OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: May 3, 2011

Agenda Item No. 8(A)(1)(D)

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Resolution No. R-290-11

Subject: First Amendment to Agreement for Exchange of Property between Miami-Dade County and CSX Transportation Inc., and Parcel C and D Easements

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RECOMMENDATION

It is recommended that the Board approve the attached resolution authorizing the Mayor's Designee to execute (i) the First Amendment to the Agreement for the exchange of property between Miami-Dade County (County) and CSX Transportation Inc. (CSXT), and (ii) the Agreement and the Easement authorizing an easement across Parcels C and D. This agreement implements Phase II of Resolution No. R-676-01 authorizing execution of the Memorandum of Agreement with CSX Transportation Inc., MDAD Project No. B382B2, for relocation of certain railroad tracks, upgrade of certain railroad grade crossings and reimbursement thereof in connection with the Perimeter Road Realignment at Miami International Airport (MIA). The improvements benefit the County's ground access to MIA and CSXT in the movement of rail freight.

SCOPE

The project associated with this Amendment is located within Commissioner Rebeca Sosa's District Six; however, the impact of this project is Countywide in nature as Miami International Airport is a regional asset.

FISCAL IMPACT

There is no fiscal impact as a result of this First Amendment to the agreement for exchange of property between the County and CSXT; the amendment provides easements over the two small parcels originally intended to be transferred to CSXT.

PROJECT MONITOR

The project is managed by Project Manager Franklin Stirrup and will be monitored by Pedro Hernandez, Division Director of the Civil and Environmental Engineering Division.

BACKGROUND

Pursuant to Resolution No. R-676-01, the County entered into a two-phase agreement with CSXT for the realignment of certain railroad tracks on the State-owned South Florida Rail Corridor (SFRC) to implement access improvements to Perimeter Road at MIA as part of its Capital Improvement Program (CIP). The County, with the Miami-Dade Aviation Department (MDAD) as its administering Department, requested that the State relocate the tracks with the County assuming full responsibility for the costs associated with the improvements, including modifications and changes to eight at-grade railroad crossings. The State, in accordance with an operating agreement with CSXT, requested CSXT to

perform all improvements associated with the tracks, including but not limited to design and installation of new tracks, signals and removal of existing tracks. The County agreed to pay CSXT to construct a crash wall, track relocation and crossing improvements and for the ongoing maintenance of the crossing, associated warning devices and surfaces in accordance with the terms and conditions of the Operating Agreement.

MDAD's planned modifications of Perimeter Road required CSXT's cooperation to act on behalf of the State per their mutual operating agreement. CSXT agreed to act on behalf of the State in Phase I, if the County cooperated with CSXT in a Phase II by participating in the implementation of its long-planned Lehigh Extension. The Extension of the CSXT system is a planned, rail-freight inter-modal project with an estimated cost of $5.79 million for decreasing rail headways, transit times and elimination of two existing at-grade crossings on the airport access Perimeter Road. It is deemed a project of Statewide significance by the Governor's Intermodal Freight Stakeholders Task Force, which later awarded CSXT a Fast Track State Grant (JPA 40838619401) in February, 2002, for $3.79 million. Anticipating the grant, CSXT needed the County's cooperation in exchanging parcels of property to straighten the CSXT and Florida East Coast (FEC) tracks and participate in the cost of the project. As authorized by Resolution No. R-676-01, the Memorandum of Agreement with CSXT recognized the need for Phase II and the County's transfer of real property and participation in the local share of the project cost in an amount not to exceed $2.5 million.

Pursuant to this First Amendment of the Agreement, the real property will no longer be transferred from Miami-Dade County to CSXT as previously approved; however, the County will receive the transfer of real property from CSXT via the attached Special Warranty Deed. In lieu of the transfer of Real Property to CSXT, Miami-Dade County will now give CSXT an easement across the two (2) parcels of land previously approved to be transferred. The County will receive credit for the closure of two Perimeter Road traffic obstructing at-grade rail crossings one operated by FEC the other by CSXT allowing it to gain state approval for one new at-grade crossing needed for improvements to the MIA Central Boulevard project as part of the airport's ground transportation improvement program.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: May 3, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(A)(1)(D)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(D)
5-3-11

RESOLUTION NO. R-290-11

RESOLUTION AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO THE AGREEMENT FOR EXCHANGE OF PROPERTY BETWEEN MIAMI-DADE COUNTY AND CSX TRANSPORTATION, INC., AND AUTHORIZING CONVEYANCE OF TWO EASEMENTS TO CSX TRANSPORTATION INC.

