

SETTLEMENT AGREEMENT

Date: February 25, 2010

Parties: Oregon Department of Transportation (ODOT)
Central Oregon & Pacific Railroad Inc. (CORP)

Terms:

In consideration of the promises below, the parties agree as follows:

1. CORP shall complete the Project and ODOT shall disburse the grant funding, subject to the terms of the Grant Agreement dated February 27, 2007, as amended (the "Grant Agreement" or "Agreement"), which is hereby reinstated. The Agreement is in full force and effect, subject to the terms of this Settlement Proposal.
2. Provided, however, that the amount remaining due under the Agreement, as amended, shall be reduced to no more than \$4,995,458 (\$7,424,916 minus \$1,409,458.38 minus scope reductions of \$1,020,000), after submission of bills by CORP and approval by ODOT.
3. Provided further, that CORP may alter the Project shown on Exhibit 1 (Project drawings) in the following ways:
 - Eliminate Solar Powered Push Button style switches, use manual hand-throw. 14 locations @ \$11,300 for purchase and installation. CORP estimates a cost reduction of \$158,000.
 - Remove yard lighting system. 13 double light pole locations @ \$12,000 each is \$156,000, plus \$20,000 engineering design & set up. CORP estimates a cost reduction of \$176,000.
 - Eliminate steel reinforced concrete pad for transload location. This will require transload activities to occur on ballast grade currently in place. CORP estimates a cost reduction of \$85,000.
 - CORP shall eliminate yard track ten, as shown on the drawing attached as Exhibit 2. This track that was planned to be 2,435 feet long and two switches related to this track. (2435 feet x \$112 per foot = \$272,720 plus two switches at \$50,000 each, minus \$50,000 in additional costs for unused materials). CORP estimates a cost reduction of \$320,000.
 - Other scope reductions may be made at CORP's election, not to exceed a cost of \$281,000, and subject to the Change Order process in the Term of the

Agreement section 3 in the Agreement, and approval of changes shall not be unreasonably withheld.

- In no event shall the remaining amount to be paid by ODOT exceed \$4,995,458.
4. Within 30 days of receipt of necessary documentation, ODOT shall pay all amounts presently due pursuant to the Grant Agreement terms, as amended herein, up to the capped amount stated in paragraph 2. CORP shall complete the yard within eight (8) months of payment of presently outstanding amounts and ODOT shall promptly fund additional invoices pursuant to the Grant Agreement terms up to the capped amount stated in paragraph 2.
 5. Release: The parties release each other from any claims related to conduct that has occurred as of today's date and that is related to the allegations and claims in the action.
 6. Provided, however, that the Project shall be completed and grant funds paid pursuant to the Agreement as modified herein.
 7. Provided further, that as for the amounts expended by CORP, such amounts remain subject to compliance with the Agreement, and Oregon's statutory requirement that ODOT's contribution not exceed 80% of Project costs. Should the yard be completed for less than the amounts estimated in the application, as reduced pursuant to paragraph 3 above, then ODOT shall only be responsible for the 80% of the actual Project costs, subject to the \$4,995,458 million cap in paragraph two above. Work yet to be completed shall be performed pursuant to a competitive bidding process, and work shall be in accord with the drawings provided to ODOT in this matter, subject to the above reductions in scope.
 8. In consideration of the payments by ODOT, CORP covenants that, within ninety (90) days after the Project has been completed and the grant fully funded by ODOT, CORP shall cease using the Roseburg yard for classification activities. CORP shall be permitted to occasionally switch cars at Roseburg Yard in conjunction with dropping, adding or storing rail cars.
 9. CORP further covenants that in conjunction with classification and switching activities at Winchester Yard, CORP shall prioritize the southerly portion of the Yard for building and assembling trains, and shall only conduct classification activities across the Oakland-Shady Highway (Highway 99) with respect to building and assembling trains in excess of forty (40) rail cars.
 10. The \$214,000 paid by CORP before the Grant Agreement is not eligible for reimbursement. The land acquisition was closed, and the purchase price paid to the seller, after the Grant Agreement. For purposes of the settlement of a disputed claim,

ODOT will treat the land acquisition costs paid after execution of the Grant Agreement as eligible for 80/20 reimbursement, not merely for matching.

- 11. This Agreement is binding on the parties and their respective successors and assigns.
- 12. This is a settlement of disputed claims. Neither party admits liability.
- 13. Joint press release:

The Oregon Department of Transportation ("ODOT") and the Central Oregon & Pacific Railroad, Inc. ("CORP") have settled the litigation between them. The litigation involved reinstatement and funding of a grant to fund a new rail yard near Roseburg. ODOT suspended funding and construction of the new yard was interrupted in September 2007. ODOT and CORP have agreed that minor adjustments should be made to the rail yard project and that the grant to CORP should also be significantly reduced. Reinstatement of the grant funding will enable CORP to resume and complete the yard project. "Both parties worked hard together to reach an agreement for completing this project," said Matthew Garrett, ODOT's director. "I am very pleased that we are able to provide a new facility that will benefit rail shippers, help to stimulate the local economy, and relieve congestion for the citizens of Roseburg." CORP had operated a switching yard in downtown Roseburg, and the new yard will provide relief from the traffic tie-ups that resulted. "Central Oregon & Pacific Railroad is pleased to fulfill its promise to the people and shippers in and around Roseburg," said John Giles, CEO of RailAmerica, Inc.

Agreed:

OREGON DEPARTMENT OF TRANSPORTATION

By: _____
Its: _____

CENTRAL OREGON & PACIFIC RAILROAD INC.

By: _____
Its: _____