

MEMORANDUM OF AGREEMENT

BETWEEN

CSX TRANSPORTATION, INC.

AND

THE BROTHERHOOD OF MAINTENANCE OF WAY
EMPLOYES DIVISION OF THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

WHEREAS, the parties have had ongoing disputes over the interpretation and application of the Scope Rule of the June 1, 1999 Agreement as it relates to the contracting out of Bridge and Building Department work; and

WHEREAS, the parties desire to settle claims and minimize future disputes over the interpretation and application of the Scope Rule of the June 1, 1999 Agreement with respect to the contracting out of Bridge and Building Department work:

IT IS THEREFORE AGREED THAT EFFECTIVE SEPTEMBER 1, 2009 THE FOLLOWING WILL APPLY:

Section 1 - B&B Sub-Department Hiring

- A. If CSXT advertises a position in the B&B Sub-department under Rule 3, Sections 1 and 3 of the June 1, 1999 Agreement, and no applications are received from current employees, CSXT may hire new employees directly into the B&B Sub-department to fill such positions. An employee entering service within the B&B Sub-department will acquire seniority in the class from the date assigned to an advertised position (hire date) and will establish seniority as of the same date in lower classes on the same seniority roster. Except as otherwise stipulated herein, such employees will be required to maintain that position for a six (6) month period except to bid on and be assigned to a promoted position in the B&B sub-department.

Section 2 - New Building Construction

- A. The work of constructing new “non-occupied” buildings and related structures or facilities used in the operation of the Carrier in the performance of common carrier service on property owned by the Carrier shall be performed by BMWED-represented employees and the Carrier shall not contract out such work. “Non-occupied” buildings are buildings such as pole barns, sheds, garages and other storage facilities that are not equipped with HVAC systems or bathroom facilities because they will not be used for offices, shops or other human habitation.
- B. The Carrier may contract out the construction of all new “occupied” buildings. “Occupied” buildings are buildings such as offices, shops or other facilities intended for regular human habitation that are equipped with HVAC systems and bathroom facilities.
- C. The Carrier may contract out for the installation of trailers, including the setting of foundations and/or piers and the installation of prefabricated steps, ramps and HVAC systems included with the purchase of trailers. All other work in connection with the installation of trailers including the building and installation of steps or ramps which are built on-site and the installation of sidewalks will be performed by BMWED-represented forces. After trailers are installed, all maintenance, repair and remodeling work will be performed pursuant to Section 3 below.

Section 3 - Building Maintenance, Repair And Remodeling

- A. All work in connection with maintaining, repairing and remodeling buildings (including trailers) used in the operation of the Carrier in the performance of common carrier service on property owned by the Carrier shall be performed by BMWED-represented employees and shall not be contracted out except as expressly stipulated in Paragraph B below. The maintenance, repair and remodeling work to be performed by BMWED-represented employees shall include, but not be limited to, interior and exterior painting; interior remodeling; repair and installation of siding, windows, doors, walls, ceilings, handrails, floors, floor coverings and sidewalks; roofing; and light maintenance of HVAC systems such as changing filters, flushing drains and lubricating, unless this work on the HVAC system is covered under warranty.
- B. The Carrier may contract out the following work associated with the maintenance and repair of buildings and trailers:
 - I. Repair and replacement of HVAC systems;

2. Removal of hazardous materials (such as asbestos, mercury, lead painted surfaces, mold etc.) in connection with maintenance, repair and remodeling projects. The contractor assigned to remove hazardous materials may also perform work necessary to secure the building against the elements (apply waterproof sheeting) pending completion of all other work by BMWED-represented forces.
3. Major renovation of 10,000 square feet or more of "occupied" building space that will be completed within a period of six (6) consecutive months. "Major renovation" is defined as the substantial replacement of multiple interior building components such as walls, floors and ceilings or exterior building components such as siding, windows, soffits, fascia and gutters.