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby authorizes the County Mayor or Mayor's designee to execute the First Amendment ("the First Amendment") to the Agreement for the Exchange of Property Between Miami-Dade County and CSX Transportation Inc., in substantially the form attached hereto; and authorizes the County Mayor or Mayor's designee to convey to CSX Transportation Inc. easements to Parcels C and D, such property being fully described in the attachments to the First Amendment, and such easements being substantially in the form attached hereto, and authorizes the County Mayor to execute said easements on behalf of Miami-Dade County and to exercise any and all other rights conferred therein or in the First Amendment.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			aye
Audrey M. Edmonson, Vice Chairwoman			aye
Bruno A. Barreiro	aye	Lynda Bell	aye
Jose "Pepe" Diaz	absent	Sally A. Heyman	aye
Barbara J. Jordan	aye	Jean Monestime	aye
Dennis C. Moss	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of May, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

DIANE COLLINS
By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. DMM

David M. Murray

FIRST AMENDMENT TO AGREEMENT FOR EXCHANGE OF PROPERTY BETWEEN MIAMI-DADE COUNTY AND CSX TRANSPORTATION, INC.

THIS FIRST AMENDMENT TO AGREEMENT FOR EXCHANGE OF PROPERTY (this "Amendment") is entered into as of this ____ day of _____, 20___, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida (hereinafter referred to as "County") and CSX TRANSPORTATION, INC., a Virginia corporation (hereinafter referred to as "CSXT").

WITNESSETH:

WHEREAS, County and CSXT made and entered into that certain Agreement for Exchange of Property dated as of September 11, 2006 (the "Agreement"), regarding the conveyance by CSXT to County of two parcels of land in exchange for the conveyance by County to CSXT of two parcels of land and an easement over certain land of County, all as more particularly described in the Agreement;

WHEREAS, County and CSXT desire to modify the exchange of property and County agrees to provide an easement for Railroad purposes as set for in attached Exhibits A & B for Parcels C and D in lieu of conveyance of the property; and

WHEREAS, pursuant to Section 6.A.1. of the Agreement, County performed environmental remediation on Parcels C and D, at its cost, prior to granting such easement through Parcels C and D to CSXT; and

WHEREAS, County intends to continue performing, at its cost and after the conveyance of the easements for Parcels C and D, all additional environmental remediation required on Parcels A, B, C and D by any local, state and federal governmental agencies, and the parties desire to amend the Agreement in connection therewith, as more particularly set forth herein;

NOW THEREFORE, in consideration of the covenants, agreements and for other good and valuable consideration herein contained, the parties hereto agree as follows:

1. Capitalized terms not defined herein shall have the meaning given to them in the Agreement.

2. Section 1. paragraph 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

"As consideration for the conveyance of the CSXT PROPERTY to COUNTY, COUNTY agrees to convey an easement for railroad purposes to CSXT by COUNTY Deed in accordance with Section 125.411, Florida Statutes, the County-owned property containing approximately .93 acres that is legally described as Exhibit "B" and identified thereon as "Parcel C" and "Parcel D" (hereinafter referred to as "COUNTY PROPERTY" or "PARCELS C and D"), for such purposes as CSXT determines, including, without limitations, for the purposes of constructing, maintaining, and operating tracks on the COUNTY PROPERTY. The COUNTY agrees to convey to CSXT an easement (hereinafter referred to as "the Easement") as described in Exhibit B."

3. Section 6.A.1. of the Agreement is hereby deleted in its entirety and replaced with the following:

"County shall perform, at its cost, any environmental remediation required on Parcels C and D by appropriate local, state and federal governmental agencies for conditions on the Parcels as of the date of conveyance."

4. Section 6.A.2. of the Agreement is hereby deleted in its entirety and replaced with the following:

"If necessary, County will perform at its cost any environmental remediation required on Parcels A and B by appropriate local, state, and federal governmental agencies."

