

**PASSENGER EXCURSION AGREEMENT
ON THE
CONCORD TO LINCOLN RAILROAD LINE
BETWEEN
NORTHFIELD AND LINCOLN**

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

AND

**PLYMOUTH AND LINCOLN RAILROAD CORPORATION
P.O. BOX 9
LINCOLN, NEW HAMPSHIRE 03251-0009**

May 4, 2011

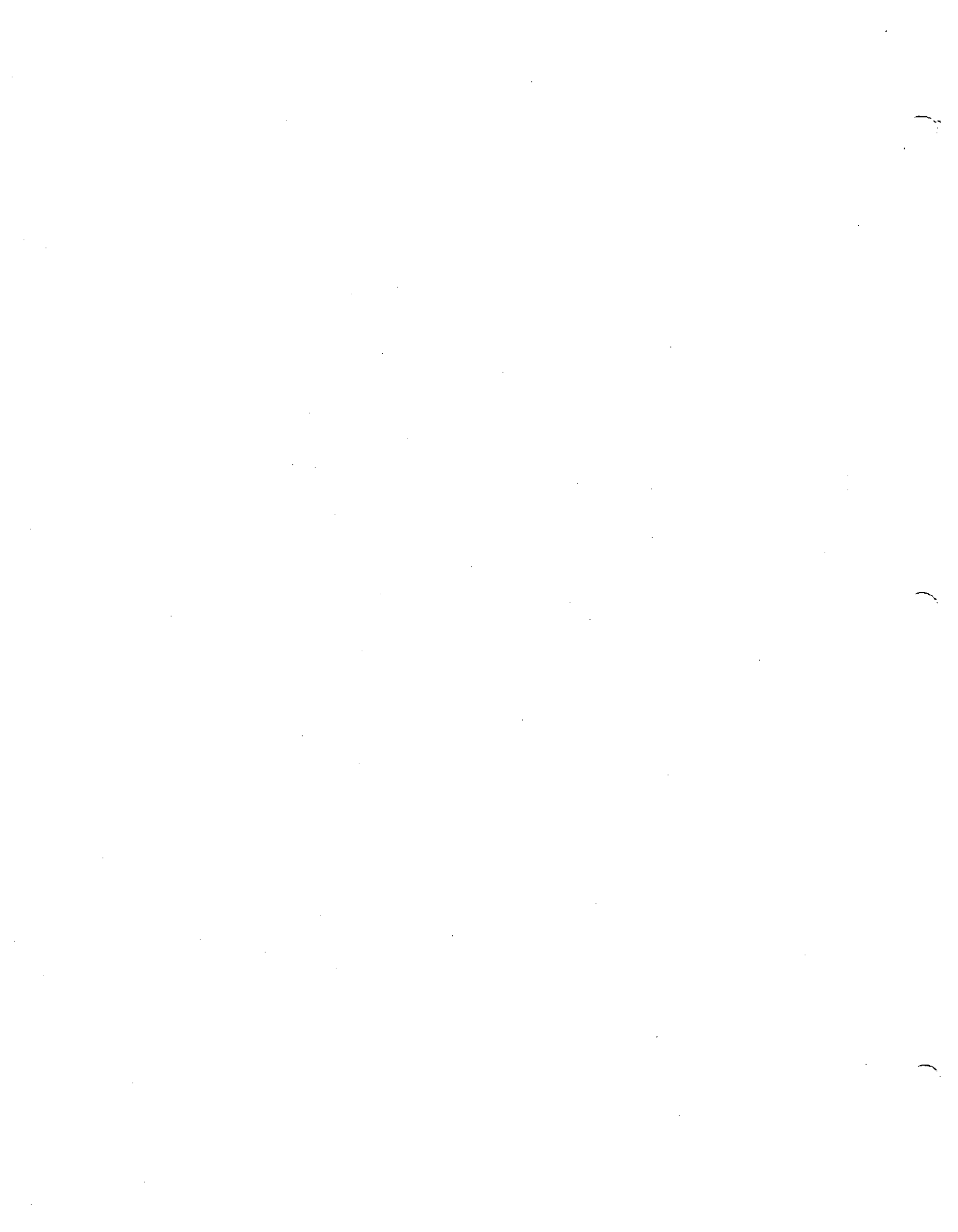


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ARTICLE I - GENERAL CONDITIONS