[Example - installing new walls, floors and ceilings would constitute major interior renovation while simply installing new floor tile would not. Installing new siding, soffits, fascia and gutters would constitute major exterior renovation while simply installing new gutters would not. Moreover, "major renovation" contemplates a discrete project completed within a six (6) month period, not multiple projects over an extended period that may over time result in substantial replacement of a building's exterior or interior components.]

4. Roofing repairs or replacements where the pitch of the roof is greater than 4/12.

Section 4 - Building Demolition

- A. Building demolition work shall be performed as follows:
 1. The Carrier may contract out the demolition of: (a) all buildings which require hazardous material abatement measures, including wet demolition*, as an integral part of the demolition work; and (b) the demolition of buildings over one story [twenty-five feet (25') measured by ceiling height] or over 10,000 square feet even where there are no hazardous material abatement measures required.
[*NOTE: Wet demolition is required when a building contains sufficient hazardous materials that they can not be removed independently and where the structures must be kept completely wet using a high pressure water supply ensure that no hazardous particulates become airborne.]

2. BMWED-represented forces shall perform the demolition of buildings (one story and 10,000 square feet or less) where there are no hazardous material abatement measures required or where hazardous materials can be abated separately from the demolition.

Section 5 - Bridge Construction, Replacement, Maintenance And Repair

- A. All work in connection with constructing, replacing, maintaining and repairing bridges used in the operation of the Carrier in the performance of common carrier service on property owned by the Carrier shall be performed by BMWED-represented forces and shall not be contracted out except as expressly stipulated in Paragraph B below.
- B. The Carrier may contract out the following work associated with the construction, replacement, maintenance and repair of bridges:
 1. Marine work in waterways such as installing and maintaining navigational fenders, constructing coffer dams and channels, underwater work, erection of bridge superstructures from barges and removal of drift using boats or barges.
 2. Caisson work (drilled shafts) in connection with bridge construction, maintenance and repair.
 3. Work of operating leased cranes with a lifting capacity of 100 tons or more when such lifting capacity is required for work such as setting bridge spans or removing drift.
 4. In cases where special skills or urgent time requirements make it necessary, contractors may be used to assist BMWED-represented forces to repair or replace fractured critical members or steel pins. However, the number of contractor employees used on any specific project shall never exceed the number of BMWED-represented employees assigned to work on the project on a daily basis.
*[*Note: Fracture Critical Members (FCM's) are defined as those tension members or tension component members whose failure would be expected to result in collapse of the bridge or inability of the bridge to perform its design function. For example, hangers, diagonals and bottom chords are considered FCM's and stringers and floor beams are not.]*
 5. Contractors may be used to assist BMWED-represented employees with the repair or replacement of mechanical and hydraulic components of movable bridges. However, the number of contractor employees used on any specific project shall never exceed the number of BMWED-represented employees assigned to work on the project on a daily basis.

*[*Note: the parties recognize that electrical work on movable bridge components does not accrue to BMWED-represented employees and nothing in this Agreement is intended to confer such right to BMWED-represented employees.]*

6. Driving piles of twenty-four (24) inches or more in diameter or width for bridge superstructure support.
- C. The parties agree that there may be circumstance in which it is necessary to use contractors to supplement BMWED-represented forces to perform the work of constructing new bridges or substantial replacement of existing bridges.* The parties also recognize that the necessity to use contractors to aid in the performance of such work will be greatest in the thirty-six (36) months following the date of this agreement while CSXT is recruiting and training BMWED-represented employees to perform this work. Therefore, it is agreed that the carrier may use contractors to perform the work of constructing new bridges or substantial replacement of existing bridges* as set forth in Paragraphs 1-4 below and that CSXT will recruit, hire and train additional BMWED-represented B&B employees as set forth in Paragraph 5 below.
1. During the first twelve month period following the effective date of this agreement the carrier may assign contractors to work on a total of six new bridge construction or substantial replacement projects*. Four of the six projects may be assigned entirely to outside contractors without any participation by BMWED-represented forces. However, the carrier may, at its discretion, assign BMWED-represented forces (none, one or more) to work with the contractors on these four projects. On the fifth and sixth projects, contractors may be used to supplement BMWED-represented forces. However, the number of contractor employees assigned on the fifth and sixth projects shall never exceed the number of BMWED-represented forces assigned (excluding vacations, absences, etc.) to work on the projects on a daily basis.
 2. During the second twelve month period following the effective date of this agreement, the carrier may assign contractors to work on a total of six new bridge construction or substantial replacement projects*. Four of the six projects may be assigned entirely to outside contractors without any participation by BMWED-represented forces. However, the carrier may, at its discretion, assign BMWED-represented forces (none, one or more) to work with the contractors on these four projects. On the fifth and sixth projects, contractors may be used to supplement BMWED-represented forces. However, the number of contractor employees assigned on the fifth and sixth projects shall never exceed the number of BMWED-represented forces assigned (excluding vacations, absences, etc.) to work on the projects on a daily basis.