5. Section 6.D. of the Agreement is hereby amended by deleting in its entirety the last sentence thereof.

6. Currently, County does not have any environmental costs related to County's environmental cleanup cost recovery claim (Miami-Dade County v. Advance Cargo Services, Inc., Case No. 01-8758-CA) which are in any way associated with the parcels of land being exchanged with CSX for the Lehigh Connector. In addition, Miami-Dade County is not planning any environmental actions and has no reason to suspect that any environmental contamination associated with this environmental cleanup cost recovery action is present on any of the aforementioned parcels of land.

7. Section 11 of the Agreement is hereby amended by deleting it in its entirety and replacing it with the following:

"CLOSING. The closing of this transaction shall be completed by _____, 20__; provided, however, that all contingencies to County's obligations and all other terms and conditions to be performed by CSXT have been satisfied and that all contingencies to CSXT's obligations and all other terms and conditions to be performed by County have been satisfied. The precise date, time and place of closing shall be set by County."

8. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, but which together shall constitute one original.

9. Copies of this Amendment and the signatures thereon shall have the same force and effect as if the same were original documents. Facsimile signatures are acceptable and shall be deemed to be original signatures.

10. Seller and Buyer hereby ratify and affirm in all respects the Agreement, as amended by this Amendment. Except as amended herein, all terms and conditions of the Agreement remain in full force and effect.

IN THE WITNESS WHEREOF, the parties hereto have entered into and executed this Amendment as of the first date written hereinabove.

COUNTY:

ATTEST:

MIAMI-DADE COUNTY

By: _____
Deputy Clerk

By: _____
County Manager
Date: _____

Approved as to form and legal sufficiency:

_____
Assistant County Attorney

The foregoing was accepted and approved on the ____day of _____, 20___, by Resolution No. _____ of the Board of County Commissioners of Miami-Dade County, Florida.

CSXT:

WITNESSES:

CSX TRANSPORTATION INC., a Virginia corporation

_____
Print Name: Karen P. Clarke

_____
Print Name: Jennifer L. Bryan

By : _____
Print Name: Stephen A. Crosby
Title: President- CSX Real Property, Inc. signing on behalf of CSX Transportation, Inc.

Date: _____

CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF DUVAL

I HEREBY CERTIFY, that on this 22ND day of MARCH, 2011, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared personally known to me, or proven, by producing the following identification, Stephen A. Crosby, to be the President-CSX RPI of CSX Transportation, Inc., a corporation under the laws of the Commonwealth of Virginia, and in whose name the forgoing instrument is executed and that said he/she acknowledged before me that he/she executed said instrument acting on behalf of and under the authority duly vested by said corporation and its Corporate Seal affixed thereto

WITNESS my hand and official seal at Jacksonville, in the County and State aforesaid on this, the 22ND day of MARCH, 2011.

NOTARY PUBLIC
State of Florida at Large
My Commission Expires:

Notary Public State of Florida
Carmen E Benitez
My Commission DD912898
Expires 10/16/2013

EXHIBIT "A"

PARCEL "C"

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 53 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 35;

THENCE S89°52'36"W ALONG THE SOUTH LINE OF SAID SECTION 35, 1065.76 FEET;

THENCE N01°30'06"W FOR 620.11 FEET;

THENCE S87°05'03"W FOR 437.56 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND:

THENCE S87°05'03"W FOR 170.51 FEET TO A POINT ON A CURVE (NON TANGENTIAL - RADIUS BEARS S31°35'16"W);

THENCE NORHTWESTERLY ALONG A CIRCULAR CURVE TO THE LEFT HAVING A RADIUS OF 900.00 FEET, AN ARC DISTANCE OF 151.67 FEET (CENTRAL ANGLE 09°39'19");

THENCE N87°05'03"E, 302.12 FEET;

THENCE S02°54'57"E, 75.00 FEET TO THE POINT OF BEGINNING,

CONTAINING 17,401 SQ. FT. OR 0.399 ACRES ±

PARCEL "D"

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 53 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 35;

THENCE S89°52'36"W ALONG THE SOUTH LINE OF SAID SECTION 35, 1065.76 FEET;

THENCE N01°30'06"W, 620.11 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND:

THENCE S87°05'03"W, 177.56 FEET;

THENCE N02°54'57"W, 75.00 FEET;