1.1 DEFINITIONS

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

- a. "Contractor"- Plymouth & Lincoln Railroad Corporation, PO Box 9, Lincoln, NH 03251-0009.
- 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 Passenger Excursion Service.
- f. "Contracting Officer" - Commissioner, New Hampshire Department of Transportation (NHDOT), or his duly authorized representative. The Contracting Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of the Agreement and the resolution of any disputes by the Contracting Officer shall be final.
- g. "Agreement" - means the Passenger Excursion Agreement dated May 4, 2011.
- h. "Rail facility and rail facilities" collectively means the track, bridges, signals, switches, structures, buildings, and related railroad transportation property located on the one or more segments over which passenger excursion service is to be provided.
- i. "Effective Date" means the date the Agreement is approved by the Governor and Council of the State of New Hampshire.
- j. "Commencement Date" - January 1, 2012.
- k. "Completion Date" - December 31, 2021.
- l. "Operating Year" - January 1 to December 31.
- m. "User Fee" - Fee to be paid by the Contractor to State for the use of certain State-owned rail facilities.
- n. "Subcontractor" - An individual, partnership, firm, corporation, or any combination thereof, or joint venture, to whom the Contractor sublets any part of the 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 Agreement for an additional ten (10) year period beginning January 1, 2022. If the Contractor and the State cannot agree upon a new Operating Agreement by July 1, 2021, the State may at that time solicit new Requests for Proposals to operate the Line and have no further obligations for renewal of this Agreement with the Contractor.

1.4 REQUEST TO PURCHASE

1.4.1 The Contractor shall notify the State by certified mail if the Contractor wishes to purchase the rail facilities. At its discretion and if permitted by State law, the State may sell the rail facilities to the Contractor to be maintained as an active railroad line, provided that the State and the Contractor obtain all necessary approvals. If the State and the Contractor cannot agree upon the terms of the purchase of the rail facilities within one (1) year from the date of the certified mail, the State will have no further obligations for sale of the rail facilities with the Contractor. This date, one (1) year from the date of the certified mail, may be extended with the approval of both the State and the Contractor.

1.5 CONTRACTOR'S REPRESENTATION AND WARRANTIES.

1.5.1 The Contractor represents and warrants the following:

1.5.1.1 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;

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

1.5.1.3 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

1.5.1.4 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 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;

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 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 1.11.1 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 The Contractor shall obtain and maintain in force, throughout the term of this Agreement, Specialized Passenger Risk Liability Insurance, including Contractual Liability, with a claims made basis, naming the State as additionally insured, in the amount of five million (\$5,000,000.00) dollars with aggregate coverage of not less than ten million (\$10,000,000.00) dollars.

1.13.2 The policies described in subparagraph 1.12.1 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 thirty (30) 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 construed 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.

1.18. LIMITED THIRD PARTY BENEFIT

1.18.1 The parties to this Agreement do not intend to benefit any third party other than the HOBO Corporation, Cafe Mt. Lafayette, Ltd and Lincoln RR Enterprises.

1.19 ENERGY EFFICIENCY

1.19.1 The Contractor shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

1.20 ENVIRONMENTAL PROTECTION

1.20.1 The Contractor shall agree that no facility or equipment acquired, constructed, or improved will knowingly violate any State or Federal Standard governing water and air pollution.

1.21 DISPUTE RESOLUTION

1.21.1 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 dispute by the Contracting Officer shall be final.