3. During the third twelve month period following the effective date of this agreement, the carrier may assign contractors to work on a total of four new bridge construction or substantial replacement projects*. Two of the four projects may be assigned entirely to outside contractors without any participation by BMWED-represented forces. However, the carrier may, at its discretion, assign BMWED-represented forces (none, one or more) to work with the contractors on these two projects. On the third and fourth projects, contractors may be used to supplement BMWED-represented forces. However the number of contractor employees assigned on the third and fourth projects shall never exceed the number of BMWED-represented forces assigned (excluding vacations, absences, etc.) to work on the project on a daily basis.
4. During the first full calendar year after the thirty-six months following the effective date of this agreement and in each calendar year thereafter, the carrier may assign contractors to work on a total of two new bridge construction or substantial replacement projects* each calendar year without any participation by BMWED-represented forces on these projects. However, the carrier may, at its discretion, assign BMWED-represented forces (none, one or more) to work with the contractors on these projects. All other new bridge construction and bridge replacement projects will be performed by BMWED-represented forces and will not be contracted out except as expressly stipulated in Section 5 B Paragraphs 1-6 (i.e. marine work, caisson work, 100 Ton cranes, etc. as expressed in these paragraphs.)

*[*Note- Replacing one (1) or more spans in an existing bridge is considered a "substantial replacement project" as referenced in Paragraphs 1-4 above, while simply replacing a stringer is not considered a "substantial replacement project".]*

5. Beginning on the effective date of this agreement, the carrier will advertise a minimum of thirty-five (35) new B&B positions within the first twelve months and a minimum of thirty-five (35) new B&B positions within twenty-four months for the purpose of performing bridge work. If any or all of these seventy (70) new positions are filled by existing employees, the carrier will fill all resulting vacancies so that the net effect will be the hiring of seventy (70) new employees and 70 more employees performing bridge work.
6. The parties recognize that in addition to the 70 targeted bridge positions referenced in paragraph 5 above, additional B&B employees will be required to perform the work covered by this Agreement. Consequently, the carrier agrees to hire and train new employees at sufficient levels over

and above attrition to ensure that it has sufficient BMWED-represented employees to perform all work covered by this Agreement.

Section 6 - Culverts

- A. All culvert installation, repair and maintenance work shall be performed by BMWED-represented forces and shall not be contracted out except as expressly stipulated in Paragraphs B and C below.
- B. The Carrier may contract out for the installation of pipe liners for pipes greater than 48 inches in diameter, or for the installation of multi-plate liners irrespective of diameter, when it is necessary to perform the installation by manual excavation (digging in by hand). When either of the two situations occurs, as described in this paragraph, the contractor may perform the grouting of the space between the pipe liner and culvert pipes.
- C. Culvert installation work using the “jack and bore” method may only be contracted out as follows:
 - 1. From one hundred and twenty (120) days after the effective date of this memorandum of Agreement to July 1, 2010, the Carrier may not contract out jack and bore culvert installation work unless it has first established a Jack and Bore Gang consisting of at least one (1) B&B Foreman, one (1) B&B Machine Operator, one (1) Structural Welder and one (1) B&B Mechanic. During the time this Jack and Bore Gang staffed by BMWED-represented employees is working to install culverts by the jack and bore method, the Carrier may contract out additional jack and bore work to supplement the work of its own Jack and Bore Gang. However, no contractor may be used to perform jack and bore work before the BMWED staffed gang is established or after it is abolished for the period from the effective date of this Memorandum of Agreement to July 1, 2010.
 - 2. Effective July 1, 2010, the Carrier shall establish a sufficient number of Jack and Bore Gangs so that BMWED represented employees shall be used to perform at least 80% of the jack and bore projects performed during each succeeding twelve (12) month period. The remaining 20% of jack and bore projects during each twelve (12) month period may be contracted out. The Carrier shall notify the General Chairmen, in writing (with a copy to the BMWED Southeast Region Vice President), of each jack and bore project and cooperate with them to ensure that 80% of the jack and bore projects are performed by Jack and Bore Gangs staffed by BMWED-represented forces during each twelve (12) month period.
- D. Jack and Bore Gangs will be established pursuant to Section 12 – B&B System and Zone Gangs except for the following special terms:

1. The rates of pay for positions on Jack and Bore Gangs shall be paid the following hourly rates, subject to all applicable rate increases:

Jack and Bore Foreman	\$25.50
Jack and Bore B&B Machine Operator	\$24.75
Jack and Bore Structural Welder	\$25.15
Jack and Bore B&B Mechanic	\$24.15

2. Employees assigned to Jack and Bore Gang positions will not be allowed to bid off or be displaced for a period of one year from the date of physically occupying these positions, except in cases of hardship. Employees who desire to be released from a Jack and Bore Gang as a result of unforeseen hardship shall make their request, in writing, to the Director of Labor Relations, with a copy to the employee's General Chairman. The Director and General Chairman shall cooperate to determine if the employee shall be allowed to bid off the gang to another position and shall so notify him, in writing, within ten (10) days of receiving his request.
3. Positions on System Jack and Bore Gangs are exempt from the provisions of Section 2 of the System Production Gang Agreement that requires annual bulletining.

Section 7 - Scales

- A. All work in connection with maintaining and repairing existing scales will be performed by BMWED-represented employees and shall not be contracted out. However, the Carrier may contract out for the total replacement of an existing scale with a new scale and repair or replacement of electronic calibration and load cell.

Section 8 - Turntables

- A. All work in connection with maintaining and repairing existing turntables will be performed by BMWED-represented employees and shall not be contracted out except that, if needed, contractor's forces may be used to assist BMWED-represented forces in the replacement of machinery gears in existing turntables. However, the number of contractor employees used on any specific project shall never exceed the number of BMWED-represented employees assigned to work the project.

- B. The carrier may contract out for the total replacement of an exiting turntable with a new turntable.

Section 9 – Tunnels

- A. All work in connection with maintaining and repairing tunnels will be performed by BMWED-represented employees and shall not be contracted out except as expressly stipulated in Paragraph B below.
- B. The Carrier may contract out the following work associated with the maintenance and repair of tunnels:
 - 1. Contractor forces may be used to install tunnel liners, roof bolts & anchors, underpinning of tunnel foundation, open cutting, maintenance of air shafts, soil mix & grout injection stabilization and injection & consolidation of tunnel liners.
 - 2. Contractor forces may be used to perform the installation of shotcrete in structural applications.
 - 3. Tunnel clearance work involving raising the tunnel roof and/or increasing tunnel width.
[**Note:* tunnel clearance work involving undercutting the track bed shall be performed by BMWED-represented forces and shall not be contracted out, unless it is necessary to cut through bedrock, which may be contracted out.]

Section 10 – Bridge and Building Equipment Operators

- A. Bulletins for B&B Machine Operators will identify the specific types of equipment that will be operated by the incumbent of the position.