THENCE N87°05'03"E, 179.41 FEET;

THENCE S01°30'06"E, 75.02 FEET; TO THE POINT OF BEGINNING,

CONTAINING 13,386 SQ. FT. OR 0.307 ACRES ±

AGREEMENT PROVIDING FOR EASEMENT
TO CSX TRANSPORTATION, INC.
FROM MIAMI-DADE COUNTY

THIS AGREEMENT, entered into this _____ day of _____, 20__, by and between the Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as the County, and **CSX TRANSPORTATION, INC.** hereinafter referred to as **CSXT,** a Virginia Corporation having its place of business in the City of Jacksonville, County of Duval, State of Florida.

WITNESSETH:

WHEREAS, the County is the fee simple owner of a real property at Miami International Airport, portions of which are currently vacant undeveloped land.

WHEREAS, parts of said portions of the real property have been determined necessary for the location of a railroad track by CSXT; and

WHEREAS, the proposed use of said portions of the real property for the construction, installation and operation of the CSX railroad track requires the subordination of a portion of said fee simple ownership of the County to CSXT in the form of an easement; and

WHEREAS, said easement desired by CSXT is legally described as set forth in Exhibit "A" attached hereto and incorporated herein by referenced as if fully set forth herein.

NOW, THEREFORE, in consideration of the performance by CSXT, its successors, grantees, and assigns of CSXT's covenants herein contained, it is agreed by and between the County and CSXT as follows:

1. County hereby grants CSXT, subject to the terms and conditions hereinafter set forth, a railroad easement for the construction of such structures and appurtenances necessary for the construction and for the operation and maintenance of a railroad track for the CSX Main Line, within the areas across Parcels "C" and "D", which are legally described as the easement granted herein as set forth in EXHIBIT "A".
2. All work performed by or for CSXT within said easement shall be performed in accordance with County approved plans.
3. CSXT shall have no right to construct, maintain, or operate, or to permit, suffer, allow, or authorize other persons to construct, maintain, or operate any structures or appurtenances other than those required for railroad operations in the easement granted by the County which are not expressly authorized or permitted by the County in writing in the easement or in this Agreement.
4. In the event that CSXT fails at any time, during or after construction, to comply with any or all of the requirements or covenants of CSXT in Paragraph 1, or Paragraph 2, or Paragraph 3 above, then CSXT agrees to remove any and all such unauthorized structures and appurtenances which are in the easement herein granted upon the written request of the County and at the sole expense of CSXT and within a reasonable time period required for such removal established by both parties. CSXT agrees and covenants that the sole financial responsibility for any costs, expenses, or damages of any kind whatsoever caused by such failure or failures to comply shall be borne by CSXT.
5. CSXT shall indemnify and hold harmless the County and its officers, employees, agents, and instrumentalities from any and all liability, losses, or damages, including attorney's fees and costs of defense, which the County, or its officers, employees, agents, or instrumentalities

may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by CSXT or its officers, employees, agents, servants, partners, principals, or subcontractors. CSXT shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments and attorney's fees which may issue thereon.

6. The COUNTY shall indemnify and hold harmless CSXT and its officers, employees, and agents from any and all liability, losses, damages, including attorney's fees, costs of defense and governmental imposed penalties, which CSXT may incur as a result of, relating to or resulting from any environmental contamination, environmental wastes, hazardous wastes, or pollutants which may be on or about or under the property encumbered herein which existed on, about or under the property or have existed on , about or under the property at the time of the delivery of the easement instrument called for in this agreement. This indemnity is specifically limited to contamination levels, which exists or existed at or prior to the time of the delivery of the easement instrument described in this agreement as noted in the Phase One Environmental Inspection and Phase Two Environmental Audit. Except with respect to the cost of remediating any contamination described in this paragraph, through whatever means required by the appropriate regulatory agency, this indemnity is limited to and controlled by limitations set forth in section 768.28, Fla. Stat. (2005).
7. This Agreement shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of CSXT.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed, the day and year first above written.

ATTEST:

HARVEY RUVIN
CLERK OF SAID BOARD

By: _____
Deputy Clerk

Print: _____

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By: _____
Mayor, or designee

The foregoing instrument was acknowledged before me this _____day of _____, 20___ by _____ as _____, and _____, respectively of Miami-Dade County, Florida, a body corporate and political subdivision of the State of Florida, on behalf of the County. They are personally known to me or who have produced _____, as identification.