1.22 ENTIRE AGREEMENT

1.22.1 This Agreement, which shall 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 related hereto.

1.23 FULL FORCE AND EFFECT

1.23.1 In the event any part of this Agreement is void or unenforceable, all other provisions shall continue in full force and effect,

ARTICLE II - PHYSICAL DESCRIPTION

2.1 The Rail Facilities are described as follows:

2.1.1 The Contractor shall have the primary right to operate passenger excursion trains including special trains, work trains, and other operations approved by the Contracting Officer between Engineering Valuation Station 924+00 in Northfield and Station 1115+75 in Lincoln on the State-owned Concord to Lincoln Railroad Line. The Contractor has the primary right to utilize and shall be responsible for proper upkeep and maintenance including but not limited to the heating, electrical, water, security and structural systems of the storage facilities at the Lakeport Yard and Engine House and the Ticket Booth on the Weirs Beach Boardwalk. The Contractor for the purposes of tourist train operations has the primary right to utilize 1.2 acres of land, more or less, in Meredith and depicted more precisely on Attachment A of this Agreement. The Contractor for the purposes of tourist train operations has the primary right to utilize 0.6 acres of land, more or less, at Mountain Park Station in Woodstock and depicted more precisely on Attachment B of this Agreement.

2.2 All rail facilities remain the property of the State which reserves to itself the right to grant further easements, contracts, leases, and other rights therein which do not, in the sole judgment of the State, unreasonably interfere with the performance of the services by the Contractor. The State reserves to itself all rents, fees and revenues derived from such grants.

2.3 In all of its operations and use of the property enumerated herein, the Contractor will cooperate with State's railroad freight operator in the use of rail facilities. If the Contractor and the railroad freight operator cannot agree among themselves, the State retains the power to determine priority of occupation or use.

2.4 The Contractor shall make no alterations to the State's property, both real and personal, or construct any building or make other improvements on the State's property beyond normal maintenance without the prior written consent of the State. All alterations, changes, and improvements built, constructed, or placed on the State's property 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 materials generated as a part of normal maintenance, shall become the property of the Contractor.

2.5 The parties contemplate that at least the following recreational uses will be made on the State-owned Concord to Lincoln Railroad Line during the term of this Agreement: (1) a year-round Recreational Trail, pursuant to one or more Rail-Trail agreements with the City of Laconia and the Towns of Belmont, Northfield and Tilton, provided the City or Town meets its indemnification and insurance responsibilities pursuant to an executed Rail-Trail Agreement, as amended from time to time; and (2) winter recreational use of the Line in locations other than the Recreational Trail, such use being managed by the Department of Resources and Economic Development (DRED). The State and the Contractor intend to avail themselves of any and all recreational use immunity to the fullest extent of the law, including but not limited to RSA 508:14 and RSA 212:34, as owner and occupant of the Line, respectively. To that end, the State hereby grants to the Contractor the concurrent right to grant access to the Line for recreational purposes. For any particular recreational use on the Line proposed by either the State or the Contractor, the Contractor may memorialize its assent to any proposed recreational use by directing such assent, in writing, to the Contracting Officer. Assent to any particular recreational use may be withdrawn by the State or the Contractor by sending such written withdrawal to the other party to this Agreement. Nothing herein is intended to create third party beneficiary rights in any party. Upon execution of this Agreement, the Contractor shall indicate in writing whether or not it assents to the Recreational Trail use pursuant to any existing Rail-Trail agreement with the City of Laconia or the Towns of Belmont, Northfield or Tilton. With respect to winter recreational use of the Line under DRED management, the Contractor shall inform the Contracting Officer that rail operations have ceased for any particular operating season and simultaneously communicate its position on allowing winter recreational use of the Line apart from the Recreational Trail. Neither the Contractor nor the Contracting Officer shall allow winter recreational use of the Line once rail operations have resumed, except on the Recreational Trail."

ARTICLE III - OPERATIONS

3.1 SERVICES

3.1.1 The Contractor shall, between the Commencement Date and the Completion Date, manage and operate Service upon the property above-mentioned in Article 2.1. The Contractor shall be solely responsible for all phases and requirements of its operation, including, but not limited to, scheduling, workforce, equipment, advertising, and ticket sales.

