopening the line after such an occurrence and the State reserves to itself the decision whether, when and how such repairs and reopening will be done.
- 3.3.5 The state as track and bridge owner and the contractor as operator will be subject to the provisions of 49 CFR Part 237 - Bridge Safety Standards, which become effective September 13, 2012. If the State is not able to perform or pay the cost of performing the required inspections, then the Contractor agrees to perform the inspections in order to operate and meet the requirements of 49 CFR Part 237.

3.4 INSPECTION

- 3.4.1 The Contractor shall patrol the Facilities and inspect the track in accordance with FRA Track Safety Standards subpart F (49 CFR 213.233) and submit an inspection report in a timely manner but no more than one (1) week after each inspection. Should any defects be found, the Contractor shall take the appropriate remedial action in a timely manner in accordance with such regulations and notify the Contracting Officer in writing of said remedial action.
- 3.4.2 The Contracting Officer has the right to monitor the Contractor to ensure that the Contractor complies with the conditions of this Agreement. The Contracting Officer shall be granted full access to the operations and shall have the authority to direct the Contractor to remedy deficiencies as per FRA Track Safety Standards under this Agreement.
- 3.4.3 The Contracting Officer may take any action, including the field inspection of any project site and the inspection of the rail facilities, equipment, and all books and records of Contractor and of any contractor or subcontractor relating to any project or task accomplished under this Agreement.
- 3.4.3.1 The purpose of such inspection shall be:
- To ensure that work complies with the contract specifications.
 - To verify quantitative measures of materials installed, such as tie counts.
 - To verify labor and materials charges for contracts providing for payment on an actual cost basis ("force account work").
 - To verify the quantities of uninstalled State-owned materials and the security of same against damage, theft, or use other than for approved projects.
 - To provide any other information requested by the Contracting Officer relating to the Facilities.

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3.5 CONSTRUCTION PROJECTS:

- 3.5.1 The Contracting Officer reserves the right to advertise and let construction rehabilitation projects within the confines of the Facilities. The construction contractor to whom this work may be awarded shall have the right to perform the work so described in the contract. Any expenditures by the State pursuant to this Section 3.5 shall not diminish the obligation of the Contractor pursuant to Section 3.3.2.1 or any other provision of this Agreement.
- 3.5.2 The Contracting Officer will from time to time allow utility projects to be constructed within the railroad right-of-way. Construction contractors for these projects will be required to enter into a license with the State, which will require certain conditions such as liability insurance, and to cooperate with the Contractor in assuring that the work be performed in such a manner that the tracks, operations and appurtenances of the rail facility will be safeguarded. The Contractor may require a flagman and/or railroad inspector at a construction site if he deems it necessary, the cost of said services to be paid by the constructing entity to the Contractor.
- 3.5.3 At the request of a shipper and with the concurrence of the State, the Contractor or a subcontractor approved by the State may construct sidings to new shippers on the Facilities at shippers' or the Contractor's expense. These sidings and appurtenances shall become the property of the State.
- 3.6 FREIGHT TARIFFS - On or before the Effective Date, the Contractor shall adopt all existing applicable tariffs, rates, and divisions. Said tariffs, rates, and divisions shall apply to the Service provided pursuant to this Agreement, until such tariffs, rates or divisions are changed in accordance with law. All proposed rates and tariffs under control of the Contractor may be reviewed by the Contracting Officer upon request.
- 3.7 FORCE MAJEURE - The parties hereto will be excused from performance of any of their respective obligations hereunder occasioned by any event beyond their respective control, including, without limitation, any action of any federal, state or local agency or instrumentality; by government authorities including compliance with environmental quality, energy conservation and occupational safety requirements adopted or effected after the date of this Agreement; by acts of God; by strikes or other labor trouble; by explosions, fires, or vandalism until such events are remedied; provided, however, that the party claiming force majeure shall take all reasonable actions to eliminate or end the force majeure condition.