NOTARY PUBLIC:

Sign: _____

Print: _____

Witnesses as to CSXT

Sign: Karen P. Clarke

Print: Karen P. Clarke

Sign: Jennifer L. Bryan

Print: Jennifer L. Bryan

CSX TRANSPORTATION, INC.

By: _____

Print Name: Stephen A. Crosby

Print Title: President, CSX Real Property, Inc.

Address: _____

_____

Attest Paul R. Hitchcock _(SEAL)

PAUL R. HITCHCOCK

Print Name: CORPORATE SECRETARY

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 22ND day of MARCH, 2011 by STEPHEN A. CROSBY, who is personally known to me or has produced N/A, as identification.

Notary Public

Notary Public State of Florida
Carmen E Benitez
My Commission DD912898
Expires 10/16/2013

EXHIBIT "A"

PARCEL "C"

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 53 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 35;

THENCE S89°52'36"W ALONG THE SOUTH LINE OF SAID SECTION 35, 1065.76 FEET;

THENCE N01°30'06"W FOR 620.11 FEET;

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THENCE N87°05'03"E, 302.12 FEET;

THENCE S02°54'57"E, 75.00 FEET TO THE POINT OF BEGINNING,

CONTAINING 17,401 SQ. FT. OR 0.399 ACRES ±

PARCEL "D"

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 53 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE N87°05'03"E, 179.41 FEET;

THENCE S01°30'06"E, 75.02 FEET; TO THE POINT OF BEGINNING,

CONTAINING 13,386 SQ. FT. OR 0.307 ACRES ±

This instrument prepared by
or under the direction of:

Marshelly S. Stephens
Counsel
Law Department
500 Water Street
Jacksonville, Florida 32202

SPECIAL WARRANTY DEED

THIS DEED, made this _____ day of _____, 20___, between CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Grantor", and MIAMI-DADE COUNTY, a political subdivision of the State of Florida, whose mailing address is _____, hereinafter called "Grantee", WITNESSETH:

(Wherever used herein, the terms "Grantor" and "Grantee" may be construed in the singular or plural as the context may require or admit, and for purposes of exceptions, reservations and/or covenants, shall include the heirs, legal representatives and assigns of individuals or the successors and assigns of corporations.)

THAT Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00), to it in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and sold, and by these presents does GRANT, BARGAIN, SELL and CONVEY unto Grantee, its successors and assigns, those two (2) certain tracts or parcels of land situate, lying and being in Miami, Dade County, Florida, hereinafter designated "the Premises," more particularly described in Exhibit A, attached hereto and incorporated herein, and containing a total of 1.59 acres, more or less.

TOGETHER WITH all buildings, structures and improvements thereon, and all and singular the rights, alleys, ways, waters, privileges, hereditaments and appurtenances to said Premises belonging or in anyway incident or appertaining.

TO HAVE AND TO HOLD the Premises unto Grantee, Grantee's heirs and assigns or successors and assigns, forever.

Grantor hereby WARRANTS that: (a) SUBJECT TO reservations, easements, covenants, restrictions and limitations of record or platted, all existing public utilities and

roadways, and all existing encroachments, ways and servitudes, howsoever created, determinable by a proper survey or by an inspection thereof, Grantor will forever defend the Premises unto Grantee against claims of or by Grantor and all other persons lawfully claiming or to claim the same or any part thereof by, through or under Grantor; (b) Grantor will execute such other and further assurances of the same as may be required.

Grantee acknowledges that the Premises conveyed hereunder has been historically used for railroad industrial operations and is being conveyed for use only as industrial or commercial property. Grantee, by acceptance of this deed, hereby covenants that it, its successors, heirs, legal representatives or assigns shall not use the Premises for any purpose other than industrial or commercial purposes and that the Premises will not be used for (a) any residential purpose of any kind or nature (residential use shall be defined broadly to include, without limitation, any use of the Premises by individuals or families for purposes of personal living, dwelling, or overnight accommodations, whether such uses are in single family residences, apartments, duplexes, or other multiple residential dwellings, trailers, trailer parks, camping sites, motels, hotels, or any other dwelling use of any kind), (b) any public or private school, day care, or any organized long-term or short term child care of any kind, or (c) any recreational purpose (recreational use shall be defined broadly to include, without limitation, use as a public park, hiking or biking trail, athletic fields or courts, or public gathering place). By acceptance of this deed, Grantee further covenants that it, its successors, heirs, legal representatives or assigns shall not use the groundwater underneath the Premises for human consumption, irrigation, or other purposes.