Section 11 - Bridge And Building Structural Welders

- A. A B&B Structural Welder Roster will be established effective July 1, 2009. The Carrier may advertise B&B Structural welder positions to work within the B&B Sub-department. Employee's who hold a seniority date on an existing Welder Foreman, Welder or Welder Helper roster will be placed on the B&B Structural Welder Rosters with a corresponding date equivalent to their existing Welding seniority date once they have been certified as a "structural welder". An employee entering service as a new hire, or an employee establishing B&B Welder Foreman, Welder or Welder Helper seniority without previous Welder Foreman, Welder or Welder Helper Seniority will acquire seniority in that class from the date assigned to an advertised position (or date hired) and will establish

seniority as of the same date in lower classes on the same seniority roster as well as the Welding Sub-department Welder Foreman, Welder or Welder Helper roster as the case may be. Such employees will be placed on the B&B Structural Welding Rosters with a corresponding date equivalent to their existing Welding seniority date once they have been certified as a "structural welder".

- B. Employees who establish new seniority in the B&B Structural Welder Foreman, Welder or Welder Helper classifications by: (1) application and assignment to a bulletined position; or (2) being hired into a B&B Structural Welder or Welder Helper position pursuant to Paragraph A above, shall not be permitted to bid off such positions for a period of six (6) months from the date they physically assumed the duties of the position.
- C. An Employee who exercises seniority pursuant to Rule 4, Section 2 of the June 1, 1999 Agreement to displace a B&B Structural Welder Foreman, Welder or Welder helper with less seniority during the six (6) month restricted period established in Paragraph B above, shall not be permitted to bid off that position for a new six (6) month period beginning from the date that he physically assumes the duties of the position.
- D. Employees on existing Welding rosters who desire to become certified Structural Welders will be permitted to obtain the necessary training in seniority order. Compensation and expenses associated with such training shall be handled pursuant to Rule 42 of the June 1, 1999 Agreement.

Section 12 - B&B System and Zone Gangs

- A. In addition to its existing right to establish District Floating or SLWT B&B Gangs of various types, the Carrier may also advertise and establish System or Zone B&B Gangs of the following types:
 - 1. Bridge Construction Gangs that shall be limited to performing the work of constructing new bridges or replacing existing bridges. Such gangs may include a locomotive crane to perform pile driving work and other related bridge construction work.
 - 2. Steel Bridge Maintenance Gangs that shall be limited to repairing and maintaining steel bridges. The Carrier shall establish and maintain a minimum of two (2) Steel Bridge Maintenance Gangs consisting of no fewer than six (6) employees assigned to each gang. Steel Bridge Maintenance Gangs may include a locomotive crane to perform pile driving work and other related steel bridge maintenance and repair work.

3. Jack and Bore Gangs that shall be limited to installing or replacing culverts using the jack and bore method.
- B. A Zone shall be a territory consisting of up to three (3) contiguous SLWT's (as SLWT's existed on August 23, 2007) that are grouped together to create a single work territory for an annual work season of not more than one calendar year. The Carrier may use the same Zones from year to year or redefine the Zones each year. "Contiguous" means that an SLWT touches one of the other SLWT's which comprise the Zone.
1. System B&B Gangs established pursuant to this Section 12 shall be bulletined, assigned and operated in accordance with the terms, conditions and benefits of the System Production Gang Agreement (as amended), except that System B&B Gangs may have fewer than twenty (20) employees.
 2. Zone B&B Gangs established pursuant to this Section 12 shall be floating gangs that are bulletined, assigned and operated in accordance with the terms, conditions and benefits of the June 1, 1999 Agreement, except that employees assigned to Zone B&B Gangs shall be allowed the weekly travel allowance provided for in Section 11 - Travel Allowance of the SPG Agreement (as updated from time to time).
 3. Positions on Zone B&B Gangs may be bulletined system-wide and will be awarded in the following order:
 - a. To the senior applicant holding seniority in the classification bulletined who has seniority in the classification on an SLWT bid/bump list for one of the SLWT's combined to form the zone in question for that work season.
 - b. To the senior applicant holding seniority in the classification bulletined, but who does not hold seniority on an SLWT seniority list for one of the SLWT's combined to form the zone in question for that work season.
 - c. To the senior applicant holding seniority in lower successive classes on the applicable seniority roster following the principles in Paragraphs 3 (a) and (b) above successively.
 - d. To the applicant with the earliest established MofW seniority date following the principles in Paragraphs 3(a) and (b) above successively.