ARTICLE IV - USER FEE PAYMENTS, ACCOUNTING AND AUDITS

- 4.1 The Contractor shall make User Fee payments required under this article directly to the State of New Hampshire, Department of Transportation, Bureau of Rail and Transit.
- 4.2 Payments shall be paid monthly (or less frequently with the approval of the Contracting Officer), based upon the level of operation, as explained below. Payments shall be made no later than thirty (30) days after the last the day of each calendar month that gross freight operating revenues are earned, and will include a report of freight traffic on a form and according to a schedule to be specified by the State. (See EXHIBIT A)

Contractor Initials EWJ
Date 2/21/12

4.3 USER FEE PAYMENT

- 4.3.1 The Contractor shall pay five (5%) percent of annual gross freight operating revenues as a user's fee to the State.
- 4.3.2 The Contractor may, where directed in writing by and at the sole discretion of the Contracting Officer, deduct from payments the cost of specific expenditures including but not limited to major maintenance projects in track work or structure repair.

4.4 LATE PAYMENT

- 4.4.1 Should any payment be received more than five (5) days after the due date, the Contracting Officer shall be entitled to a five (5%) percent late charge added to that month's users fee.

4.5 ACCOUNTING AND AUDITS

- 4.5.1 The Contracting Officer shall have access, during regular working hours, for the purpose of audit and examination, to any books, documents, papers, and records of the Contractor that may be related or pertinent to this Agreement during the period of this Agreement and for a period of five (5) years after the termination of this Agreement. The Contractor shall impose this requirement of each of its subcontractors.
- 4.5.2 If, as a result of any audit, the Contracting Officer determines that the amount paid to the State is less than the amount owed, the Contractor shall pay the difference to State within thirty (30) days of the determination.
- 4.5.3 If, as a result of any audit, the Contracting Officer determines that the amount paid to the State is more than the amount owed, State will make repayment or credit the Contractor accordingly, so far as appropriations allow, the overpayment to the State.
- 4.5.4 The Contractor shall be responsible for collecting revenues and for delivering traffic reports, marketing reports, revenue reports and maintenance cost reports on forms and according to a schedule to be specified by the State. (See EXHIBIT A)

ARTICLE V - MARKETING EFFORT

- 5.1 The Contractor will make every effort to market the line in order to make it profitable and to maintain good business and working relationships with local businesses, State and local government officials, employees, and other railroads, and will report on the marketing effort on a form and according to a schedule to be specified by the State. (See EXHIBIT A)

ARTICLE VI - OTHER OPERATORS

- 6.1 In all of its operations and use of the Facilities, the Contractor will cooperate with other railroads authorized by the State to use any portion of the Facilities. The State may at its discretion provide mediation of disputes involving the state-owned railroad corridor consistent with Article 1.1, F.

Contractor Initials EWJ
Date 2/2/12

ARTICLE VII - TERMINATION OF AGREEMENT

7.1 In the event of a termination or expiration of this Agreement, the Contractor agrees that it shall obtain the necessary approvals from the STB to discontinue operations and turn over operating authority to a new railroad operator.

IN WITNESS WHEREOF, we have hereunto set our hands on the 22 day of February, 2012.

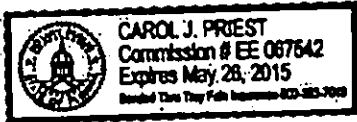
NEW HAMPSHIRE CENTRAL RAILROAD CORP.

BY: [Signature]
Pres. NHCR

THE STATE OF ^{Florida} ~~NEW HAMPSHIRE~~, COUNTY OF PALM BEACH
~~EWJ~~

On this 22 day of FEB, 2012, before me, CAROL J. PRIEST the undersigned officer, personally appeared [Signature] known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



[Signature]
NOTARY PUBLIC

THE STATE OF NEW HAMPSHIRE

BY: [Signature]
Deputy Commissioner, Department of Transportation

This is to certify that the Operating Agreement shown above has been reviewed by this office, and is approved as to form and execution on March 13, 2012.

OFFICE OF ATTORNEY GENERAL

BY: [Signature]
Assistant Attorney General
D.M. H. 15

APPROVED by Governor and Executive Council on 3/28, 2012, ITEM # 130.