As of the date of this deed, Grantee, by acceptance of this deed, hereby covenants that it does not have any environmental costs related to its environmental cleanup cost recovery claim (Miami Dade County v. Advance Cargo Services, Inc. Case No. 01-8758-CA) which are in any way associated with the Premises and it is not planning any environmental actions and has no reason to suspect that any environmental contamination associated with such environmental cleanup cost recovery action is related to these Premises.

Grantee and Grantor agree and acknowledge the covenants and easements contained in this Deed shall be covenants "in gross" and easements "in gross" which shall remain binding on Grantee, its successors, heirs, legal representatives and assigns regardless of whether Grantor continues to own property adjacent to the Premises. Grantee acknowledges Grantor will continue to have a substantial interest in enforcement of the said covenants whether or not Grantor retains title to property adjacent to the Premises.

Said covenant(s) shall run with title to the Premises conveyed, and bind upon Grantee, Grantee's heirs, legal representatives and assigns, or corporate successors and assigns, and anyone claiming title to or holding Premises through Grantee.

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

Signed, sealed and delivered
in the presence of:

Karen P. Clarke

Karen P. Clarke

Jennifer L. Bryan

Jennifer L. Bryan

CSX TRANSPORTATION, INC.:

By:

Print Name: Stephen A. Crosby
Print Title: President, CSX Real Property, Inc.

Attest Paul R. Hitchcock (SEAL)

PAUL R. HITCHCOCK
CORPORATE SECRETARY

Print Name:

RETURN TO: David M. Murray
Assistant County Attorney
Miami – Dade County

STATE OF FLORIDA)
) SS.
COUNTY OF DUVAL)

I, Carmen E. Benitez, a Notary Public of the State of Florida and the County of Duval, do certify that, on the date below, before me in said County came Stephen A. Crosby (X) to me known, and/or ( ) proven by satisfactory current evidence to be the person whose name is subscribed to the above instrument, who, being by me first duly sworn, did make oath, acknowledge and say that: (s)he resides in Jacksonville, Duval County, Florida; (s)he is President-CSX Real Property, Inc., signing on behalf of CSX Transportation, Inc., the corporation described in and which executed said instrument; (s)he is fully informed of the contents of the instrument; (s)he knows the seal of said corporation; the seal affixed to said instrument is such seal; it was so affixed by authority of the Board of Directors of said corporation; (s)he signed his/her name thereto for said corporation pursuant to Board authority; and instrument is the free act and deed of said corporation; and the conveyance herein is not part of a transaction, sale, lease, exchange or other transfer or conveyance of all or substantially all of the property and/or assets of the Grantor.

IN WITNESS WHEREOF, I hereunto set my hand and official seal, this 22nd day of March, 2011.

My commission expires on:

Notary Public State of Florida
Carmen E Benitez
My Commission DD912898
Expires 10/16/2013

(SEAL)
Notary Public
Print Name: Carmen E. Benitez

EXHIBIT A

Description of property at: Miami-Dade County, Florida
To: Miami-Dade County
CSXT Deed File No.: Site ID – FL-025-0940468

PARCEL "A"

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 53 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 35;

THENCE N01°44'15"W ALONG THE EAST LINE OF SAID SECTION 35, 739.88 FEET;

THENCE S87°02'09"W, 198.56 FEET;

THENCE N87°04'36"W, 106.69 FEET TO A POINT ON A CURVE (NON TANGENTIAL - RADIUS BEARS S06°36'09"E) AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND:

THENCE SOUTHWESTERLY ALONG A CIRCULAR CURVE TO THE LEFT HAVING A RADIUS OF 861.11 FEET, AN ARC DISTANCE OF 40.75 FEET (CENTRAL ANGLE 2°42'41");