3.1.2 Notwithstanding any other provisions of the Agreement, the Contractor agrees to allow provision of 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.

3.1.3 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.

3.1.4 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.

3.2 MAINTENANCE.

3.2.1 Equipment - The Contractor shall be responsible for proper upkeep and maintenance of all equipment it uses and shall insure that equipment is in compliance with all applicable current FRA regulations.

3.2.2 Track - The Contractor shall be responsible for the proper upkeep and maintenance of track facilities as stated in Article 2.1. 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 passenger excursion service.

3.2.2.1 The Contractor shall be responsible to perform all work and routine maintenance necessary to maintain the track described in Article 2.1 at FRA Class I (Class II where track is so classified) Track Safety Standards and in any event will expend no less than ten (10%) percent of its Annual Gross Ticket Revenue on actual track maintenance exclusive of inspections. In the event that the Contractor expends in excess of ten (10%) percent of Annual Gross Ticket Revenue on track maintenance in an Operational Year, such excess will be credited towards future maintenance expense obligations hereunder. The Contractor's performance will satisfy all obligations required of the owner of a railroad, as set forth in Part 213 of the FRA Track Safety Standards (49 CFR 213).

3.2.3 STRUCTURES (BRIDGES & CULVERTS)

3.2.3.1 The Contractor shall be responsible for maintaining structures and shall make needed repairs necessary to keep structures safe for the convenience of the railroad and the State. Said maintenance shall include but not be limited to the cleaning and removal of debris, lubrication of bearing surfaces, scour and erosion protection.

3.2.3.2 In the event a major maintenance expenditure is required, such as but not limited to, a bridge failure or major washout, the Contractor shall assist in all necessary repairs, but be limited in its direct financial contribution to the first five thousand (\$5000.00) dollars per operating year in the aggregate for both the Contractor's HOB0 Railroad and Winnepesaukee

Scenic Railroad operations. 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 INSPECTION.

3.3.1 The Contractor shall patrol the area of service and inspect the track when operating as per FRA Track Safety Standards Subpart F (49 CFR 213.233) at least twice weekly from MP C29.20 to 37.67 and from MP P 12.36 to P 21.00 and at least twice monthly with at least one calendar week interval between inspections from MP C 17.61 to MP C 29.20 and MP 37.67 to MP P 12.36. The Contractor shall 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 and notify the Contracting Officer in writing of said remedial action.

3.3.2 The Contracting Officer has the right to monitor the Contractor to ensure that the Contractor complies with the conditions of the Agreement. The Contracting Officer shall be granted full access to the operations and shall have the authority to direct the Contractor through its General Manager or his designee to remedy deficiencies as per FRA Class I under this Agreement.

3.3.3 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.

3.3.3.1 Such inspection shall include, but not be limited to:

- a. Ensure that work complies with the contract specification.
- b. Verify quantitative measures of materials installed, such as tie counts.
- c. Verify labor and materials charges for contracts providing for payment on an actual cost basis ("force account work").
- d. Verify the quantities of uninstalled State-owned materials and the security of the same against damage, theft, or use other than for approved projects.
- e. Provide any other information requested by the Contracting Officer.

3.4 CONSTRUCTION PROJECTS.

3.4.1 The Contracting Officer reserves the right to advertise and let construction rehabilitation projects within the confines of the line. The construction contractor to whom this work may be awarded shall have the right to perform the work so described in the contract. The Contracting Officer shall have the right to adjust trips not published in the regular railroad schedule to accommodate the construction schedule.

3.4.2 The Contracting Officer will from time to time allow Water Pollution Abatement and other 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.

3.5 FORCE MAJEURE

3.5.1 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.

ARTICLE IV - USER FEE PAYMENTS, ACCOUNTING AND AUDITS

4.1 RECEIPT OF PAYMENTS

4.1.1 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 SCHEDULE OF PAYMENTS

4.2.1 Payments shall be paid monthly, based upon the level of operation, as explained below. Payments shall be made no later than thirty (30) days after the last day of each calendar month and will include a breakdown of the number and type of tickets sold during the reporting period.