ATTEST: _____
Secretary of State

Contractor Initials EWJ
Date 2/21/12

NEW HAMPSHIRE CENTRAL RAILROAD NORTH STRATFORD TO BEECHER FALL BRANCH LINE BERLIN & GROVETON BRANCH LINES REPORT AND USER FEE DUE DATES			
JANUARY	FEBRUARY	MARCH	APRIL
1st - November Freight Operating, Car Storage & Passenger Revenue User Fees	1st - December Freight Operating, Car Storage & Passenger Revenue User Fees	1st - January Freight Operating, Car Storage & Passenger Revenue User Fees	1st - February Freight Operating, Car Storage & Passenger Revenue User Fees
1st - November Locomotive Rental	1st - December Locomotive Rental	1st - January Locomotive Rental	1st - February Locomotive Rental
1st - November Freight & Passenger Revenue Reports	1st - December Freight & Passenger Revenue Reports	1st - January Freight & Passenger Revenue Reports	1st - February Freight & Passenger Revenue Reports
30th - October - December M-O-W Report			30th - January - March M-O-W Report
MAY	JUNE	JULY	AUGUST
1st - March Freight Operating, Car Storage & Passenger Revenue User Fees	1st - April Freight Operating, Car Storage & Passenger Revenue User Fees	1st - May Freight Operating, Car Storage & Passenger Revenue User Fees	1st - June Freight Operating, Car Storage & Passenger Revenue User Fees
1st - March Locomotive Rental	1st - April Locomotive Rental	1st - May Locomotive Rental	1st - June Locomotive Rental
1st - March Freight & Passenger Revenue Reports	1st - April Freight & Passenger Revenue Reports	1st - May Freight & Passenger Revenue Reports	1st - June Freight & Passenger Revenue Reports
	30th - January - June Marketing Report	30th - April - June M-O-W Report	
SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
1st - July Freight Operating, Car Storage & Passenger Revenue User Fees	1st - August Freight Operating, Car Storage & Passenger Revenue User Fees	1st - September Freight Operating, Car Storage & Passenger Revenue User Fees	1st - October Freight Operating, Car Storage & Passenger Revenue User Fees
1st - July Locomotive Rental	1st - August Locomotive Rental	1st - September Locomotive Rental	1st - October Locomotive Rental
1st - July Freight & Passenger Revenue Reports	1st - August Freight & Passenger Revenue Reports	1st - September Freight & Passenger Revenue Reports	1st - October Freight & Passenger Revenue Reports
	30th - July - September M-O-W Report		30th - July - December Marketing Report

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NEW HAMPSHIRE CENTRAL RAILROAD, Inc.

North Stratford New Hampshire 03590

CERTIFICATE of VOTES

I, Richard A. Currier, Secretary of the New Hampshire Central Railroad, Inc. do hereby certify that:

1. At the ANNUAL BOARD of DIRECTORS MEETING held on February 1, 2011, the following persons were elected to the offices set forth until their resignation or until they are removed by the Board of Directors or until their successors are elected by the Board of Directors:

President Edward W. Jeffrey
Secretary Richard A. Currier

2. At a SPECIAL BOARD of DIRECTORS MEETING, duly noticed, held on 22 February 2012 the BOARD reaffirmed the authority granted to the President in the Resolution passed at the Special Board Meeting on 3 August 2011- a RESOLUTION authorizing Edward W. Jeffrey, in his capacity as President of the Corporation, to enter into a LEASE and OPERATING AGREEMENT between the State of New Hampshire DEPARTMENT of TRANSPORTATION BUREAU of RAIL and TRANSIT and the New Hampshire Central Railroad, Inc., for LEASE of the NORTH STRATFORD - BEECHER FALLS BRANCH; the GROVETON and BERLIN BRANCHES; Operating Rights to the GILMAN MILL and Operating Rights over a portion of the MOUNTAIN SUBDIVISION, sufficient to serve Presby Plastics; to be more fully defined in the LEASE and OPERATING AGREEMENT, following negotiations with the BUREAU.

3. Edward W. Jeffrey is the President of this Corporation, is still qualified and serving in such capacity, and the Resolution authorizing execution of the AGREEMENT remains in full force and effect as of this Date

22 Feb 2012
Date


Richard A. Currier, Secretary
New Hampshire Central Railroad, Inc.

(SEAL)

STATE OF NEW HAMPSHIRE
COUNTY of MERRIMACK

On FEB. 22, 2012 before the undersigned officer, personally appeared the person identified in the foregoing Certificate known to me (or satisfactorily proven) to be the Secretary of the Corporation identified in the foregoing Certificate, and acknowledged that he executed the foregoing Certificate.

In witness whereof I hereinto set my hand and official seal.