- C. Employees who establish new seniority in the B&B Sub-Department by: (1) application and assignment to a bulletined position on a B&B System or Zone Gang; or (2) being hired into a B&B System or Zone Gang position pursuant to Section 1 above, shall not be permitted to bid off such positions for a period of six (6) months from the date they physically assumed the duties of the position.
- D. An employee who exercises seniority pursuant to Rule 4, Section 2 of the June 1, 1999 Agreement to displace an employee assigned to a B&B System or Zone Gang with less seniority during the six (6) month restricted period established in Paragraph C above, shall not be permitted to bid off that position for a new six (6) month period beginning from the date that he physically assumes the duties of the position.

Section 13 - Environmental Issues

- A. The company may contract the following environmental work:
1. Spill response for hazardous clean up.
 2. Installation & repair of tank dikes. [*Regulatory compliance.*]
 3. Clean-up of hazardous chemical spills, drums, debris, medical & bio-medical material, third party debris and sanitary (fecal matter).
[***Note:** Debris is defined as any material that is considered as hazardous or any material that can not be identified.]
 4. High pressure Vac-Truck clean-out of sewer, pit and shop drain lines (Jet Rodding)
 5. Installation and maintenance of all sound barriers.
 6. Maintenance and construction of water and sewer lines will be handled as follows:
 - a. Maintenance and construction of water and sewer lines that are six inches (6") in diameter or less shall be performed by BMWED-represented employees and shall not be contracted out, except that contractors may be used to make connections to public utilities.
 - b. The Carrier may contract out the maintenance and construction of water and sewer lines that are more than six inches (6") in diameter including the connections to public utilities.
- B. The maintenance of Waste Water Treatment Facilities (WWTF) will be handled as follows:

1. Construction of Waste Water Treatment Facilities may be contracted out as turn-key projects.
 2. Maintenance of Waste Water Treatment Facilities equipment may be contracted out.
 3. Maintenance of Waste Water Treatment Facilities buildings shall be handled pursuant to Section 3 – Building, Maintenance and Remodeling of this Agreement.
- C. Construction and maintenance of environmental tanks (tanks for holding substances such as fuel, water, waste water and sewage) will be handled as follows:
1. The work of maintaining all tanks that do not have man-way access ports*, including cleaning, sandblasting, painting and welding of such tanks shall be performed by BMWED-represented forces and shall not be contracted out.
 2. The work of construction and maintaining large tanks with man-way access ports*, including field erection, sandblasting, painting, cleaning, sonar testing, inspection and welding of such tanks may be contracted out.
[*Note: “Man-way access ports” are ports that allow a man to enter the tank for internal inspection and maintenance.]

Section 14 - Notice

Sections 2, 3, 4, 5, 6, 7, 8, 9 and 13 all provide that the Carrier may contract out specified types of work pursuant to the express terms of these respective sections. If the Carrier plans to contract out work pursuant to the terms of one of these sections the Carrier will, except in emergencies, notify the applicable General Chairman, in writing, at least fifteen (15) days in advance of the transaction. If the General Chairmen involved question the applicability of the terms the Carrier relies on to support the contracting, the Carrier shall have the burden of proving that those terms apply to the work in question.

[Example – If the Carrier notified the General Chairmen that it planned to contract out for the demolition of a building because it required hazardous material abatement measures as stipulated in Section 4. A. 1 and the General Chairmen questioned the presence of hazardous materials in the building, the Carrier would have the burden of proving the presence of the hazardous materials.]

[Note: Section 5.C.1, 2, 3 and 4 permit the Carrier to contract out a specified number of bridge projects during successive twelve month periods. When the Carrier contracts out pursuant to one of these paragraphs, the notice shall identify the paragraph (e.g. 5. C. 1.) and the number of the project that it is contracting out during that twelve month period (e.g., first project, second project, etc.).]