4.3 USER FEE PAYMENTS

4.3.1 The Contractor shall pay ten (10%) percent of gross ticket sale revenues for tickets sold.

4.3.2 If combination tickets are sold, the rail fare portion of the ticket shall be stated and fairly represent the relative value of the rail fare in relation to the total value of the ticket.

4.3.3 The Contractor shall pay every month the sum of one hundred (\$100.00) dollars for the use of the Meredith Railroad Yard for railroad purposes. The Contractor shall pay every month the sum of twenty (\$20.00) dollars for use of the Mountain Park Station for railroad purposes. These purposes shall include but not be limited to ticket and gift sales, tourist information, tourist events staging areas, general storage and repair facilities. The Contractor shall pay every month the sum of sixty-two dollars and fifty cents (\$62.50) for use of the Ticket Booth on the Weirs Beach Boardwalk for ticket and gift sales and tourist information purposes.

4.3.4 The Contractor may utilize certain State-owned railroad equipment if the State determines they are available. If the Contractor utilizes this State-owned railroad equipment for passenger/revenue service, for any day or fraction thereof, it shall pay on a monthly basis the following amounts:

- a. For the 100 ton ALCO diesel electric locomotive, Model S-1, Serial Number 77109, the sum of one thousand one hundred (\$1,100.00) dollars per month is used twenty-two (22) days or more during a calendar month, or fifty (\$50.00) per day if used less than twenty-two (22) days per calendar month.
- b. For the railroad kitchen car Model number 1773 USAX 89654, the sum of two hundred forty (\$240.00) dollars per year in twelve (12) monthly payments of twenty (\$20.00) dollars.
- c. For the railroad kitchen car Model number 1773 USAX 89620, the sum of six hundred forty (\$600.00) dollars per year in twelve (12) monthly payments of fifty (\$50.00) dollars.
- d. For the three (3) ballast cars and one (1) side dump car, no monthly payment if used for maintenance-of-way purposes.

4.3.5 The Contractor may, where directed in writing by the Contracting Officer, deduct from payments the cost of specific expenditures including but not limited to major maintenance projects in track work, structure repair, engine house repair, and State-owned rolling stock.

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 on that month's User 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 The Contracting Officer shall have the right to audit all books, records and accounts of the Contractor, which pertain to this Agreement annually. Throughout the term of this Agreement and for a period of five (5) years following, the Contractor shall maintain detailed records and accounts of all passenger revenues and any records required for the Contractor to show compliance with the terms of this Agreement.

4.5.3 If, as a result of any audit, the Contracting Officer determines that the amount paid to State is less than the amount owed, the Contractor shall pay the difference to State within thirty (30) days of the determination.

4.5.4 If, as a result of any audit, the Contracting Officer determines that the amount paid to State is more than the amount owed, State will make repayment or credit the Contractor accordingly, so far as appropriations allow, the overpayment to NHDOT.

ARTICLE V - MARKETING EFFORT

5.1 BUSINESS PRACTICES

5.1.1 The Contractor will make every effort to market the line in order to make it a profitable and to maintain good business and working relationships with local businesses, State and local government officials, employees, and other railroads.

5.2 ADVERTISING DEVICES

5.2.1 All advertising devices including signs, banners, fixed and portable displays or anything else placed in the railroad right-of-way to attract attention to the railroad shall conform with local, State and Federal ordinances that apply to the abutting highway right-of-way or private property. All permanent advertising to be placed in the railroad right-of-way shall have prior written approval of the State.

ARTICLE VI - OTHER OPERATORS

6.1 COOPERATION WITH OTHER OPERATIONS

6.1.1 In all of its operations and use of the property enumerated herein, the Contractor will cooperate with the State's railroad freight operator and other passenger excursion operators in the use of rail facilities and not infringe upon their contractual rights. If the Contractor and the railroad freight operator and other passenger excursion operators cannot agree among themselves, the State retains the power to determine priority of occupation or use. The decision of the State is final.