FEB. 22, 2012
Date


Notary Public

FRANCES M. MONAHAN, Notary Public
My Commission Expires November 28, 2012

AMENDMENT TO OPERATING AGREEMENT

This AMENDMENT TO THE OPERATING AGREEMENT ("Amendment") is entered into this 22nd day of October, 2021, by and between the State of New Hampshire, acting by and through the New Hampshire Department of Transportation, Bureau of Rail and Transit, PO Box 483, Concord, NH 03302-0483, (hereinafter referred to as "State") and New Hampshire Central Railroad Corporation, PO Box 165, North Stratford, NH 03590-0165, (hereinafter referred to as "the Contractor"), collectively referred to as ("the Parties").

WHEREAS, the State and the Contractor, are parties to the Operating Agreement, entitled "Operating Agreement on the State-Owned Portion of the North Stratford-Beecher Falls Branch, Berlin Branch, Groveton Branch, and Adjacent Railroad Corridors" dated February 17, 2012, approved by the New Hampshire Governor and Executive Council on March 28, 2012 ("Operating Agreement");

WHEREAS, pursuant to the Operating Agreement, the Contractor provides service on the state-owned portions of the North Stratford-Beecher Falls Branch, Berlin Branch, Groveton Branch, Mountain Division, and Adjacent Railroad Corridors, as more particularly described in Section 2.1 of the Operating Agreement;

WHEREAS, pursuant to Section 1.1.1(k), the Completion Date of the Operating Agreement is December 31, 2021;

WHEREAS, pursuant to Section 1.3.1, the Parties are negotiating for a new operating agreement, but will not be able to finalize a new agreement and seek approval of the Governor and Council of New Hampshire before the current Operating Agreement expires on December 31, 2021; and

WHEREAS, the Parties desire for the Contractor to continue its use and operation of the state-owned railroad lines described in Section 2.1 of the Operating Agreement pursuant to the terms of the current Operating Agreement during negotiations.

NOW THEREFORE, the Parties agree to amend the Operating Agreement as follows:

1. Section 1.1.1(k) of the Operating Agreement shall be amended to extend the Completion Date of December 31, 2021 for an additional six (6) months. The amended Completion Date shall be June 30, 2022. The Operating Agreement shall terminate on June 30, 2022, unless terminated sooner in accordance with Section 1.8 or Section 1.9 of the Operating Agreement.
2. If the Parties enter into a new operating agreement on or before June 30, 2022, the current Operating Agreement shall automatically terminate upon the effective date of the new agreement.
3. Section 1.3.1 of the Operating Agreement shall be replaced with the following: If the Contractor and the State cannot agree upon a new agreement by June 30, 2022, the State shall have no further obligations for renewal of the Operating Agreement with the Contractor.

4. The Parties agree that all other provisions of the Operating Agreement not amended herein shall remain in full force and effect.
5. This Amendment and all obligations of the parties hereunder shall become effective upon approval by the New Hampshire Governor and Executive Council.

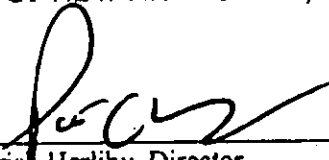
IN WITNESS WHEREOF, the Parties hereto have set their hands the date first-written above.

New Hampshire Central Railroad, Inc.
(Contractor)

By: 
Edward Jeffrey, President

Date: 10-22-21

STATE OF NEW HAMPSHIRE, DEPARTMENT OF TRANSPORTATION
(State)

By: 
Patrick Herlihy, Director
Division of Aeronautics, Rail & Transit
New Hampshire Department of Transportation

Date: 11/9/21

The foregoing Amendment, having been reviewed by this office, is approved as to form and execution on November 10, 2021.

OFFICE OF THE ATTORNEY GENERAL

By: 
Assistant Attorney General

Approved by Governor and Council on _____, 20____, Item # _____.

ATTEST: _____
Secretary of State

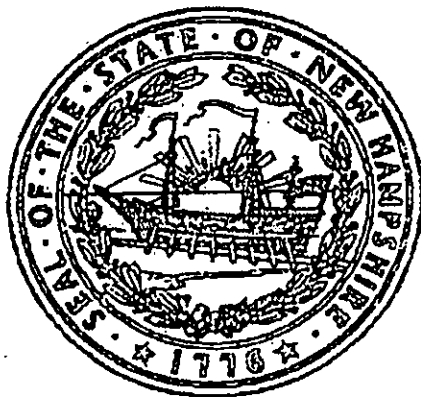
State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that NEW HAMPSHIRE CENTRAL RAILROAD, INC. is a New Hampshire Profit Corporation registered to transact business in New Hampshire on July 06, 1992. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 175754

Certificate Number: 0005458753



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 22nd day of October A.D. 2021.