Section 15 - Preservation Of Headquartered And Floating District B&B Positions

On the date of execution of this Agreement, employees who hold seniority in the B&B sub-department and who, under the provisions of the Railroad Retirement Act are within ten (10) years of legal retirement age and who remain on a headquartered, district floating or Service Lane Work Team (SLWT) position subsequent to the execution of this Agreement, shall not be required to bid or bump to positions on Zone or System B&B gangs in order to maintain their benefits under the Mediation Agreement dated February 7, 1965, as amended. However, an employee entitled to the benefits of this Paragraph who, either by bid or displacement, is assigned to a position in a Zone or System B&B gang will forfeit the benefits of this Paragraph.

Example 1 – A B&B employee, referenced above, who is assigned to a district headquartered, district floating or SLWT position as of the effective date of this Agreement will not be required to displace or bid to a Zone or System position in order to be entitled to their Feb 7 benefit.

Example 2- A B&B employee, referenced above, who is assigned to a district headquartered, district floating or SLWT position as of the effective date of this Agreement who bids or displaces to a Zone or System position will no longer be afforded protection of this Section 15.

Section 16 – Cancellation of this Agreement

- A. The President of BMWED may cancel this Agreement as provided in this Section.
- B. Upon written request from the President of BMWED to the CSXT Vice President of Engineering, CSXT shall provide not less than once each calendar year sufficient hiring and manpower data necessary to determine if CSXT is performing its obligations in Section 5 C. 5. and 6.

- C. If the President of BMWED believes that CSXT has failed to provide sufficient hiring or manpower data to determine if CSXT is performing its obligations in Section 5. C. 5. and 6. or that CSXT has failed to perform its obligations pursuant to Section 5. C. 5. and 6, the BMWED President may send the Vice President of Engineering a Cancellation Notice (certified mail, return receipt requested). In the Cancellation Notice, the BMWED President shall identify the basis for his determination and establish a Cancellation Date. The Cancellation Date will be no sooner than 90 days after the date of the Cancellation Notice and shall not be before July 1, 2012. The BMWED President and Vice President of Engineering shall meet within 30 days from the date of the Cancellation Notice to attempt to resolve this matter.
- D. Absent a mutually agreeable resolution, this Memorandum of Agreement will terminate on the Cancellation Date specified in the Cancellation Notice.
- E. Upon cancellation, Bridge and Building work will be covered by the Scope clause of the June 1, 1999 System Agreement, as if this Agreement had never existed; provided, however, BMWED may not file any claim or seek any remedy asserting that subcontracting permitted by this Agreement, while still in effect, violated the Scope clause of the June 1, 1999 System Agreement.

Section 17 - Effect Of This Agreement

- A. This Agreement shall be considered a special agreement as to the terms and conditions specifically addressed herein and shall amend the June 1, 1999 Agreement as to those terms and conditions. All terms and conditions not specifically addressed herein shall continue to be controlled by the June 1, 1999 Agreement. All matters concerning the contracting out of Bridge and Building Department work that are not specifically addressed herein shall continue to be controlled by the Scope Rule of the June 1, 1999 Agreement and this Agreement is without prejudice to either party's position with respect to the meaning of the Scope Rule in such matters. Absent cancellation pursuant to Section 16 above, this Agreement will remain in effect until modified in accordance with the requirements of the June 1, 1999 Agreement and Railway Labor Act, as amended.
- B. This Agreement is effective the 1st day of September, 2009.

FOR THE ORGANIZATION:

Dennis R. Albers
Dennis R. Albers, General Chairman

Gary L. Cox
Gary L. Cox, General Chairman

Jeff Dodd
Jeff Dodd, General Chairman

Bradley A. Winter
Bradley A. Winter, General Chairman

Stuart A. Hurlburt, Jr.
Stuart A. Hurlburt, Jr., General Chairman

James D. Knight
James D. Knight, General Chairman

T. R. McCoy, Jr.
T. R. McCoy, Jr., General Chairman

AGREED:

J. R. Cook
J. R. Cook, Vice President

FOR THE CARRIER:

Noel V. Nihoul
Noel V. Nihoul, Director Labor Relations

John L. West
John L. West, Vice President Engineering