6.2 STATE'S RIGHT TO NEGOTIATE

6.2.1 The parties agree that the State is free to negotiate with others concerning the right to operate a Service on the State-owned Concord to Lincoln Railroad Line in locations other than the segment of line upon which this Agreement grants the Contractor's rights. However, before the State enters into any contract concerning regular frequent Service with any other operator, the State will first offer the Contractor the option of performing such Service upon the same terms and conditions as the State may have negotiated with another operator. Once notified by the State of such an opportunity, the Contractor shall have fourteen (14) days to respond to the State, and after that time the State shall be free to enter into an agreement with such other operator.

ARTICLE VII - TERMINATION OF AGREEMENT

7.1 OBLIGATIONS

7.1.1 The parties will be excused from the performance of any of their obligation under this Agreement if performance becomes impossible due to any event beyond their control, including acts of God, explosions, fires and vandalism.

7.1.2 If at any time after the Commencement Date the Contractor operates the Service fewer than sixty (60) days during any Operational Year, this Agreement will automatically terminate and the parties will be relieved of all obligations hereunder, except the Contractor's continuing duty to maintain financial records and to continue to defend and hold harmless the State for any claims arising during the period of this Agreement.

IN WITNESS WHEREOF, we have hereunto set our hands on the 6 day of June, 20 11.

PLYMOUTH & LINCOLN RAILROAD CORP.

Marie Spencer
WITNESS

BY: [Signature]
BENJAMIN E. CLARK, President

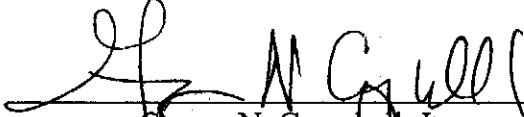
THE STATE OF NEW HAMPSHIRE
COUNTY OF Grafton

On this 6 day of June, 20 11, before me, Marie Spencer the undersigned officer, personally appeared Benjamin E. Clark 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.

Marie Spencer
NOTARY PUBLIC
Justice of the Peace

THE STATE OF NEW HAMPSHIRE

BY: 
George N. Campbell, Jr.
Commissioner, Department of Transportation

WITNESS

THE STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

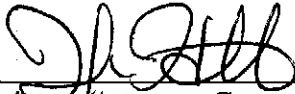
On this ____ day of _____, 20 ____, before me, _____ the undersigned officer, personally appeared George N. Campbell, Jr. known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he has executed the same for the purposes therein contained.

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

NOTARY PUBLIC

This is to certify that the Passenger Excursion Agreement shown above has been reviewed by this office, and is approved as to form and execution.

OFFICE OF ATTORNEY GENERAL

DATE: 9/6, 20 11 BY: 
Assistant Attorney General
David M. Hitts

APPROVED by Governor and Executive Council on SEP 28 2011, 20 ____, ITEM # _____

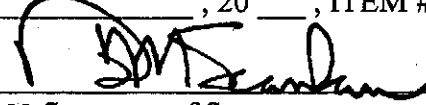
ATTEST: 
DEPUTY SECRETARY OF STATE

EXHIBIT A

**PLYMOUTH & LINCOLN RAILROAD, INC.
REPORT AND PAYMENT DUE DATES**

JANUARY	FEBRUARY	MARCH	APRIL
1st - NOVEMBER PAYMENT, REVENUE REPORT & TRAFFIC REPORT	1st - DECEMBER PAYMENT, REVENUE & TRAFFIC REPORT	1st - JANUARY PAYMENT & REVENUE & TRAFFIC REPORT	1st - FEBRUARY PAYMENT, REVENUE & TRAFFIC REPORT
1st - MARKETING REPORT	1st - JULY - DECEMBER MAINTENANCE COST REPORT		