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

NEW HAMPSHIRE CENTRAL RAILROAD, INC.

ACTION BY UNANIMOUS WRITTEN CONSENT OF DIRECTORS

The undersigned, being all of the directors of **NEW HAMPSHIRE CENTRAL RAILROAD, INC.**, a New Hampshire corporation (the "Corporation"), acting pursuant to the provisions of §8.21 of the New Hampshire Business Corporation Act (R.S.A., Chapter 293-A), and every other power, do hereby consent to and adopt the following resolutions effective as of October 27, 2021, with the same force and effect as though adopted at the duly called and held 2021 annual meeting of the Corporation's board of directors on such date:

Resolved: The Corporation hereby ratifies, confirms and authorizes **EDWARD W. JEFFREY** to execute on behalf of the corporation an Amendment To Operating Agreement with the State of New Hampshire, acting by and through the New Hampshire Department of Transportation, Bureau of Rail and Transit to amend the existing agreement to include the following:

1. Section 1.1.1(k) of the Operating Agreement shall be amended to extend the Completion Date of December 31, 2021 for an additional six (6) months. The amended Completion Date shall be June 30, 2022. The Operating Agreement shall terminate on June 30, 2022, unless terminated sooner in accordance with Section 1.8 or Section 1.9 of the Operating Agreement.
2. If the Parties enter into a new operating agreement on or before June 30, 2022, the current Operating agreement shall automatically terminate upon the effective date of the new agreement.
3. Section 1.3.1 of the Operating agreement shall be replaced with the following: If the Contractor and the State cannot agree upon a new agreement by June 30, 2022, the state shall have no further obligations for renewal of the Operating Agreement with the Contractor.
4. All other provisions of the Operating Agreement not amended shall remain in full force and effect.

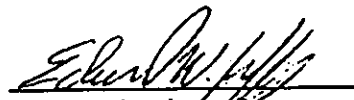
OCT 29 2021

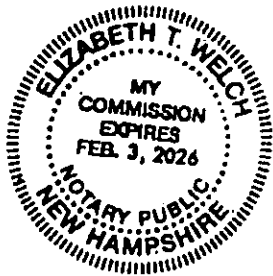
In witness whereof, we have executed this action by unanimous written consent of the directors of NEW HAMPSHIRE CENTRAL RAILROAD, INC. effective on the date first written above.

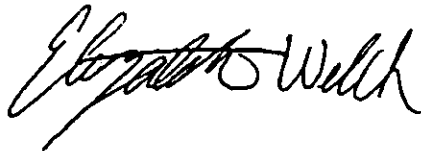

EDWARD W. JEFFREY
Director

Filed with the records of NEW HAMPSHIRE CENTRAL RAILROAD, INC. on this 27 day of October, 2021.

ATTEST


Secretary/Assistant Secretary







CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/04/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).


PRODUCER United Shortline Insurance Services 8265 N. Van Dyke Rd Port Austin MI 48467		CONTACT NAME: Julie Patch PHONE (AC, PA, EXT): (989) 738-8400 FAX (AC, No): (989) 738-6557 EMAIL: juliepatch@shortlineins.com ADDRESS:	
INSURED New Hampshire Central Railroad PO Box 165, 2283 US Rte 3 North Stratford NH 03590-0185		INSURER(S) AFFORDING COVERAGE: INSURER A: Liberty Surplus Insurance Corp NAIC # 10725 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: CL2012402952 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES, LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

AREA LTR.	TYPE OF INSURANCE	ADDL. SUHR RGR. WYD.	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Railroad Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	Y	RL004ED20	12/15/2020	12/15/2021	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY					COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED. RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYER'S LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A			PER STATUTE <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYER \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The following certificate holder is an Additional Insured but only with respect to liability arising out of the operations of the Named Insured.

CERTIFICATE HOLDER. State of NH-Dept of Transport. Bureau of Railroads PO Box 483, 1 Hazen Drive Concord NH 03302-0483	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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