THENCE S87°05'03"W, ALONG THE NORTHERLY RIGHT OF WAY OF A PROPOSED TEAM TRACK 75 FEET IN WIDTH, 717.12 FEET;

THENCE N01°30'06"W, 23.63 FEET;

THENCE N87°00'28"E, 642.68 FEET TO A POINT ON A CURVE (NON TANGENTIAL RADIUS BEARS N11°56'48"E);

THENCE SOUTHEASTERLY ALONG A CIRCULAR CURVE TO THE LEFT HAVING A RADIUS OF 739.49 FEET, AN ARC DISTANCE OF 116.46 FEET (CENTRAL ANGLE 9°01'25") TO A POINT OF TANGENCY AND THE POINT OF BEGINNING,

CONTAINING 16,816 SQ. FT. OR 0.386 ACRES.

PARCEL "B"

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 53 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 35;

THENCE N01°44'15"W ALONG THE EAST LINE OF SAID SECTION 35, 739.88 FEET;

THENCE S87°02'09"W, 198.56 FEET;

THENCE N87°04'36"W, 106.69 FEET TO A POINT ON A CURVE (NON TANGENTIAL - RADIUS BEARS S06°36'09"E);

THENCE SOUTHWESTERLY ALONG A CIRCULAR CURVE TO THE LEFT HAVING A RADIUS OF 861.11 FEET, AN ARC DISTANCE OF 200.00 FEET (CENTRAL ANGLE 13°18'26") TO A POINT OF COMPOUND CURVATURE (RADIUS BEARS S19°54'25"E);

THENCE CONTINUING SOUTHWESTERLY ALONG A CIRCULAR CURVE TO THE LEFT HAVING A RADIUS OF 799.49 FEET, AN ARC DISTANCE OF 118.20 FEET (CENTRAL ANGLE 08°28'16") TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND:

THENCE CONTINUING SOUTHWESTERLY ALONG SAID CIRCULAR CURVE TO THE LEFT HAVING A RADIUS OF 799.49 FEET (RADIUS BEARS S28°22'53"E FROM SAID POINT OF BEGINNING), AN ARC DISTANCE OF 185.28 FEET (CENTRAL ANGLE 13°16'41");

THENCE S67°35'12"W, 320.00 FEET;

THENCE N01°30'06"W, 205.11 FEET;

THENCE N87°05'03"E, 453.17 FEET TO THE POINT OF BEGINNING,

CONTAINING 52,256 SQ. FT. OR 1.199 ACRES.

BEING more particularly shown on plat of survey dated September 22, 2004, revised October 8, 2006 prepared by Samuel M. Fischbein, (Registered/Professional) Land Surveyor Number , 4207, Weidener Surveying and Mapping PA, 10418 N. W. 31st Terrance, Miami, Florida 33172incorporated herein by reference.

BEING a portion of the property acquired by predecessors of Grantor, by the following instruments, recorded among the Public Land Records of Dade County, Florida:

Railroad	Acquired From	Date of Instrument	Book	Page
SAL	Dade County	03/30/1950	3264	480
SE Investment Co.	Seminole Fruit	03/30/1950	3264	480
Seaboard All Florida Rwy.	SE Investment Co.	09/30/1926	1010	23

On July 1, 1967 the Atlantic Coast Line Railroad Company merged with the **Seaboard Air Line Railroad Company** to form the Seaboard Coast Line Railroad Company. On December 29, 1982 the Louisville and Nashville Railroad Company merged into Seaboard Coast Line Railroad Company, and the name of the surviving corporation changed to Seaboard System Railroad, Inc. On July 1, 1986, Seaboard System Railroad, Inc. changed its name to CSX Transportation, Inc.

On December 17, 1945 all properties of the **Seaboard-All Florida Railway** were acquired by the Seaboard Air Line Railroad Company. On July 1, 1967 the Atlantic Coast Line Railroad Company merged with the Seaboard Air Line Railroad Company to form the Seaboard Coast Line Railroad Company. On December 29, 1982 the Louisville and Nashville Railroad Company merged into Seaboard Coast Line Railroad Company, and the name of the surviving corporation changed to Seaboard System Railroad, Inc. On July 1, 1986, Seaboard System Railroad, Inc. changed its name to CSX Transportation, Inc.