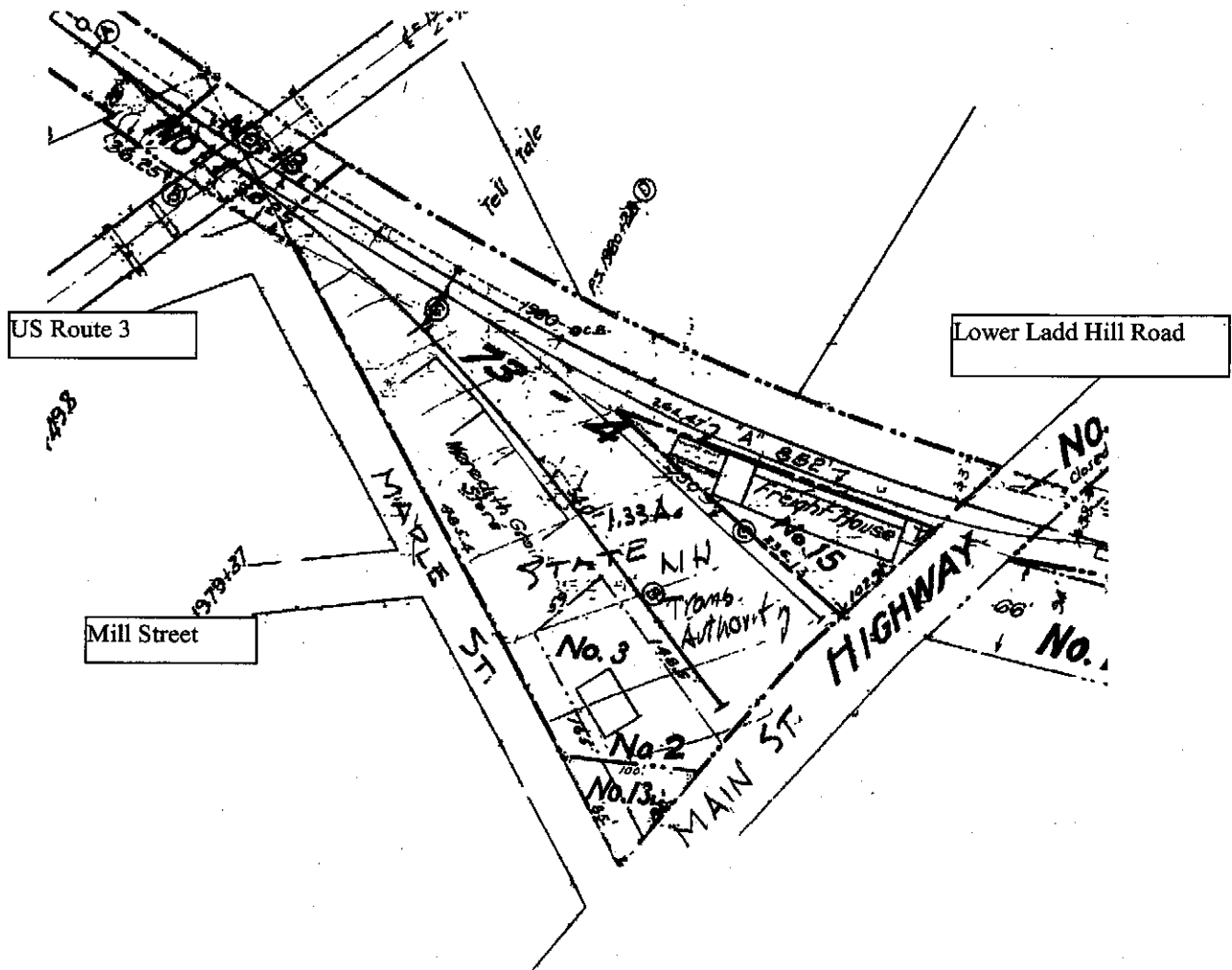
ATTACHMENT A

U.S. ROUTE 3

LADD HILL ROAD

MAPLE STREET

FROM RAILROAD VALUATION MAP V21/74



ATTACHMENT B

MOUNTAIN PARK STATION, WOODSTOCK

209' +/-

Station 944+00 to 946+09+/-

FROM RAILROAD VALUATION MAP V30/18

